

Dr. Anil Dhalla vs Govt. Of Nct Of Delhi & Ors on 28 May, 2020

Author: Sangita Dhingra Sehgal

Bench: Sangita Dhingra Sehgal

\$~5
* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3212/2020, C.M. No. 11181/2020
DR. ANIL DHALLAPetitioner
Through: Ms.Neha and Mr.Ankit Sharma, Advocate.
versus
GOVT. OF NCT OF DELHI & ORS. Respondent
Through: Mr.Rishikesh, Advocate for GNCTD
Mr.Atulya Sharma, Advocate for respondent
Mr.Rakesh Mittal, Advocate for R-2
Mr.Rohit Puri, Advocate for R-5
Mr.S.N. Choudhri and Ms.Sukanya
Choudhri, Advocates for R-6

CORAM:
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL
ORDER

% 28.05.2020
[VIA VIDEO CONFERENCING]

1. Present Writ petition has been filed seeking the following prayers:

i. a writ in the nature of Mandamus or other appropriate writ order or direction to Respondents no. 1-4 to perform their duties to ensure that all the directives laid down by the COVID-19 Management are carried out in and around property bearing no. 197-C, Cariappa Marg, M.B.Road, Delhi and ensure that no guest house is run illegally and neither any portion of the said property is rented out to any person whatsoever who can be a threat to the life and safety of the residents; and ii. a writ in the nature of Prohibition or other appropriate writ order or direction preventing the Respondents no.1 -4 to grant any permission, license or approval to run any guest house in the vicinity of Cariappa Marg, Delhi till all the directives laid down by government are duly complied with and safety and well being of residents are assured; and iii. any other writ, order, direction, or relief which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of Senior Citizens be allowed.

2. By way of the present petition, the petitioner a citizen of 61 years of age, who comes within the most vulnerable group of persons who might contract the Covid-19 virus tries to bring forth the inaction of the civic and enforcement authority who are in charge and responsible to ensure safe and healthy environment to the citizens and prevent the spread of contagious corona virus (COVID- 19).

3. The petitioner further highlights the illegal running of the guest house in the property bearing number 197-C, Cariappa Marg, M.B. Road, Delhi, which has been let out to respondent no. 5 (Max Smart Super Specialty Hospital/Lease Holder) and acts as a guest house for the staff members of the said hospital wherein blatant disregard to the basic norms to control the spread of the Covid-19 is being done, posing a health hazard to the petitioner and other inhabitants of the locality.

4. This court vide order dated 21.05.2020 observed the following:

"5. The respondents No.1 & 2 are directed to take all action, such as fumigation and sanitization, similar to the measures as are being adopted for Containment/Buffer Zones, in the area in question and may also adopt the practice/protocol in other zone/areas where health workers are residing, which would also assuage the fears of other residents in the same locality, that they may be exposed to greater risk of infection.

6. An action taken report be submitted before the next date."

5. In compliance of the order dated 21.05.2020, Respondent No. 2 (SDMC) has submitted its Action Taken Report wherein it has been stated that:

"3. That pursuant to direction of this Hon'ble Court, upon inspection of the area/site, necessary sanitization work & anti mosquito measures in and around the property bearing no. 197-C, Cariappa Marg, M. B. Road, Delhi have been done/carried out on 22.05.2020, 23.05.2020 and 24.05.2020. It goes without saying that further sanitization work at the site in question will be done/carried out in routine as per practice in this regard."

6. In the Action Taken Report filed by Respondent No. 2, certain photographs have also been annexed wherein the sanitization and the anti- mosquito measures are clearly evident.

7. The Action Taken Report filed by Respondent No. 1 (GNCTD) pursuant to the order dated 21.05.2020 reads as follows:

"2. That, in compliance of directions issued by the Hon'ble High Court accordingly an order was issued on 25-05-2020 by the undersigned to all the concerned agencies / Departments with the following directions:

i. Deputy Health Officer, District (South) is requested to make proper arrangements and ensure that the entire area around property bearing No- 197C, Cariappa Marg is sanitized regularly and detailed report is submitted to the undersigned in this regard.

ii. CDMO (South District) to ensure that each and every person staying in the above mentioned area is screened for flu- like symptoms and strict enforcement of all the other medical regulations are done as per protocol.

iii. ACP (Sangam Vihar) is requested to direct the concerned SHO (P.S. Neb Sarai) to provide necessary police assistance to the teams deputed for sanitization / screening and instruct the concerned SHO to look after the security arrangements.

iv. ICD (South) is directed to deploy sufficient number of CDVs for the delivery of essential goods to the people residing in property bearing No- 197C, Cariappa Marg. It is also to be ensured that pamphlets containing contact details of nearby grocery stores are provided to the residents of the above cited area. Copy of the said order is annexed and marked as ANNEXURE-R 1.

