

CM-2-CWPIL-2022 in/and CWP-PIL-77-2021 (O&M)

Court on its own motion Vs. **Union of India and others**

Present : Mr. Anupam Gupta, Senior Advocate (Amicus Curiae) with
Mr. Gautam Pathania, Advocate,
Mr. Sukhpal Singh, Advocate, and
Mr. Shekhran Singh Virk, Advocate.

Mr. Sonpreet Singh Brar, Advocate,
for the applicant in CM-2-CWPIL-2022.

Mr. S.P. Jain, Addl. Solicitor General of India, with
Mr. Dheeraj Jain, Senior Panel Counsel, for Union of India.

Mr. B.R. Mahajan, Advocate General, Haryana, with
Mr. Deepak Balyan, Addl. Advocate General, Haryana.

Mr. Namit Kumar, Addl. Standing Counsel,
for respondent-UT Chandigarh.

Mr. Avinit Avasthi, Assistant Advocate General, Haryana.

Mr. Charanpal Singh Bagri, Advocate,
for the applicant in CM Nos. 30-32-CWPIL-2021.

Mr. Shekhar Verma, Advocate.

Mr. Karan Nehra, Vice-President,
Mr. Vishal Aggarwal, Secretary,
(Punjab and Haryana High Court Bar Association)

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court).

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Learned counsel for the applicant prays for and is permitted to withdraw the application with liberty to approach the authorities.

Application is, accordingly, dismissed as withdrawn with the aforesaid liberty.

CWP-PIL-77-2021 (O&M)

This Court on 28.04.2021 had issued total 12 directions in a suo-motu proceeding in view of grave situation arising out of Covid-19 pandemic. Pursuant to the directions contained in paragraph (xii), certain

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applications were filed before this Court by various authorities and persons, which were dealt with and disposed of by this Court.

On 20.08.2021, in view of various issues raised by the financial institutions, direction No. (x) issued by this Court was clarified by restricting its applicability to certain cases alone. On 10.11.2021, pursuant to the applications filed by certain persons, the directions contained in paragraph Nos. (i) and (xi) of the order dated 28.04.2021 were also clarified.

On 10.11.2021, on the submissions made by the learned Amicus-Curiae as well as the Secretary of the High Court Bar Association, the clauses/directions No. (iii) (iv) (vi) (vi) (ix) and (xi) contained in the order dated 28.04.2021 were ordered to be deleted/omitted while rest of the interim directions as modified from time to time were directed to continue to operate till the next date of hearing.

Today, when the matter is taken up, it is submitted by all concerned that owing to a sudden and alarming surge in the number of people, who have been tested Covid positive, the situation has again turned grim and extremely unsafe. Several Judges of this Court and a huge number of High Court staff and a large number of Advocates have also been infected with the virus. Thus, in view of the prevalent situation, the representatives of the High Court Bar Association stressed upon the need to restore the directions issued by this Court on previous occasions.

Likewise, even the learned Amicus Curiae has expressed his deep concern as regards the unprecedented spike in the Covid infected cases. He submits that in the given circumstances, the Court may consider, in its wisdom, to re-impose all or any of the directions previously issued by this Court.

Having heard the learned Amicus Curiae as well as the learned Additional Solicitor General of India, learned Advocate General, Haryana, learned Assistant Advocate General, Punjab, Additional Standing Counsel Union Territory, Chandigarh and learned counsel for the parties and looking to the concerns expressed by the Bar Association of the High Court, we propose to restore the interim directions issued by this Court on 28.04.2021, as modified from time to time except direction No. (viii), which is deleted.

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To avoid any ambiguity or confusion, the following directions are re-imposed with immediate effect and shall be operative till 28.02.2022:-

