

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE RAJA VIJAYARAGHAVAN V
&
THE HONOURABLE MR.JUSTICE T.R.RAVI
FRIDAY, THE 17TH DAY OF APRIL, 2020 /28TH CHAITHRA, 1942

W.P.(C). NO.9401 OF 2020

PETITIONER:

Suo Motu

RESPONDENTS:

1. The State of Kerala,
Represented by the Secretary to the Government of Kerala,
Secretariat, Thiruvananthapuram 695001
2. The Secretary, Home Department, Government of Kerala.
3. The State Police Chief, Police Head Quarters, Trivandrum.
4. The Union of India, represented by the Secretary,
Ministry of Home Affairs, Government of India, New Delhi.

Addl. Respondents:

5. The Special Secretary, Social Justice Department,
Government of Kerala, Secretariat, Thiruvananthapuram
Pin – 695001.
6. The Director, Women and Child Development Department,
Government of Kerala, Thiruvananthapuram.

[Addl. Respondents 5 and 6 are suo motu impleaded as per order

dated 6.4.2020]

By Sri.Ranjith Thampan, Addl. Advocate General

By Sri.P. Narayanan, Sr. Government Pleader
By Central Government counsel, Sri.Suvin R.Menon

This Writ Petition having come up for admission on 17/04/2020, the Court on the same day passed the following:-

ORDER**Raja Vijayaraghavan. V., J.**

The Nation as well as the State has come to a complete standstill in view of the lockdown imposed to curtail the ongoing outbreak of the novel coronavirus disease (Covid 19).

2. In order to maintain social distancing and to prevent the congregation of people, orders have been issued by this Court restricting the functioning of the trial courts. As the sentinel on the qui vive, and being alert to the cries of the citizenry, this Writ Petition was registered suo moto to monitor state action and to ensure that the rights of the people are not infringed during these troubled times. We have been posting this case regularly and have been hearing the Government Pleader through Video Conferencing and several directions have been issued.

3. The Hon'ble Supreme Court by order dated 3.2.2020, had issued guidelines for ensuring the safety of children living in Children Homes constituted under the Juvenile Justice (Care and Protection of Children) Act, 2015. We had therefore suo moto ordered for the impleadment of the Special Secretary, Social Justice Department and the Director, Women and Child Development Department. A detailed report was ordered to be submitted, showing the steps taken by the various departments in the State, towards implementation of the guidelines. In compliance with the said order, an

interim action taken report has been filed before us by the Secretary to Government, Social Justice and Women and Child Development Department. We have gone through the detailed report and we are satisfied that diligent steps have been taken by the concerned departments to oversee the functioning of the Child Care Institutions as well as Child Welfare Committees. It appears that funds have been allotted and measures have been taken to ensure that the institutions are functioning in a proper manner during these troubled times. We direct the respondents to maintain constant follow up, to ensure that the measures and steps ordered to be taken, by the Hon'ble Supreme Court as well as this Court, are implemented in its letter and spirit. We expect the 5th respondent to file a report showing the progress in the implementation of the order and also the various steps taken, which shall be submitted within a period of three weeks.

4. Yet another matter which has engaged our attention through media reports and otherwise, is the issue with regard to the seizure of a large number of vehicles by the police, for violating the lockdown. Since the Magistrate Courts are functioning only in a restricted manner, it has become difficult for the owners of the vehicles to obtain release of the same in an expeditious manner.

5. As the Legislative Assembly of the State of Kerala is not in session and being made aware of the emergent need to take special measures to curb the spread of the dreaded disease, the Governor of Kerala has promulgated the Kerala Epidemic Diseases Ordinance, 2020, which imposes various restrictions, to prevent the spread or transmit of epidemic diseases from person to person, in any gathering, celebration,

worship or other activities within the State. The ordinance also imposes restrictions on the operation of public and private transport.

6. It is brought to our notice that for various needs, genuine or otherwise, certain citizens of this State have violated the provisions of the Ordinance and have plied their vehicles in public roads. Those vehicles have been promptly seized by the Police and crimes have been registered against the alleged violators inter alia under Sections 188, 269 of the IPC, Section 118(e) of the Kerala Police Act, 2011 and also the various provisions of Epidemic Disease Ordinance. The seized vehicles are lying in the premises of the Police Stations, exposed to the vagaries of nature. In the ordinary course, the owners of the said vehicles would have approached the jurisdictional Magistrate for release of vehicles under Section 451 or 457 of the Code of Criminal Procedure. However, as the courts are functioning in a restricted capacity, they are prevented from doing so. We are given to understand that vehicles in the thousands have been seized and are lying in the premises of the various Police Stations. This has resulted in causing grave inconvenience to the law enforcement officers, as they are required to ensure that the vehicles are not stolen/lost from the Station concerned. Less said about the consequent damage to the vehicles, the better.

7. In view of the above, we deem it necessary to issue certain general directions by invoking our extraordinary jurisdiction under Article 226 of the Constitution

of India and under Section 482 of the Code of Criminal Procedure to enable the Station House Officers to release the vehicles on conditions so as to solve this imbroglio.

8. We therefore direct the Station House Officers of the respective Police Stations in the State of Kerala to release the vehicles seized under the Kerala Epidemic Diseases Ordinance, 2020 or under the provisions of the Indian Penal Code / Kerala Police Act, 2011 for violating the lockdown imposed on the owner of the respective vehicle, executing a personal bond and on depositing copies of the RC book, his license and the certificate of insurance of the vehicle. The owner of the vehicle shall file an undertaking that the vehicle shall be produced as and when directed by the officer concerned at a later stage. In addition, the owner shall be required to remit the amount, which we have tentatively fixed as under.

Type of Vehicle	Fine
Two Wheelers/ three wheelers	Rs.1000/-
Motor Car & Jeeps and other Light Motor Vehicles (Private and Transport)	Rs.2000/-
Stage Carriages and Contract Carriages and Medium Goods vehicle	Rs.4000/-
Heavy Goods Vehicles	Rs.5000/-

9. The amount collected as aforesaid shall be deposited in the treasury under a suitable head, with clear particulars and in accordance with the relevant regulations. The SHO concerned shall forward a copy of this Order along with the final report to the learned Magistrate concerned, who shall deal with the matter in accordance with law. It is made clear that this order is being passed under the prevailing extraordinary circumstances solely for the release of the vehicle at the interim stage and shall be subject to the final orders passed in each case. It is also made clear that the benefit of this order shall not be extended to repeat offenders.

Post this matter after three weeks with the report of the 5th respondent.

RAJA VIJAYARAGHAVAN. V
JUDGE

T.R.RAVI, JUDGE

ps/17/4/2020