3. That, it is submitted before this Hon'ble High Court that in compliance of order dated 25-05-2020 issued by undersigned, ICD (South) has deployed 06 Civil Defence volunteers at and around of property bearing No. 197C, Cariappa Marg w.e.f. 26-05-2020 till the existence of services needed. Copy of the said order is annexed and marked as ANNEXURE-R 2.

4. That, it is also pertinent to mention that in compliance of order dated 25-05-2020 of undersigned an action taken report has also been received from Dr. N R. Tuli, Deputy Health Officer, South Zone alongwith photographs. The copy of the said report / reply is annexed and marked as ANNEXURE-R 3 (Colly).

5. That, it is humbly prayed before this Hon'ble High Court that the directions issued by this Hon'ble High Court vide order dated 21-

05-2020 have been complied and accordingly, action taken report has been prepared and same is being submitted before this Hon'ble High court for kind consideration."

8. The counsel for the petitioner submits that as per the order dated 21.05.2020, Respondents no. 1 (GNCTD) & 2 (SDMC) were to take all appropriate measures which are being followed in the areas which have been notified as Containment/Buffer Zones and the fumigation and sanitization is only one of the many measures which have been provided to be carried out in the Containment/Buffer Zones, hence, it cannot be said that Respondents No. 1 (GNCTD) & 2 (SDMC) have duly discharged their duty. The counsel also places reliance on the Containment Plan issued by the Ministry of Health & Family Welfare, Government of India which provides for the activities to be followed in Containment Zones (Annexure P-14).

9. Further, the counsel for the petitioner places reliance on the photographs (Annexure P-18) depicting the improper disposal of surgical gloves, masks and other equipments by the inhabitant of the house in question, which the petitioner fears may lead to the spread of the Covid-19 in the entire neighbourhood.

10. In pursuance of the Containment Plan (Annexure P-14), the petitioner suggests that Respondents No. 1 (GNCTD)& 2 (SDMC) be directed to:

a. Prepare a complete list of the inhabitants of the house in question; b. Ensure the proper disposal of the surgical gloves, masks and other equipments and c. To ensure that the social distancing measures should be properly followed.

11. This court is of the view that though Respondents No. 1 (GNCTD) & 2 (SDMC) have followed the fumigation and sanitization of the house in question, still, the photographs (Annexure P-14) reflects that there is still much to be done on their part.

12. Consequently, Respondents No. 1 (GNCTD) & 2 (SDMC) are directed to abide by the following directions:

a. Respondents no. 1 (GNCTD) & 2 (SDMC) shall prepare a complete list of the inhabitants of the property bearing no. 197- C, Cariappa Marg, M. B. Road, Delhi and Respondent No. 5 (Max Smart Super Specialty Hospital) will render any assistance required for the said purpose; b. Screening for the detection of any symptoms of Covid-19 to be done at regular intervals by Respondents No. 1 (GNCTD) & 2 (SDMC) and the same may be communicated to the concerned RWA of the said vicinity;

c. Ensure that the surgical masks, gloves etc. are properly disposed of and are not left astray on the road adjoining the house in question; Respondent No. 5 (Max Smart Super Specialty Hospital/Lease Holder) is also directed to spread awareness to its employees staying in the house in question so far as the proper disposal of the surgical masks, gloves etc. waste is concerned;

d. Advocacy on hand hygiene, respiratory hygiene, environmental sanitation and wearing of masks / face-covers to be followed and e. Regular Fumigation and Sanitization of the interior as well as the exterior of the entire premises bearing number 197-C, Cariappa Marg, M.B.Road to be done.

13. Needless to state that Respondent No. 6 (M.S Mehta/ Landlord) and Respondent No. 5 (Max Smart Super Specialty Hospital/Lease Holder) are expected to ensure that hygienic conditions are not compromised in any manner whatsoever within property bearing number 197-C, Cariappa Marg, M.B. Road, Delhi.

14. At this stage, the counsels for Respondent No. 5 (Max Smart Super Specialty Hospital/Lease Holder) as well as Respondent No. 6 (M.S Mehta/ Landlord) voluntarily submit that their clients will deposit Rs. 11,000/- each in the PM CARES Fund. The respondents are directed to do the needful within one week from today and submit the receipt of deposit with the Registry. The Registry is directed to list the case before the Roster Bench in case of default on the part of either of respondent No. 5 (Max Smart Super Specialty Hospital/Lease Holder) or 6 (M.S Mehta/ Landlord).

15. In view of the aforesaid directions, the petitioner does not wish to press the remaining prayers i.e. "i.and ensure that no guest house is run illegally and neither any portion of the said property is rented out to any person whatsoever who can be a threat to the life and safety of the residents; and ii. a writ in the nature of Prohibition or other appropriate writ order or direction preventing the Respondent no.1 -4 to grant any permission, license or approval to run any guest

house in the vicinity of Cariappa Marg, Delhi till all the directives laid down by government are duly complied with and safety and well being of residents are assured"

16. With the aforesaid directions, the writ petition stands disposed of.

SANGITA DHINGRA SEHGAL, J MAY 28, 2020/SU