- i) that all the interim orders/directions issued or protection granted including any order requiring any compliance by the parties to such proceedings, passed by this Court or any other Court subordinate to it or any Family Court or Labour Court or any Tribunal or any other Judicial or Quasi Judicial forum, over which this Court has power of superintendence, which are subsisting today shall stand extended till 28.02.2022; provided that the Court concerned shall not automatically continue the interim directions and would be free to continue, modify or recall, as the case may be, the interim orders in case it is of the opinion that the direction contained above is being misused or abused and for that purpose may take up the matter on the date fixed. In all other cases, the interim direction, as contained above, shall continue to be extended uptill 28.02.2022.
- ii) that it is further directed that the interim orders or directions of this Court or any Court subordinate to this Court, which are not of a limited duration and are meant to operate till further orders, shall continue to remain in force until modified/alterd/vacated by specific order of the Court concerned in a particular case;
- iii) that the time for filing of written-statement or return in any Suit or proceeding pending before any Civil Court or any other forum, unless specifically directed, shall stand extended till 28.02.2022. It is however clarified that this will not preclude the parties from filing such written-statement or return before 28.02.2022;
- iv) that it is further directed that the orders of eviction, dispossession, demolition, etc. passed by this Court or any Court subordinate to it or any Tribunal or Judicial or Quasi Judicial forum, which have so far remained unexecuted, shall remain in abeyance till 28.02.2022;

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- v) that interim protection given in the anticipatory bail applications by the High Court or Court of Sessions for a limited period, which is likely to expire from now up to 28.02.2022, shall stand extended till 28.02.2022. However, any party aggrieved by the conduct of the accused on such interim protection, may move the Court seisin over the matter for discontinuation of such interim protection, if any prejudice is caused to him/her, in which event, the Court concerned shall be entitled to take independent view of the matter;
- vi) that all the interim bails granted under Section 439, Cr.P.C. by the High Court or Courts of Sessions, limited by time-frame specifying an expiry date from now up to 28.02.2022, shall stand extended till 28.02.2022, subject to the accused not abusing such liberty or else it may be cancelled at the instance of the State or the complainant, on application with adequate proof of the abuse of the liberty so granted by the Court concerned;
- vii) that parole granted to a person by order passed by a Court exercising the criminal jurisdiction and limited by time-frame specifying an expiry date from now up to 28.02.2022, shall stand extended till 28.02.2022, subject to the condition specified in Point No.(vi) above;
- viii) that the State Governments, Union Territory, Chandigarh, or any of its Departments or any Municipal Corporation / Council / Board or any Gram Panchayat or any other local body or any other agency and instrumentality of the State shall not take any action for eviction and demolition in respect of any property, over which any citizen or person or party or any Body Corporate, has physical or symbolic possession as on today till 28.02.2022;
- ix) that it is further directed that any Bank or Financial Institution shall not take action for auction in respect of any property of any citizen or person or party or any Body corporate till 28.02.2022; subject to the clarification issued by this Court vide

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orders dated 20.08.2021 and 23.09.2021 restricting its applicability.

- x) that if the Government of Punjab, Haryana, Union Territory, Chandigarh, and/or any of its Departments and/or functionaries, Central Government and/or its departments or functionaries or any Public Sector Undertakings or any Public or Private Companies or any Firm or any individual or person is/are, by the order of this Court or any Court subordinate to it or the Tribunals, required to do a particular thing or carry out certain direction in a particular manner, in a time frame, which is going to expire at any time from now up to 28.02.2022, the time for compliance of such order shall stand extended up to 28.02.2022, unless specifically directed otherwise by the Court concerned; subject to the fact that the aforesaid prohibition shall not apply to the orders/directions, which were required to be complied with and are meant for the benefit of the litigant or public at large.
- xi) that in order to dispel any ambiguity, it is clarified that:-
- (a) those interim orders / directions, which are not for a limited duration and are to operate until further orders, shall by this order remain unaffected;
 - (b) that, in case extension of interim order(s) as per the present order passed by this Court, causes any undue hardship and prejudice of any extreme nature, to any of the parties to such proceeding(s), such parties would be at liberty to seek appropriate relief by moving appropriate application(s) before the Competent Court(s), Tribunal, Judicial or Quasi-Judicial Forum, and these directions shall not be taken as a bar for such Courts/Forums to consider such application(s) filed by the aggrieved party, on its own merit, after due notice and providing opportunity of hearing to the other side;
 - (c) that the directions enumerated above shall not preclude the States or Union Territory, Chandigarh or Central

Government from moving appropriate application for vacation/modification of such order in any particular case for reason of overriding public interest;

(d) that all Courts, Tribunals, Judicial and Quasi-judicial authorities are directed to abide by these directions, and the parties seeking relief(s) covered by these directions can file hard copy or soft copy of this order before the competent court/forum, which shall be given due weightage.

List on 24.02.2022.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

20.01.2022
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