

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-PIL No. 47 of 2020 (O&M)

Date of decision:- 15.05.2020

Pankaj Chandgothia

.....Petitioner

Versus

Union of India and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.**

Present:- Mr. Pankaj Chandgothia, Advocate-petitioner in person.
Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Dheeraj Jain, Standing Counsel for Union of India.
Mr. Pankaj Jain, Sr. Standing Counsel for U.T. Chandigarh.

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RAVI SHANKER JHA, C.J. (ORAL)

With the consent of the petitioner and the learned counsel for the respondents, the matter is being taken up and heard via video conferencing (Webex App software).

The petition relates to the misinterpretation and violation of the guidelines dated 01.05.2020 issued by the Ministry of Home Affairs, Government of India. The petitioner alleges that Chandigarh Administration has breached paragraph-3 of the guidelines in not properly notifying and identifying the boundaries of the containment zones of Chandigarh; permitting inter-state movement of persons and vehicles from Haryana and Punjab contrary to the general mandatory restrictions contained in paragraph-4 of the guidelines; opening of Rose Garden, Sukhna Lake, Leisure Valley and other public parks to the public contrary to the mandate and prohibitions contained in paragraph-7; permitting movement of individuals and vehicles within the city of Chandigarh for all purposes, although such movements should have been restricted only to essential and permitted activities; opening of all shops in market complexes and markets situated in various sectors in the city of Chandigarh on odd and even basis and opening the industrial estates in Phase-1 and Phase-2 of Chandigarh in

violation of the stipulations contained in paragraph-7 of the MHA guidelines.

At the outset learned Senior Standing Counsel appearing for Union Territory, Chandigarh submits that they are bound by the MHA guidelines and have strictly followed and implemented them. He submits though the order dated 02.05.2020 declaring part of certain colonies and sectors as containment zones was issued by the Union Territory, Chandigarh, subsequently, a meeting of the Disaster Management Committee took place on 04.05.2020 and the entire areas of Bapu Dham, Sector 38, Sector 52 and Shastri Nagar, Chandigarh were decided to be treated as 'containment zones'. He, however, submits that no formal order in that regard was issued. It is further submitted that Chandigarh Administration has strictly implemented paragraph-7 of the MHA guidelines dated 01.05.2020 and permitted only those activities within the city of Chandigarh which have been enumerated therein with certain restrictions. It is submitted that the industrial areas in Phase-1 and Phase-2 were opened as these industrial areas have access control which is duly being implemented. It is submitted that keeping in view the aforesaid guidelines, it was decided that even the shops situated near residential areas should be opened by applying odd and even formulae. Thus, it is clarified that the shops in the markets in various sectors have been opened by treating them as neighbourhood (colony) shops. Further, all other activities, which are not restricted or prohibited by MHA guidelines, have been allowed by the Chandigarh Administration. It is submitted that entertainment parks like Rock Garden, boating in Sukhna Lake, cafeteria etc. have not been opened.

The Government of India, who has issued the guidelines dated 01.05.2020 has not filed a response. However, having heard the petitioner in person, the learned Senior Standing Counsel for the Union Territory, Chandigarh and the learned Additional Solicitor General of India for the Union of India, it is observed that the issues raised in the petition can be best resolved by the MHA itself as the import and object of the guidelines can be best understood by the issuing authority itself i.e. the Ministry of Home Affairs, Government of India.

At this stage, the learned Additional Solicitor General of India appearing for Union of India submits that the petitioner, Union Territory, Chandigarh as well as the Union of India all have the common object and concern regarding the steps to be taken for prevention of Covid-19. It is submitted that the steps taken by Union Territory, Chandigarh, have been taken with the same *bona fide* object and not with any *mala fide* intent and as the Ministry of Home Affairs is the best authority to understand, explain and interpret its own guidelines, and since the present guidelines are applicable upto 17.05.2020 i.e. only for another two days, therefore, the Union Territory, Chandigarh and Ministry of Home Affairs would sit together today itself and resolve all these issues latest by tomorrow and in case any cause for issuing rectifications arises, the same would be done.

It is also stated by the counsel for the Union Territory, Chandigarh that in future as well, the U.T. Administration shall continue to strictly implement the MHA guidelines regarding Covid-19 and shall consult and seek clarifications from the MHA, in case so required or advised.

In view of the aforesaid statements of the parties and the directions as above, the petition stands disposed of with observations to the parties to do the needful.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

15.05.2020
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No