

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

&

THE HONOURABLE MRS. JUSTICE M.R. ANITHA

TUESDAY, THE 12TH DAY OF MAY 2020 / 22ND VAISAKHA, 1942

W.P.(C).9829 of 2020

PETITIONER

SABU STEEPHEN,
LILLY COTTAGE, PERUKAVU.P.O,
PEYAD, TRIVANDRUM-695 573, KERALA.
MOB: 93 87 82 81 66.

PETITIONER-IN-PERSON

RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
TRIVANDRUM-695001.
2. STATE OF KERALA,
REPRESENTED BY SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM-695001
3. STATE OF KERALA,
REPRESENTED BY SECRETARY,
REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM-695001

4. STATE OF KERALA,
REPRESENTED BY SECRETARY,
HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM-695001

5. STATE OF KERALA,
REPRESENTED BY SECRETARY,
FINANCE DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM-695001

6. STATE OF KERALA,
REPRESENTED BY SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM-695001

7. DIRECTORATE OF HEALTH SERVICES,
REPRESENTED BY DIRECTOR OF HEALTH SERVICES,
GENERAL HOSPITAL JUNCTION, TRIVANDRUM-695035.

8. KERALA STATE DISASTER MANAGEMENT AUTHORITY,
REPRESENTED BY MEMBER SECRETARY,
OBSERVATORY HILLS, VIKASBHAWAN P.O,
TRIVANDRUM-695033.

9. KERALA POLICE,
REPRESENTED BY DIRECTOR GENERAL OF POLICE,
VAZHUTHACAUD, SASTHAMANGALAM P.O,
TRIVANDRUM-695010.

RESPONDENTS 1-9, REPRESENTED BY GOVERNMENT PLEADER SRI.MANU. V.

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON 12.5.2020, ALONG WITH
WPC 9885/2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

&

THE HONOURABLE MRS. JUSTICE M.R. ANITHA

TUESDAY, THE 12TH DAY OF MAY 2020 / 22ND VAISAKHA, 1942

W.P.(C).9885 of 2020

PETITIONER:

DR. K. J. KRISHNA KUMAR,
KAKKANATTU HOUSE,
HOUSE NO.48/2258,
PLAYGROUND ROAD,
ELAMAKKARA P.O.,
KOCHI-682026

ADVOCATES

S. PRASANTH AND K. ARJUN VENUGOPAL

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM,
KERALA, PIN – 695001
2. NON RESIDENT KERALA (NORKA) DEPARTMENT,
REPRESENTED BY ITS SECRETARY
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695001.

3. UNION OF INDIA
REPRESENTED BY SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS
SOUTH BLOCK, NEW DELHI – 110 001

4. MINISTRY OF HOME AFFAIRS
REPRESENTED BY ITS SECRETARY
NORTH BLOCK, NEW DELHI – 110001

5. INDIAN COUNCIL OF MEDICAL RESEARCH
REPRESENTED BY ITS DIRECTOR GENERAL,
V. RAMALINGASWAMIBHAWAN, P.O. BOX NO. 4911
ANSARI NAGAR, NEW DELHI – 110029

GP SRI. MANU V..

SRI.SUVIN R.MENON, CGC

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON 12.5.2020, ALONG WITH WPC 9829 OF 2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING :

ORDER

Anu Sivaraman, J.

The substantial prayers in these writ petitions are with regard to the period of institutional quarantine prescribed for persons travelling to Kerala from overseas and from other States. We heard the learned counsel appearing for the petitioner in W.P(C). No.9885 of 2020 and the petitioner in person in W.P(C). No.9829 of 2020.

2. It is stated that orders of the Union Government provided for compulsory 14 days quarantine period but the period has been diluted by 7 days, by the Kerala Government. It is stated that 14 days compulsory quarantine period has been done away with, in the case of pregnant women, senior citizen and small children and those having health conditions. The petitioner submits that incidents of symptoms of Covid-19 being exhibited even after 28 days after travel are rampant and that steps taken by the State Government to provide only 7 days institutional quarantine and permitting pregnant women, senior citizens and persons with health conditions to undergo the quarantine completely at their residences is likely to cause serious situations again in the State. It is stated that the decision of the State Government to reduce the mandatory 14 days institutional quarantine is incompetent and illegal apart from being against public interest.

3. The learned Additional Advocate General informed this Court that the issue of reduction of quarantine has been considered by the State Government in consultation with medical experts and a decision has been taken to request the Central Government to provide exemption from the Standard Operating Protocol for the State taking note of the special circumstances prevailing in the State. It is

stated that the proposal to request modifications was mooted on the basis of available data and the prevalent situation in the State. It is contended that since all efforts have been taken to see that the home quarantine is properly carried on at the residences including, by personal verification by local authorities, health staff and Asha Workers, the 7 days institutional quarantine and the continuance of the quarantine at residences is completely justifiable in the special circumstances prevailing in the State. It is further submitted that after the 7 days institutional quarantine, RT-PCR test is conducted on all asymptomatic persons and it is only on verification that the persons are Covid negative in the said test, they are permitted to go home and continue the quarantine in their residences. It is stated that later orders issued by the Central Government also support the revision proposed by the State. It is further submitted that the State Government has, as early as on 7.5.2020, specifically requested the Central Government to accord sanction for change in the Standard Operating Protocol in respect of the State of Kerala, taking note of the special circumstances prevailing in the State, including the number of expatriates expected to reach the State in the immediate future. It is stated that State Government has been abiding by all the procedures and directions issued by the Central Government and will continue to do so.

