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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on 15th April, 2020

+ **CONT. CAS (C) 244/2020**

**CIVILIAN WELFARE AND DEVELOPMENT TRUST
(REGD) Petitioner**

Through: Md. Azam Ansari, Adv.

versus

NIDHI SRIVASTAVA, IAS & ANR. Respondents

Through: Mr. Sanjay Deewan, Adv.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGEMENT (ORAL)

% **15.04.2020**

C.HARI SHANKAR, J.

CONT. CAS (C) 244/2020

1. This petitioner seeks initiation of contempt proceedings against the respondents under the Contempt of Courts Act, 1971, for alleged contemptuous and wilful disobedience of an order, dated 8th April, 2020, passed by a learned Single of this Court in WP (C) 2954/2020.

For ready reference, the said order is reproduced, *in extenso*, thus:

“1. The petitioner claims to be a registered charitable trust and has filed the present petition seeking appropriate passes for movement during the lockdown period for supplying various essential items like ration, food, medicines, etc. to the persons in need.

2. The petition indicates that the trustees of the petitioner trust had sought passes for four trustees and nine volunteers. Their request also included passes for three vehicles.

3. Mr. Dewan, learned counsel appearing for the respondents states, on instructions, that the requisite passes have already been issued to the trustees and volunteers as mentioned by the petitioner. He states that these passes are for the entire Delhi and are valid till 14.04.2020. He further states that they would be extended, if required.

4. The learned counsel for the petitioner has been unable to join the proceedings. However, in view of the statement made by Mr. Dewan, this Court considers it apposite to dispose of this petition by directing that the respondents be bound down to the same.

5. No further orders are required to be passed in this petition. The same is disposed of.”

2. The offices of the petitioner are, admittedly, located in Chandni Mahal, which is an area covered by the following order, dated 10th April, 2020, issued by the GNCTD (hereinafter referred to as “the containment order”), which is self-speaking:

**“GOVERNMENT OF NCT OF DELHI
OFFICE OF THE DISTRICT MAGISTRATE
(CENTRAL DISTRICT)
14, DARYA GANJ, DELHI -110002**

No.F.DM/C/DDMA/Covid-19/2020/7601 Dated: 10/04/2020

Whereas World Health Organization (WHO) has declared the outbreak of Novel Corona Virus (COVID-19) as a Pandemic on 11.3.2020.

And whereas, as per the DM Act, 2005 under Sub-Section (2)(a) of Section 25 District Magistrate of the District shall be Chairperson of District Disaster Management Authority.

And whereas, as per Section 33 of the DM Act, 2005 “The District Authority may by order require any officer or

any Department at the district level or any local authority to take such measures for the prevention or mitigation of disaster, or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order.”

And whereas the undersigned being the Chairman DDMA has been empowered u/s 34 of Disaster Management Act 2005 to perform such functions as it deems necessary for Disaster Management in the District and further has been empowered u/s 65 of the Disaster Management 2005.

And whereas, it is imperative to strictly observe the Lockdown and Isolation measures to contain the further spread of COVID-19 in the NCT of Delhi.

And whereas, at least three patients have died of corona in this Chandni Mahal area in past three days.

And whereas, out of 102 people staying in 13 different religious locations in Chandni Mahal area, 52 have been positive.

And whereas, the interaction between the people tested positive and residents of Chandni Mahal area can't be ruled out.

And whereas, under Section 2, 3 and 4 of the Epidemic Disease Act, 1897, the Lt. Governor of Delhi has been pleased to issue the Delhi Epidemic Diseases, COVID-19 Regulations, 2020 where the undersigned has been empowered under clause 16(i) to designate and seal any Geographical area as Containment Area for the isolation of the cases.

Now therefore, I, Nidhi Srivastava, IAS, District Magistrate, Central Delhi, in exercise of power conferred under Disaster Management Act 2005 read with Epidemic Act 1897 and Regulations made there under by invoking the containment plan for Chandni Mahal hereby issue the following directions for immediate compliance:

1. DC CSPZ, North DMC to immediately sanitize the entire area of Chandni Mahal under containment plan to

prevent further spread of COVID-19 in the surrounding/adjoining area.

2. DCP Central District to immediately cordon off the entire Chandni Mahal area under containment plan to prevent the movement of persons out of the vicinity and prevent the spread of COVID-19, besides to initiate action against violators under various provisions of IPC, Disaster Management Act, 2005 read with Epidemic Disease Act, 1897. The DCP Central is also directed to ensure social distancing while distribution of food and ration in the area.

3. CDMO, District Central, to ensure collection of sample and conduct of tests thereof and ensure home quarantine of the contacts of the deceased persons tested corona positive in Chandni Mahal.

4. SDM, Kotwali and SHO Chandni Mahal are further directed not to allow the residents of aforesaid area to move out of their houses and to ensure door to door supply of essential commodities in aforesaid cordon off area, in coordination with Market Associations or by any other appropriate mechanism for uninterrupted supply of essential commodities.”

