

**101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.7621 of 2020 (O&M)
Date of decision : June 02, 2020**

Ram Kumar and others Petitioners

Versus

State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Keshav Pratap Singh, Advocate for the petitioners.

Ms. Shruti Jain, Deputy Advocate General, Haryana.
(keeping in view the advance copy given)

HARSIMRAN SINGH SETHI J. (ORAL)

The petition has been taken for hearing through video conference due to Covid-19 pandemic.

Challenge in the present writ petition is to the order dated 20.05.2020 (Annexure P-6) by which, the State Government has directed that all the essential commodities are to be distributed only after the biometrics authentication of the beneficiaries/DRT holders.

Learned counsel for the petitioners argues that once the use of biometrics was stopped by the respondents-State for the distribution of the essential commodities including ration in view of the pandemic of Covid-19 in March, 2020, the same cannot be restored by the respondents-State at this stage by passing the impugned order dated 20.05.2020 (Annexure P-6), as it will be a threat to the life of the persons using biometrics.

Learned counsel for the petitioners further argues that the life of the ration card holders will be at stake, in case they are asked to use the biometrics, keeping in view the pandemic of Covid-19, hence the order dated 20.05.2020 (Annexure P-6) is liable to be set aside.

Keeping in view the pandemic Covid-19, certain preventive measures were taken by the Government of India as well as the State Governments by imposing nationwide lock down for ensuring the safety of the citizens. One of the precautionary steps taken was to stop the use of biometrics authentication by the beneficiaries for the supply of the essential commodities including ration. This decision was taken in March, 2020 when the threat of the pandemic of Covid-19 was at its highest level. Keeping in view the various measures taken by the Government of India as well as the State Governments, subsequently now when certain relaxations have been given in the restrictions initially imposed which shows that the level of threat of pandemic Covid-19 has decreased and keeping in view the decrease in the level of threat of pandemic Covid-19, various restrictions initially imposed have been ordered to be relaxed, with certain conditions. Above facts go to show that the threat of pandemic is not at the same level now as it was in March, 2020 when, the decision was taken by the Government of Haryana to stop use of biometrics authentication for the distribution of the essential commodities including ration.

The policy decisions, in view of the prevalent situation are to be taken by the Government. The role of court in policy decisions under Article 226 of the Constitution of India is limited. Judicial interference is only called for wherein the Policy decisions are without jurisdiction or contrary to the public policy.

In the present case, the petitioners are challenging the order dated 20.05.2020 (Annexure P-6) only on the ground that in case the biometrics authentication is reintroduced for the distribution of the essential

commodities including ration, the same will be a threat to the life of the users of the biometrics authentication machines. The plea of the petitioner is to be examined in the present scenario and the present scenario is different as compared to the scenario in the month of March, 2020 in respect of the pandemic Covid-19 when the restriction on the use of biometrics authentication was imposed for the supply of essential commodities including ration. Keeping in view the difficulties faced by the common people during lock down, the State has a duty to ensure that the essential supplies including ration reach the persons, who are entitled for the same so as to mitigate their hardship. The introduction of biometrics introduces an element of transparency, which is the need of hour and also ensures that the supply chain of the essential commodities including ration is not broken and it reaches the common people, who are entitled for the same. By the introduction of the use of biometrics authentication, element of misappropriation is being ruled out, which cannot be termed as arbitrary or illegal.

The life has to move forward whereas the prayer of the petitioners is that the restoration of the biometrics authentication should not be done at this stage, though there is a lot of improvement in the situation as far as pandemic of Covid-19 is concerned. Due to improved situation as well as adopting of appropriate precautionary measures, various relaxations in the restrictions imposed in the month of March, 2020 by the Government of India have been granted now. Policy decisions are to be taken by the Government and the interference of the court is only required if the said policy decision is arbitrary or illegal or without jurisdiction. Nothing has

been shown by the learned counsel for the petitioners that the order passed by the respondent-authorities, which is being impugned in the writ petition is beyond jurisdiction of the State or the same will cause any threat to the life and liberty of the petitioners, if all the precautions as notified by the State, are taken.

The apprehension of the petitioners with regard to the threat to the life of the users, who will use the biometrics for the authentication in respect of the supply of essential commodities including ration can be taken care of in case all the precautions are taken at the time of use of biometrics.

Learned State counsel submits that the instructions, if not already issued, will be issued to all the concerned authorities that proper sanitization of the machines should be done before every use and all the norms of social distancing and the sanitization of the place should be adhered to. Learned State counsel states that after all the precautions already envisaged by the State Government for preventing the spread of pandemic Covid-19 are taken, the use of biometrics authentication will not be a threat to life. This Court is in agreement with the said plea.

This Court has no doubt that for use of the biometrics, the respondent-authorities will ensure that proper sanitization of the said machine after every use is done by adopting proper procedure as stated by the learned State counsel.

Learned counsel for the petitioners further argues that this act of the respondents is discriminatory in nature as the biometrics authentication has not been started in the offices of the Government of Haryana. Learned counsel for the petitioners further argues that starting of

the biometrics for the distribution of the essential commodities including ration should be co-related to the reintroduction of the biometrics in the offices of the Government of Haryana.

The discrimination can be claimed between the equals. The distribution of the essential commodities including ration through biometrics authentication to ensure the accountability as well as to ensure that the ration reaches the actual persons, cannot be co-related with the use of biometrics authentication by the employees while attending the offices. Further, it is for the State to introduce the policy hence, the plea of discrimination raised by the learned counsel for the petitioners is totally misplaced and cannot be accepted.

Further, a Division Bench of this Court while deciding CWP-PIL-38 of 2020 titled as ***“Adityajit Singh Chadha v Union of India and others”***, on 29.03.2020 wherein the relaxations given by the Chandigarh Administration in the curfew imposed were challenged, this Court has already held that certain policies are introduced in the larger public interest and scope of judicial interference in the policy matter is very limited. The Division Bench held that once an Authority has weighed all the pros and cons before taking the decision, it will not be in the wisdom of the Court to substitute the said wisdom of the Administration. The relevant paragraph of the said judgment is as under:

“The order dated 27.03.2020 is valid. It has been issued in larger public interest. The scope of judicial interference in a policy matter is very limited. The Chandigarh Administration has weighed all the pros cons before taking the decision. We will not substitute our wisdom for the wisdom of the Administration during the

crisis. Maintaining social distance is a sine qua non to control the disease. The Administration may also solicit opinion of the specialists of infectious/communicable diseases, while taking a decision.”

In the present case as well, the decision of reintroduction of biometrics authentication for the distribution of the essential commodities including ration has been taken in a larger interest and with a particular motive that essential supplies and ration reach the actual persons, who are entitled for the same so as to eliminate the chances of misappropriation, which cannot be said to be arbitrary or illegal in any manner. The apprehension of the petitioners can duly be taken care by taking all the relevant precautions while using the biometrics as stated by the learned State counsel and therefore, no interference is called for by this Court in respect of the claim as being made by the petitioners.

No ground is made out. Dismissed.

(HARSIMRAN SINGH SETHI)

JUDGE

June 02, 2020

sarita

Whether speaking / reasoned

Yes

Whether Reportable:

Yes