4. The learned Central Government Counsel submits that the Standard Operating Protocol has been prepared taking note of the factual situation and on expert advise and that as such, departure from the same is not normally warranted. It is contended that such departure by the State Governments will lead to a serious situation. It is stated that the request for departure from the Standard

Operating Protocol will have to be considered by the Ministry after getting expert medical advise and taking note of various aspects involved. This may take some time and the SOP must be complied with till then.

5. Having considered the contentions advanced by all sides, we are of the opinion that it is for the Central Government to consider the request made by the State Government for departure from the Standard Operating protocol set in place with regard to the period of institutional quarantine. The special circumstances prevalent in the State and the matters highlighted by the State Government shall also be taken into account by Central Government and a decision on the request shall be taken without delay. It is made clear that those persons who have already been permitted to leave for their residences, in terms of the norms in place by the State, need not be recalled to undergo institutional quarantine, unless the situation so warrants. The issue shall be considered appropriately by the Central Government without delay taking note of the urgency of the situation. In case more time is required to consider the issue, directions regarding steps to be taken in the meanwhile shall be specifically intimated by the Central Government without delay.

Post on 15.5.2020.

ANU SIVARAMAN, JUDGE

M.R. ANITHA, JUDGE

APPENDIX IN WPC 9829 OF 2020

1. **Exhibit P-1:** True copy of the news report published in the DECCAN HERALD, dated 28/01/2020, titled “14-day quarantine mandatory for Indians evacuated from China: Indian Embassy”.
2. **Exhibit P-2:** True copy of the news report published in The Hindu, dated 01/02/2020, titled “Coronavirus outbreak: People flown in from China quarantined”.
3. **Exhibit P-3:** True copy of the news report published in the First Post, dated 19/02/2020, titled “India to evacuate more citizens from China, 348 people released from quarantine”.
4. **Exhibit P-4:** True copy of the news report published in the ARY NEWS, on 13/04/2020, titled “Saudi Arabia quarantines thousands in hotels, some in luxury suites”.
5. **Exhibit P-5: True copy of the news report published in the India Today, on 30/04/2020, titled “3.20 lakh Keralites from 150 countries register online for return as govt sets up plan to bring them back”.**
6. **Exhibit P-6:** True copy of the Order No.40-3/2020-DM-I(A), dated 5/5/2020, of Ministry of Home Affairs, Government of India.
7. **Exhibit P-7:** True copy of the news report published in the ONMANORAMA, on 06/05/2020, titled “Fourth COVID-free day in a week emboldens Kerala CM to announce school exam dates ”.

APPENDIX IN WPC 9885 OF 2020

EXHIBITS

Exhibit-P1: True copy of the relevant part of the daily bulletin for 10.05.2020 issued by the Directorate of Health Services of the 1st Respondent.

Exhibit-P2: True copy of the letter dated 19.04.2020 issued by the 4th Respondent to the 1st Respondent.

Exhibit-P3: True copy of the order dated 05.05.2020 bearing No. 43-3/2020-DM-I(A) of the 4th Respondent along with the SOP.

Exhibit-P4: True copy of a news report dated 06.05.2020 of Mathrubhumi daily that was published on its website.

Exhibit-P5: True copy of the Government Order dated 06.05.2020 bearing No. G.O. (Rt)No.241/2020/NORKA, issued by the 2nd Respondent.

Exhibit-P6: True copy of a news report of Malayala Manorama daily dated 07.05.2020 that was published on its website.

Exhibit-P7: True copy of the press release dated 10.05.2020 issued by the Information and Public Relations Department of the 1st Respondent.

Exhibit-P8: True copy of the statement dated 07.05.2020 filed on behalf of the 1st Respondent in Writ Petition (C) No. 9456 of 2020 without its annexures.

Exhibit-P9: True copy of the press release dated 05.05.2020 issued by the Indian Embassy at Abu Dabhi.

Exhibit-P10: True copy of the Guidelines for home quarantine dated nil issue by the Ministry of Health & Family Welfare, Directorate General of Health Services, (EMR Division).

Exhibit-P11: True copy of the Order dated 31.03.2020 of the Hon'ble Supreme Court in Writ Petition (c) No. 468 of 2020.

Exhibit-P12: True copy of the press release dated 09.05.2020 issued by the Information and Public Relations Department.