

COVID-19 Update: Important Judicial Announcements

SUPREME COURT:

Released Prisoners to be provided safe transportation and shelter [*Suo Motu Writ Petition No. 1/2020*]

The Hon'ble Supreme Court vide order dated 7th April 2020, has directed the Union of India to ensure that all the prisoners having been released by the States/Union Territories are not left stranded and that they are provided transportation to reach their homes or given the option to stay in temporary shelter homes for the period of lockdown. The Hon'ble Supreme Court for the aforesaid purpose directed the Union of India to issue appropriate directions under the Disaster Management Act, 2005 or any other law for the time being in force.

The Hon'ble Supreme Court further directed that States/Union Territories shall ensure through Directors General of Police to provide safe transit to the prisoners who have been released so that they may reach their homes. They shall also be given an option for staying in temporary shelter homes during the period of lockdown.

Media directed to act responsibly

[Alakh Alok Srivastava Vs. Union of India [Writ Petition (Civil) 468/2020]

The Hon'ble Supreme Court in its order dated 31st March 2020, observed that laborers who are unemployed due to the lock down were apprehensive about their survival and panic was created/instilled in them by some fake/misleading news and social media that the lock down would last for more than three months resulting in the exodus of migrant laborers from various cities to their homes/villages. Accordingly, in order to avoid a situation of panic and chaos in the country, the Hon'ble Supreme Court has directed the media (print, electronic and/or social) to refer and publish the official version about the developments related to the global pandemic i.e. COVID – 19 (Corona Virus).

Guidelines for protection of Doctors and other medical staff attending to or treating COVID 19 patients

Jerry Banait Vs. Union of India & Anr. [Writ Petition (Civil) 10795/2020]

The Hon'ble Supreme Court in its order dated 8th April 2020, observed that the first line of defense in battling such a pandemic (COVID-19) are doctors and the medical staff who are the most vulnerable to fall prey to the virus, while protecting others from it. The

SC issued interim directions to the Central Government for the safety and welfare of such doctors and medical staff as follows:

1. The respondents as per guidelines dated 24.03.2020 of the Ministry of Health and Family Welfare are directed to ensure availability of appropriate Personal Protective Equipment, including sterile medical/Nitrile gloves, starch apparels, medical masks, goggles, face shield, respirators (i.e. N-95 Respirator Mask or Triple Layer Medical Mask or equivalent), shoe covers, head covers and coveralls/gowns to all Health Workers including Doctors, Nurses, Ward Boys, other medical and paramedical professionals actively attending to, and treating patients suffering from COVID-19 in India, in Metro cities, Tier-2 and Tier-3 cities.
2. The Government of India, respective States/Union Territories and respective Police authorities are directed to provide the necessary Police security to the Doctors and medical staff in Hospitals and places where patients who have been diagnosed with COVID-19 or patients suspected of COVID-19 or those quarantined in their homes. Necessary Police security shall also be extended to Doctors and other medical staff who visit places to conduct screening of people to ascertain symptoms of COVID-19.
3. The State shall also take necessary action against those persons who obstruct and commit any offence in respect to performance of duties by Doctors, medical staff and other Government Officials deputed to contain COVID-19.
4. The Government shall explore all alternatives including enabling and augmenting domestic production of protective clothing and gear to medical professionals. This includes the exploring of alternative modes of production of such clothing (masks, suits, caps, gloves etc.) and permitting movement of raw materials. Further, the Government may also restrict export of such materials to augment inventory and domestic stock.

Private Labs Allowed to Charge Who are Able to Pay

Shashank Deo Sudhi Vs. Union of India & Ors. [Writ Petition (Civil) 10816/2020]

The Hon'ble Supreme Court in its order dated 13th April 2020, clarified that the order dated 8th April 2020, was never intended to make testing free for those who can afford the payment of testing fee fixed by the ICMR for COVID-19 and accordingly modified its order dated 8th April 2020 with the following directions:

1. Free testing for COVID-19 shall be available to persons eligible under Ayushman Bharat Pradhan Mantri Jan Aarogya Yojana as already implemented by the Government of India, and any other category of economically weaker sections of the society as notified by the Government for free testing for COVID-19, hereinafter.

2. The Government of India, Ministry of Health and Family Welfare may consider as to whether any other categories of the weaker sections of the society e.g. workers belonging to low income groups in the informal sectors, beneficiaries of Direct Benefit Transfer, etc. apart from those covered under Ayushman Bharat Pradhan Mantri Jan Aarogya Yojana are also eligible for the benefit of free testing and issue appropriate guidelines in the above regard also within a period of one week.
3. The private labs can continue to charge the payment for testing of COVID-19 from persons who are able to make payment of testing fee as fixed by ICMR.
4. The Government of India, Ministry of Health and Family Welfare may issue necessary guidelines for reimbursement of cost of free testing of COVID-19 undertaken by private labs and necessary mechanism to defray expenses and reimbursement to the private labs.
5. Central Government to give appropriate publicity to the above, and its guidelines to ensure coverage to all those eligible.

HIGH COURTS OF INDIA:

DELHI HIGH COURT:

Directions on release of under-trial prisoners on Bail

Court Of Its Own Motion Vs. State [W.P. (CRL.) 779/2020]

The Hon'ble High Court of Delhi vide order dated 9th April 2020, directed the Superintendent of Jail to release all under-trial prisoners who have secured bail orders passed by this Court or by the Courts subordinate to it, on or before 7th April, 2020, on their furnishing of personal bond to his satisfaction instead of furnishing a surety bond.

ALLAHABAD HIGH COURT:

Extension of Time under Section 29A of The Arbitration and Conciliation Act, 1996

Public Interest Litigation (PIL) No. 564/2020

That vide order dated 6th April 2020, the Hon'ble High Court of Allahabad in continuation of its order dated 26th March 2020, issued the following directions:

1. That as per provisions of Section 29A of the Arbitration and Conciliation Act, 1996 the award in the matter other than international commercial arbitration is required to be made within a period of twelve months from the date of completion of pleadings under sub-section (4) of Section 23. The requirement of Section 29A of the Act is mandatory by nature. However,

looking to the extraordinary circumstances, it is desirable to extend the period aforesaid.

2. That if in any arbitral proceedings the pleadings under sub-section (4) of Section 23 of the Act have been completed and the period of twelve months has expired or is going to be expired on or after 25th March, 2020 then the same stands extended up to 25th May, 2020.

ORISSA HIGH COURT:

Seizure of vehicles to restrict movements only to essential items

Bijaya Kumar Ragada Vs. State of Odisha & Ors. [Writ Petition (Civil) 9095/2020]

The Hon'ble High Court of Orissa vide its order dated 10th April 2020, directed the police authorities to release the seized vehicles of all senior citizens and handicapped persons with an undertaking that the vehicles which were seized/released shall not be utilized for any other purpose other than purchase of essential items. The Hon'ble High Court were also directed to give relaxation in mobility of doctors and health workers on production of their identification and certificates.

KERALA HIGH COURT:

Choice to Rear Pets Traceable to Fundamental Right to Privacy under Article 21

N. Prakash Vs. State of Kerala & Anr. [Writ Petition (Civil) TMP 28/2020]

The Hon'ble High Court of Kerala in its order dated 6th April 2020, observed that a citizen's choice to rear pets is traceable to his fundamental right to privacy under Article 21 of the Constitution of India and accordingly granted relief to Petitioner that he may be allowed to venture out in his vehicle to purchase packed non-vegetarian cat food (Meo-Persian Biscuits) which available at a particular store in Kochi City.