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

+ **W.P.(C) 3530/2020 & CM No. 12544/2020**

AKASH JANDIAL AND ORS. ... Plaintiff

Through: Mr. Rahul Shukla, Advocate

versus

GOVERNMENT OF NCT DELHI & ORS. ... Defendant

Through: Mr. Anjum Javed, Addl.
Standing Counsel-GNCTD with
Mr. Faran Ahmed and Mr.
Devender Verma, Advocates

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G E M E N T (O R A L)

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19.06.2020

(video conferencing)

W.P.(C) 3530/2020 & CM No. 12544/2020

1. The prayer clause, in this writ petition, reads thus :

“In the circumstances aforesaid, it is prayed that the Hon’ble Court be pleased to issue writ of mandamus or any other writ/direction or order thereby ordering removal of the petitioners residence/house from the list of containment zone and removal of barricading etc erected for the purposes of restricting the movement of petitioners and also direct respondents to issue a certificate of fitness after conducting proper medical check-up/test as prescribed by ICMR and pass such other writ(s), order(s) or direction(s) considered just fit, proper and expedient in the facts and circumstances of the case.”

2. A brief recital of facts would be apposite. On 25th May, 2020, the petitioner developed symptoms of infection by the COVID-2019 virus. His serum sample was collected, on 27th May, 2020, and tested in a private laboratory. On 28th May, 2020, admittedly, the petitioner, as well as his other family members, namely Mr. Manav Jandial and Ms. Navneet Kaur, tested positive for the COVID-2019 infection.

3. Resultantly, on 30th May, 2020, the petitioner's house was declared a containment zone. The petitioner was also directed to remain under home quarantine till 13th June, 2020.

4. The writ petition asserts that the petitioner was informed, that his house was declared as a containment zone, only on 9th June, 2020, when civil defence officers barricaded his house. The petition, however, acknowledges that, in the list of containment zones released by the respondent, the house of the petitioner figures at S. No. 150, though the address is wrongly noted as RZ-52A instead of RZ-25A - an error which the respondent fairly acknowledges.

5. The writ petition expresses a grievance that, without testing the petitioner, there was no justification for restricting his movement after 13th June, 2020. It is further asserted that, as the petitioner's house was declared a containment zone only owing to the infection of three persons, residing in the said house, once the said three persons were tested negative for COVID, no purpose would be served, in continuing to declare the petitioner's house as a containment zone. It is further asserted, in the writ petition, that the petitioner's house was demarcated as a containment zone without following the procedure

prescribed, in that regard, in the containment plan formulated by the Ministry of Health and Family Welfare (MoHFW).

6. On the last date of hearing, Mr. Rahul Shukla, learned Counsel for the petitioner fairly stated that he was not challenging the declaration of the house of the petitioner as a containment zone, but was aggrieved by the continuance of such declaration beyond the period of 14 days from the time it was made. He ventilated a submission that the maximum period, for which an area would be declared as a containment zone was 14 days. To a query from the Bench, Mr. Shukla relied on clause 7.1.5 of the containment plan, which reads thus :

“7.1.5. Contact Tracing

The contacts of the laboratory confirmed case/ suspect case of COVID-19 will be line-listed and tracked and kept under surveillance at home for 28 days (by the designated field worker). The Supervisory officer in whose jurisdiction, the laboratory confirmed case/ suspect case falls shall inform the Control Room about all the contacts and their residential addresses. The control room will in turn inform the supervisory officers of concerned sectors for surveillance of the contacts. If the residential address of the contact is beyond the allotted sector, the district IDSP will inform the concerned Supervisory officer/concerned District IDSP/State IDSP.”

7. It was pointed out, to Mr. Shukla, that clause 7.1.5 does not state, anywhere, that an area would cease to be a containment zone 14 days after it was so declared. Mr. Shukla’s response was that there was no rational justification for treating an area as a containment zone beyond the period of home quarantine of the persons, residing in such

zone, who had tested positive. It was submitted, by Mr. Shukla, that he had been informed, orally, that his house had been declared as a containment zone for 28 days which, according to him, was completely illegal. Mr. Shukla also submitted that, contrary to the guidelines contained in the containment plan, no contact tracing had been done, and the prescribed procedure, to be followed post declaration of an area as a containment zone, had not been followed in his case.

