

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12278 of 2020

Ezhil Nadhi K.R.

..Petitioner

-vs-

1. State of Tamil Nadu,
rep. by the Chief Secretary,
Secretariat, Fort St. George,
Rajaji Salai,
Chennai - 600 009.
2. National Disaster Management Authority,
NDMA Bhawan,
A-1, Safdarjung Enclave,
New Delhi - 110 029.
3. Union of India,
Ministry of Home Affairs,
North Block, New Delhi - 110 001,
rep. by the Home Secretary.
4. District Collector,
Tenkasi District,
District Collectorate,
Collector Office (at RDO office Complex)
Kellys Road, Navalpur,
Tenkasi - 627 811.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration to declare that (i) Para II (xv) and the Exception in the latter portion of Para II (i) of the order issued by the Revenue and Disaster Management (D.M.IV) Department, Government of Tamil Nadu vide G.O.Ms.No.447 dated 31.08.2020 is illegal, void ab-initio as it violates Guidelines of the National Disaster Management Authority and the Order of the National Executive Committee; (ii) The order issued by the Revenue and Disaster Management (D.M.IV) Department, Government of Tamil Nadu vide G.O.Ms.No.447

dated 31.08.2020 to the extent it mandates prior procurement of "e-passes" for movement of people, is illegal, void ab-initio and unconstitutional for being passed in violation of Section 10 (2)(1) of the Disaster Management Act, 2005 and consequently violates Article 19(1)(d) of the Constitution; (iii) In accordance with Para 5 of the Guidelines issued by the National Disaster Management Authority on 29.08.2020, there shall be no requirement for any person to obtain "e-pass".

For Petitioner : Mr.Abishek Jebaraj
for M/s.S.G.Arul Mozhi
Selvan

For Respondents : Mr.Vijay Narayan
Advocate General
assisted by
Mr.V.Jayaprakash Narayanan
State Government Pleader
for respondent Nos.1 and 4
Mr.V.Ashok Kumar
for respondent Nos.2 and 3

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard learned counsel for the petitioner; learned Advocate General for respondent Nos.1 and 4 and learned counsel for respondent Nos.2 and 3.

2. The entire dispute with regard to the right to freedom of movement vis-a-vis the issue of e-passes has now been substantially resolved by the State Government by issuance of G.O.(Ms) No.600, Revenue and Disaster Management Department, Disaster Management Wing, D.M.I. (2) Section, dated 27.10.2020, which is extracted herein under:

"ABSTRACT

Disaster Management Act, 2005 - COVID-19 -
Infection prevention and control - Notification
issued extending restrictions in the territorial
Jurisdictions of the State of Tamil Nadu up to
24:00 hrs of 31.10.2020 - Issue of auto generated
online e-pass for the travel of persons from
Foreign Countries and other States of Tamil Nadu -
E-pass system to be modified as E-registration
System - Amendment to Notification - Issued.

REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISASTER MANAGEMENT WING, D.M.I (2) SECTION

G.O. (Ms) No.600

Dated 27.10.2020

சார்வரி-ஐப்பசி 11,
திருவள்ளூர் ஆண்டு,2051

Read:

1. G.O.Ms.No.152, Health and Family Welfare (P1) Department, dated 23.03.2020
2. Ministry of Home Affairs, Government of India Order No.40-3/2020-DM-1(A), dated 25.03.2020.
3. G.O.(Ms.)No.172, Revenue and Disaster Management (D.M.II) Department, dated 25.03.2020 and addendums issued thereon.
4. G.O.(Ms.)No. 447, Revenue and Disaster Management (DM-IV) Department, dated 31.08.2020
5. G.O.(Ms.)No.541, Revenue and Disaster Management (DM-IV) Department, dated 30.09.2020.
6. Order of the Hon'ble High Court of Madras in W.P.No.12278 of 2020, dated 13.10.2020.
7. The Additional Chief Secretary/Commissioner of Revenue Administration Letter No.OC-I/563/2020, dated 22.10.2020.

ORDER:

NOTIFICATION

WHEREAS on considering the recommendations of the expert team of Doctors and Public Health specialists and based on the directives of Government of India, Ministry of Home Affairs, State-wide lockdown was extended from time to time and lastly extended till 24:00 Hrs of 31.10.2020 under the Disaster Management Act, 2005 with certain restrictions and many relaxations along

with guidelines vide G.O.(Ms)No.541, Revenue and Disaster Management (DM-IV] Department, dated 30.09.2020

2. WHEREAS the Additional Chief Secretary/Commissioner of Revenue Administration in the letter seventh read above has sent the proposal for amendment to the G.O. fourth read above.

3. NOW THEREFORE the State Government of Tamil Nadu based on the proposal of Additional Chief Secretary/Commissioner of Revenue Administration issue following amendments to G.O.(Ms)No.447, Revenue and Disaster Management [D.M-IV] Department, dated 31.08.2020. The following content in Section (i) and Section (xv) under Caption II - (Under Permitted Activities) may be read as:

i. Movement of General Public is permitted throughout the State of Tamil Nadu (between the districts) without E-Pass. However, the persons who are coming from foreign countries and from other States to Tamil Nadu by Air, Rail and other Vehicles should register their details viz., Aadhar/Ration Card, Travel Ticket, Telephone/Mobile Numbers in Tamil Nadu E-registration portal and proceed with their travel with an e-Registration.

XV. Travelling to Nilgiris District and all other hill stations like Kodaikannal and Yercaud, tourists should register their details viz., Aadhar/Ration Card, Travel Ticket, Telephone/Mobile Numbers in Tamil Nadu E-Registration portal and proceed with their travel with an e-Registration.

(By order of the Governor)

K. SHANMUGAM
CHIEF SECRETARY TO GOVERNMENT"

3. In view of the above Government Order, we see no reason to further proceed with the matter.

The writ petition is, accordingly, consigned to records. No costs. Consequently, W.M.P.No.15070 of 2020 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Chief Secretary,
State of Tamil Nadu,
Secretariat, Fort St. George,
Rajaji Salai, Chennai - 600 009.
2. National Disaster Management Authority,
NDMA Bhawan,
A-1, Safdarjung Enclave,
New Delhi - 110 029.
3. The Home Secretary,
Ministry of Home Affairs,
Union of India,
North Block, New Delhi - 110 001.
4. The District Collector,
Tenkasi District,
District Collectorate,
Collector Office (at RDO office Complex)
Kellys Road, Navalpur,
Tenkasi - 627 811.

+1cc to the Government Pleader, S.R.No.34884

W.P.No.12278 of 2020

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GJ(CO)
RV(23/11/2020)