3. The petitioner submits that, as its offices are located within the Chandni Mahal area, to which the afore-extracted containment order dated 10th April, 2020 applies, the petitioner is unable to visit its offices, as a consequence whereof the petitioner is also unable to provide ration to poor and needy persons, located in the containment areas of Delhi as well as at other places. This, according to Mr. Ansari, learned counsel appearing for the petitioner, constitutes contempt of the order dated 8th April, 2020 (*supra*) passed by this Court in WP(C) 2954/2020.

4. Arguing *per contra*, Mr. Sanjay Dewan, learned counsel

appearing for the respondents submits that strict adherence to the containment order dated 10th April, 2020 (*supra*), is necessary, in order to check for the spreading of the n-COVID-2019, which has ravaged the globe. In this context, Mr. Dewan submits that in the area in question, namely, Chandni Mahal, 102 positive n-COVID cases have surfaced, and that, therefore, the GNCTD has taken a conscious decision not to extend the passes issued to the petitioner or allow any further access to containment areas, save and except in terms of the afore-extracted containment order.

5. Mr. Ansari responds, to this, that non-extension of the pass issued to his client tantamount, in fact, to further contempt of the order dated 8th April, 2020 (*supra*).

6. Having heard learned counsel for the parties, I am of the opinion that there is no substance, whatsoever, in the contempt petition. It cannot be said, by any stretch of imagination, that there has been any contemptuous or wilful disobedience, or otherwise, of the order, dated 8th April, 2020, passed by this Court in WP (C) 2954/2020 already extracted hereinabove. Significantly, the said order had been passed before the issuance of the containment order, dated 10th April, 2020, by the GNCTD. A reading of the containment order dated 10th April, 2020, makes it apparent that, in view of spread of the n-COVID-2019 epidemic in the GNCTD area, as well as the fact that, even till the date of issuance of the said order, at least three patients had died from the said disease in Chandni Mahal, it had been consciously decided to strictly delimit the Chandni Mahal area as a containment area.

7. It is not as though the authorities are oblivious to the requirement of essential commodities reaching persons residing, or located, within the containment area. In fact, a reading of the aforesaid order dated 10th April, 2020 discloses that the SDM, Kotwali and the SHO, P.S. Chandni Mahal have specifically been directed to ensure door-to-door supply of essential commodities in the said area in coordination with market associations or any other appropriate mechanism for uninterrupted supply of ration and essential commodities. Mr. Ansari seeks to submit that his client should also be extended the benefit of afore-extracted para 4 of the containment order dated 10th April, 2020. Apart from the fact that this plea is foreign to the present contempt proceedings, even on merits, it cannot, quite obviously, be countenanced. It is obvious that this plea is completely devoid of substance. Keeping in view the overarching consideration of public interest, the GNCTD has directed the SDM, Kotwali and the SHO, P.S. Chandni Mahal to ensure supply of essential commodities in the Chandni Mahal containment area, in coordination with the market associations *or any other appropriate mechanism*. The “appropriateness” of the “mechanism” has necessarily to be left to the discretion of the concerned authorities, who are *in seisin* of the issue. It is not for the petitioner to treat itself as an “appropriate mechanism” for supply of essential commodities. Had the petitioner been serious about its intentions, it was always open to the petitioner to contact the SDM, Kotwali and the SHO, P.S. Chandni Mahal in this regard. It does not appear that any such attempt was made.

8. In any event, in strictly enforcing the order dated 10th April,

2020 in the Chandni Mahal area, it is clear that there has been no disobedience of the order dated 8th April, 2020 passed by this Court in WP(C) 2954/2020. Accordingly, there is no substance, whatsoever, in this contempt petition.

9. Before parting with this order, I deem it appropriate to note that in the present situation of crisis, following the n-COVID-2019 pandemic with which, indeed, the whole world is concerned, the enforcement of isolation measures, by the Government, is aimed at ensuring, as far as possible, limited exposure, of the country and its denizens, to the n-COVID-2019 virus. Judicial notice may be taken of the fact, apparent at ground level, that the Central, as well as the State Governments – including the GNCTD – are straining every sinew, in achieving this aim and are committed to making no compromises, whatsoever, on that score. We have, as it is, naysayers aplenty, and it is the duty of courts to step in and ensure that the efforts, of the executive administration, to somehow tide over the crisis, are not subjected to roadblocks in the form of abortive and ill-conceived litigative exercises. This court, were it to at all entertain the present contempt petition would, in my view, be acting in eminent opposition to public interest.

10. I had queried, of Mr. Ansari, learned counsel appearing for the petitioner, as to whether his client was seriously pursuing this contempt petition. He responded in the affirmative.

11. In view of the above, this contempt petition is dismissed, with costs which are, for the present, being fixed, on a token basis, at

Rs.10,000/-. Costs are required to be deposited by the petitioner, by way of a crossed cheque favouring “PM Cares”, within a period of 2 weeks after the lifting of lockdown by the Government.

CM APPL. 10228/2020

12. In view of the order passed in the contempt petition, this application is disposed of.

APRIL 15, 2020/r.bararia

C.HARI SHANKAR, J.

