

IN THE HIGH COURT OF KERALA AT ERNAKULAM
BEFORE
THE HON'BLE MR. JUSTICE A.K. JAYASANKARAN NAMBIAR
MONDAY, THE 20th DAY OF APRIL, 2020/31st CHAITHRA, 1942

W.P.(C).NO.21401 OF 2019 (A)

PETITIONER:

JAMAL.K.M., S/O.LATE P.M. MUHAMMED KUNJU,
 RINSHAD MANZIL, KUHAYATTIKKARA P.O., ARAYANKAVU,
 ERNAKULAM-682 315.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, DEPARTMENT OF LOCAL SELF GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. KOCHI MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, KOCHI MUNICIPAL CORPORATION, KOCHI-682 011.
3. SECRETARY, KOCHI MUNICIPAL CORPORATION, KOCHI-682 011.
4. TOWN VENDING COMMITTEE, REPRESENTED BY ITS CHAIRMAN SECRETARY, KOCHI MUNICIPAL CORPORATION, KOCHI – 682 011.
5. *ADDL.R5:
DEEPAK SHAH, TREASURER, PANAMPILLY NAGAR WELFARE ASSOCIATION, PANAMPILLY NAGAR, COCHIN 682 011.
6. *ADDL.R6:
GEORGE P. KORAH, JOINT SECRETARY, PANAMPILLY NAGAR WELFARE ASSOCIATION, PANAMPILLY NAGAR, COCHIN 682 036.

*ADDL.R5 AND R6 ARE IMPEADED AS PER ORDER DATED 27/09/2019 IN I.A.NO.1/2019.

7. *ADDL.R7, SUO MOTU IMPEADED
THE SECRETARY, GREATER COCHIN DEVELOPMENT AUTHORITY (GCDA), KOCHI.

*ADDL. R7 IS SUO MOTU IMPEADED AS PER ORDER DATED 26.11.2019 IN W.P.(C).

THIS WRIT PETITION (CIVIL) AGAIN COMING UP FOR ORDERS ON 20/04/2020, AND UPON HEARING THE ARGUMENTS OF M/S.KALEESWARAM RAJ & THULASI K. RAJ, ADVOCATES FOR THE PETITIONER, SRI.RANJITH THAMPAN, THE LEARNED ADDL. ADVOCATE GENERAL & SRI.P.NARAYANAN, THE LEARNED SR. GOVERNMENT PLEADER FOR R1, SRI.S.SUDHEESH KUMAR, STANDING COUNSEL FOR R2, R3 & R4, M/S ANIL SAVARAMAN & RAJI VINCENT, ADVOCATES FOR RESPONDENTS 5 AND 6, DR. K.P. PRADEEP AS AMICUS CURIAE, AND SRI.K.NARAYANAN, STANDING COUNSEL FOR R7, THE COURT PASSED THE FOLLOWING:-

A.K. JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.21401 OF 2019

Dated this the 20th day of April, 2020

ORDER

This writ petition is one among a batch of writ petitions that deal with the issue of regulation of street vendors within the limits of the Cochin Corporation. Owing to the lockdown announced by the Central and State Governments in response to the COVID Pandemic, this Court has been functioning with limited resources to attend to urgent matters through videoconferencing. While so, the Amicus Curiae appointed by this Court in the batch of writ petitions, Dr. K.P.Pradeep, has filed a report bringing to the notice of this Court the plight of the street vendors during the lockdown period. In particular, it is pointed out that the street vendors have not been able to earn their livelihood through vending activities and, as a result, their families are deprived of food and other essential commodities, including medicines. It is further stated that while the State Government has announced various relief measures for other vendors who were carrying on business in the State, the street vendors have been selectively discriminated and denied the benefits of such relief measures.

2. Although the issue projected through the report is not directly connected to the main issue that is being considered by this Court in the batch of writ petitions viz. the regulation of street vending within the limits of the Cochin Corporation, permission was granted to the Amicus Curiae to move this Court for urgent orders, taking note of the fundamental rights of the street vendors that would likely be breached if urgent action was not taken. Further, inasmuch as this Court is

functioning with limited manpower and resources during the lockdown period, the Registry was directed to post only one among the batch of cases today, in a representative capacity, so that suitable directions could be given to the respondents in respect of all street vendors operating within the Cochin Corporation limits.

3. I have heard Sri. Kaleeswaram Raj, the learned counsel for the petitioner, Smt. T.B.Mini, the learned counsel for the writ petitioners in W.P.(C).No.35001/2019 and other similar matters, Dr. K.P. Pradeep, the learned Amicus Curiae, Sri. S. Sudheesh Kumar, the learned counsel for the Cochin Corporation and Sri. Ranjit Thampan, the learned Additional Advocate General, duly assisted by Sri. P. Narayanan, the learned Senior Government Pleader.

4. Responding to the report of the learned Amicus Curiae, Sri. Ranjith Thampan would submit that while there can be no difficulty in attaching the families of the identified street vendors of the Cochin Corporation to the nearest Community Kitchens being operated by the State Government, the payment of an amount of Rs.1000/- by the State Government is presently contemplated only to those persons who are not covered by an Social Welfare Benefit scheme and who fall under the Below Poverty Line (BPL) category. It is stated that the present financial position of the State Government does not enable them to disburse any further amounts as monetary benefits to people during the lockdown period. It is further submitted that, even in respect of the disbursement of the aforesaid amount of Rs.1000/-, the formal decision of the State Government has not yet been notified although it is expected within the next couple of days.

5. Taking note of the facts and circumstances of the case and the submissions made across the bar, I deem it appropriate to issue the following directions to ameliorate the conditions of the street vendors during the lockdown period:

1. The State Government shall take immediate steps to attach the families of the Street Vendors, already identified by the Cochin Municipal Corporation, to the nearest Community Kitchens operated by the State Government. To facilitate this, the street vendors concerned shall present themselves for registration at the nearest Community Kitchen, with a copy of this order.
2. The State Government shall also ensure that the said families are given sufficient ration of essential items of food and medicine to tide over the lockdown period.
3. The submission of the learned Additional Advocate General that, subject to a formal announcement of the decision of the State Government, an amount of Rs.1000/- will also be paid to those among the identified street vendors of the Cochin Corporation, who fall under the BPL category of persons, is recorded.
4. In the distribution of relief material, including financial aid, and while extending vending privileges to vendors, the street vendors shall not be discriminated, either on account of the nature of their activities or on account of their status as migrants from another State.

Post this writ petition, along with the connected matters, in the first week of June 2020.

A.K. JAYASANKARAN NAMBIAR
JUDGE

prp/20/4/2020