

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

13 PIL (STAMP) NO. 10607 OF 2020

**MEHRAJ AHMED ANSARI S/O GAZI SALAHUDDIN AHMED
ANSARI
VERSUS
THE UNION OF INDIA AND OTHERS**

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Mr.S.S. Kazi, Advocate for the petitioner
Mr.D.R. Kale, G.P. for respondent nos.2 and
3.
Mr.S.G. Chapalgaonkar, Advocate for
respondent no.4.

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**CORAM: V.L. ACHLIYA, J.
DATE : 19.05.2020**

ORAL ORDER:

In view of the extreme urgency expressed by the petitioner, the matter is taken up for urgent hearing through video conferencing.

2. By this Petition filed as a Public Interest Litigation, the petitioner has claimed following reliefs :-

“(C) Rule may kindly be made absolute by allowing the Public Interest Litigation, thereby issue necessary direction to the respondents authorities to provide

daily food and economic aid to the family of victim of Coronavirus (COVID-19) patient in quarantine.

(D) By issuing directions the respondents be directed to create/form quarantine center in private hospitals having all facilities to treat various patients and the respondents be restrained from creating/forming quarantine centers in other places not having the facilities of hospitals.

3. Heard Mr.Kazi, learned counsel for the petitioner, Mr.S.G. Chapalgaonkar, learned counsel representing the respondent no.4 - Municipal Commissioner and Mr.Kale, learned Government Pleader representing the respondent nos.2 and 3.

4. The petitioner who claims to be social and political worker has preferred this Petition as a Public Interest Litigation to espouse the cause of people put under quarantine as well as the person residing in a area declared as a containment zone.

5. In brief, it is the case of the petitioner that he came to know through the news item in news papers published from Aurangabad that in the city of Aurangabad 20 persons died due to Coronavirus and 743 persons detected as Covid-19 positive. The petitioner has noticed that the Police Commissioner, Aurangabad is sealing the areas wherever Covid-19 positive patients are detected. Due to sealing of such area, the the right of persons residing in such area are restricted and they are confined in such locality. They are not allowed to go out of containment zone. So also the outsiders are not allowed to enter into such areas. The authorities are not taking proper care nor addressing the daily needs of such persons residing in containment zone. They are deprived of essential for their survival. They are not provided access to essential commodities like food items, medicines etc. So also they are not provided with any financial aid as per guidelines framed by Government. The people from the locality are totally depend on the aid and assistance received from the Non-Governmental Organizations for their survival.

6. The another grievance agitated by the petitioner refers to suffering of persons taken to quarantine centers and made to compulsorily stay at such quarantine centers to undergo quarantine period prescribed by authorities. It is the contention of the petitioner that he has learnt that the persons who are lodged at quarantine centers are not provided with proper food and other facilities. No personnel are deputed at such quarantine centers to take care of these persons. Their family members are also not provided with any assistance for their survival. Some of the persons who are quarantined have shared video highlighting the sorry state of affairs in such quarantine centers.

7. The petitioner has further raised grievance in respect of acquiring of premises like Godowns, function halls, auditorium, religious buildings etc. as a quarantine centers. According to petitioner such premises are not suitable for setting up temporary quarantine centers.

8. The learned counsel for the

petitioner strenuously contended that the cause espoused in the Petition is genuine. The people at large are suffering due to inaction and arbitrary action on the part of respondents. In order to redress the grievance of such affected persons it is necessary to issue appropriate directions to the respondents.

9. On the other hand, the learned Government Pleader and the counsel representing the respondent no.5 opposed the Petition with contention that the Petition cannot be entertained as a Public Interest Litigation. By referring to facts pleaded in the Petition, the learned counsel for the respondent no.5 submits that filing of such Petition without personal verification of facts stated in the petition by the petitioner deserves to be discouraged. It is submitted that in the entire Petition, the petitioner has nowhere stated that he has personally assessed the correctness of the allegations attributed to the respondents. It is submitted that the petitioner has stated in the petition that he is filing the Petition based upon the news published in some news paper. It is submitted that the

petitioner made no effort to assess the correctness of the information alleged to be reported in news papers. He has also not annexed the copies of those news papers which prompted the petitioner to file this Petition. It is further contended that the allegations made in the Petition are totally false and contrary to the factual position. It is submitted that filing of such petition with ulterior motive and to gain publicity cannot be ruled out. It is submitted that if really petitioner intended to espouse the cause of the persons suffering from Coronavirus and their families, then in ordinary course the petitioner should have approached the concern authority for redressal of grievances before filing such petition. It is contended that filing of such Petition in casual manner and making reckless allegations against the authorities deserves to be discouraged. It is submitted that entertaining such petition would affect the moral of officials working on the field to prevent the spreading up coronavirus.