8. Consequent to issuance of notice, a counter affidavit has been filed by Respondent No.1, to the writ petition, and the petitioner has filed his rejoinder thereto.

9. Detailed arguments of learned Counsel for the parties have been heard.

10. In the counter affidavit, it is specifically stated that, consequent to the three persons, residing in RZ-25A having been detected to be COVID-2019 positive, the said premises were declared as a containment zone, on 30th May, 2020 in accordance with the guidelines issued by the MOHFW in that regard. It is further stated that all formalities were followed, before declaring the area as a containment zone and that after such declaration, 53 surrounding houses containing 208 persons, were surveyed, but were not found to contain any COVID-2019 positive case. No other COVID-2019 positive person was found to be residing in or around the aforesaid containment zone, as per the report of the Chief District Medical Officer (CDMO).

11. The counter affidavit also refers to Clause 19 of the guidelines of the MoHFW, which stipulate that an area, once declared as a containment zone, would be scaled down, on the expiry of 28 days from the date the last person in such area tested negative.

12. Additionally, after reproducing the aforesaid instructions, it is averred in para 6 of the counter affidavit, that, as “the last confirmed COVID-2019 case came on 27/05/2020accordingly, the above said area will be scaled down on 24/06/2020”.

13. It is difficult to understand how, when “Point no.19” of the guidelines circulated by the MoHFW, dated 16th May, 2020, specifically directed that a containment operation would be over 28 days from the date the last case in the containment zone tested negative, the period of 28 days is being reckoned from 27th May, 2020, which was the date when the blood samples, of the persons residing in the petitioner’s residence were taken for testing. In any case, 28 days, even from such date is yet to expire, and as per the averment in para 6 of the counter affidavit, the petitioner’s residence would be scaled down on 24th June, 2020.

14. Insofar as the aspect of contact testing is concerned, it is averred, in the counter affidavit, that 53 houses surrounding the residence of the petitioner, containing 208 persons, were surveyed, but no COVID-2019 positive case was found therein.

15. On the aspect of home quarantine, reliance has been placed on Office Order, dated 11th May, 2020, by the GNCTD, which stipulates

a period of 17 days, from onset of symptoms – date of sampling – as the *terminus ad quem* for retaining a person in home quarantine, provided such person had not developed any fever within a period of 10 days prior thereto. The samples of the petitioner, and other persons in his residence who had tested positive for COVID-2019 infection have, admittedly, being taken on 15th June, 2020, and are being tested in the Institute of Liver and Biliary Sciences (ILBS), which has informed learned Counsel for the respondent that the test report would be available within a day. Learned Counsel for the respondent assures that, if the test reports are found to be negative, the period of home quarantine of the petitioner and other family members residing in his residence would come to an end.

16. Even so, it is submitted that the residence of the petitioner would continue to remain in the containment zone till the expiry of 28 days from 27th May, 2020, i.e. till 24th June, 2020.

17. In my view, nothing further remains to be adjudicated in this matter. Inasmuch as 53 surrounding houses, containing 208 persons, were tested and found not to contain any COVID-2019 positive case, it cannot be said that there has been any dereliction on the part of the respondent, in following the post-declaration procedure, as stipulated in the containment plan. The period of declaration of the petitioner's residence as a containment zone would expire, at the earliest, on 24th June, 2020, and it has been assured, in para 6 of the counter affidavit, that the petitioner's residence would be scaled down from "containment zone" status on the said date. The grievance of the petitioner, regarding his not being tested, also stands assuaged, as the

petitioner, and other persons in his residence, had been tested, and their test reports are likely to be available within 24 hours. Mr. Javed has also assured that, in case the petitioner and his family members are tested negative, the period of home quarantine would also come to an end.

18. Though Mr. Rahul Shukla sought to invoke Section 64 of the Disaster Management Act, and to contend that the applicable rules were required to be amended, this submission is completely foreign to the prayers contained in the writ petition, and does not merit consideration. Even otherwise, I do not find that any case, reflecting necessity to amend the applicable rules, is made out.

19. Inasmuch as the “containment period”, applicable to the petitioner’s residence, is scheduled to expire 5 days from today, and the petitioner and his family members have also been tested, the prayers in the writ petition, in my view, stand satisfied. Nothing further survives for adjudication in this matter.

20. The writ petition is accordingly disposed of, with no orders as to costs.

C. HARI SHANKAR, J.

JUNE 19, 2020/kr