10. In counter to submissions advanced learned counsel for petitioner submits that considering the urgency and pressing need of

the persons suffering due to inaction on the part of respondents, the petitioner has directly approached this Court. Due to urgency involved he could not gather evidence to support the allegations. Learned counsel denied the allegations that petition is filed with some oblique motive or to gain publicity.

11. It is quite settled position in law that while entertaining the petition as a Public Interest Litigation the Courts must ensure that petition is a genuine, bonafide and not filed with any extraneous consideration. While dealing with the Petition filed as a Public Interest Litigation, the Court is required to prima facie verify the credential of petitioner as well as correctness of allegations made in petition before entertaining any such petition as a Public Interest Litigation. So also the Court is required to ensure that such petition is filed for redressal of genuine public cause and the petitioner has no personal motive or gain in filing such litigation as a Public Interest Litigation. It is necessary that person filing the Public Interest Litigation ought to have made home

work before filing such petition. If the petition is based upon half-baked information or filed without verifying the correctness of information forming the basis of such petition, then in normal course the Court is expected to refuse to entertain such petition.

12. It appears that the foundation of allegations made in the Petition based upon certain news published in news papers published from Aurangabad. The petitioner has not annexed the copies of those news papers, which prompted the petitioner to file this Petition. The petitioner has also not stated that he has assessed the correctness of fact reported in news papers and found same to be correct. In that view, the Petition filed by the petitioner is based upon half-baked information gathered by reading some news papers. So also there is nothing to establish the credential of petitioner to file Petition as a Public Interest Litigation. In that view, it is not desirable to entertain the present petition as a Public Interest Litigation.

13. The officials of the Government are

working day and night to control the menace of coronavirus. The entire machinery of the Government is deployed to prevent the spreading of coronavirus and save the life of people. In such situation, the Court is expected to be cautious while entertaining such petitions as a Public Interest Litigation. The casual approach in entertaining the petitions dealing with such sensitive issue may affect the moral of officials working on field.

14. Before approaching the Court the petitioner ought to have made proper home work and collected the necessary information and documents to support the allegations. It was expected on the part of the petitioner that he should have personally verified the truthfulness as to news published in the news papers and information received from other sources. Only after satisfying himself as to correctness of such information and collecting evidence to support such information the petitioner should have filed Petition. It is pertinent to note that though the petitioner stated in the Petition that he is filing the Petition on the basis of the news published in news papers, the petitioner

has chosen not to annex the copies of those news papers. So also the petitioner has not produced the copies of video alleged to be made viral highlighting the plight of the people kept at quarantine center. So also the petitioner has not stated in the petition that he has personally seen such video and verified the factual position by visiting such quarantine centers. In that view, the Petition filed by the petitioner is based upon half-baked information. In that view, it is not desirable to entertain this Petition as a Public Interest Litigation.

15. The petitioner has agitated the grievance in respect of requisition of premises like Godowns, function halls, auditorium, religious buildings etc. to set up the quarantine centers. In my view, such grievance cannot be entertained in the Petition filed as a Public Interest Litigation. In exercise of powers vested under the provisions of the Epidemic Diseases Act, 1897 and the Disaster Management Act, 2005, the authorities are vested with the powers to make requisition of any premises suitable for the purpose of setting makeshift, hospitals, quarantine centers etc.

in public interest. The act of authorities to make requisition of such places is well within the authority of law and powers vested under law. Such requisition of premises and setting up quarantine center cannot be subject matter of public interest litigation.

16. Thus for the reasons discussed above, I am not inclined to entertain the petition filed by the petitioner as a Public Interest Litigation.

17. Since the petitioner has raised certain grievances in respect of the difficulties faced by the persons residing in containment zone as well as the persons put under quarantine and their families, the Petition filed by the petitioner can be treated as a representation made by the petitioner to authority competent to examine and redress such grievances. Hence the learned counsel representing the respondent no.5 is directed to forward the copy of petition to respondent no.5 to treat and decide the same as representation made by petitioner and decide same as expeditiously as possible and preferably within two weeks from date of this order.

18. The Petition is disposed of in above
terms.

[V.L. ACHLIYA]
JUDGE

SGA