

W.P. No. 7457 of 2020

T. Ganesh Kumar v. Union of India

2020 SCC OnLine Mad 914

In the High Court of Madras
(BEFORE N. KIRUBAKARAN AND R. HEMALATHA, JJ.)

T. Ganesh Kumar ... Petitioner;

Versus

Union of India Represented by Secretary Ministry of Home Affairs
and Others ... Respondents.

W.P. No. 7457 of 2020

Decided on April 9, 2020

Advocates who appeared in this case :

For Petitioner: Mr. A. Ramesh, Senior counsel for Mr. G.R. Hari

For Respondents: Mr. P.H. Aravind Pandian, Additional Advocate General Assisted
by Mr. A.N. Thambidurai, Special Government Pleader Mr. C.V. Sailendhran
Government Advocate

PRAYER: Writ petition is filed under Article 226 of the Constitution of India to issue
a Writ of Certiorari to call for records of the First Respondent in Communication No. 40
-3/2020 dated 24 March 2020 and Quash the same in so far as the First Respondent
listing Print Media as exempted establishment in Para 4(c) of the Annexure to the
impugned Communication dated 24 March 2020.

The Order of the Court was delivered by

N. KIRUBAKARAN, J.:— "Were it left to me to decide whether we should have
Government without newspapers, or newspapers without Government, I should not
hesitate a moment to prefer the latter."

- Thomas Jefferson

The importance of newspapers could be well understood by the abovestatement of
Thomas Jefferson, a leading spokesperson for democracy, the third President of United
States of America from 1801 to 1809, who declared "all men are created equal".

2. The Press is the fourth pillar of democracy. A vibrant media is an asset for any
democratic country like India. In the past, during the independence struggle, it played
a vital role to form opinion against the British Rule. Subsequently also, the role of
media against the dark period of democracy [1975-77] is laudable. Many restrictions
were brought including the pre-censorship of newspapers. The print media especially
Tliiru.Ramnatli Goenka fought successfully against those restrictions. The print media
echoes the views of the people. It is also the watchdog of the Government, bringing
out the misdeeds and corrupt practices at the highest level in the administration.
India is a thickly populated country and multi-lingual society. Many newspapers are
published in various languages claiming vast readership. It is to be noted that the
Hon'ble Supreme Court has also upheld the freedom of press in very many judgments.
The recent judgment by the Hon'ble Supreme Court in *Anuradha Bhasin v. Union of
India, dated 10.01.2020* upheld the freedom of press stating that freedom of press is a
requirement in any democratic society for its effective functioning and Governments
are required to respect this at all times.

3. When such is the importance of newspapers, any attempt to restrict or prohibit
the publication of newspapers would amount to muzzling of independence of Media.

What is expected is only the news and not the views of the publisher. News as it is has to be brought to the readers and not the views of the publishers or his ideology. Though they are entitled to put forth their ideology, people want only the news as it stands. Mixing of views and ideology should be avoided. However, it is a fact that some of the publishers are mixing their views along with the news.

4. This Writ Petition has been filed challenging the exemption given by the Central Government to the Print Media and Electronic Media by virtue of Notification No. 40-3/2020 dated 24 March 2020.

5. According to the petitioner the Corona Virus is capable of spreading through paper surface which can survive about 4 days. If the Newspapers are published and it is supplied to the readers, there is a possibility of spreading virus, even if the paper delivery boy is infected with the Corona Virus. Therefore, the exemption given to the Print Media is being challenged in the present Petition.

6. Mr. A. Ramesh, learned senior Counsel appearing for Mr. G.R. Hari, learned counsel for the Petitioner relied upon the research study named "*Persistence of coronaviruses on inanimate surfaces and their inactivation with biocidal agents*" conducted by Mr. G.Kampf, University Medicine Greifswald, Institute for Hygiene and Environmental Medicine, Ferdinand- Sauerbruch-Strabe, 17475 Greifswald, published in Journal of Hospital Infection. He has also relied upon the study named "*Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1*" published in The New England Journal of Medicine on March 17, 2020, in which it has been specifically stated that Corona vims would persist up to 4 to 5 days and 24 days in paper and cardboard medium respectively. Based on the above said research studies, he would submit that if the Print Media publishes various Newspapers and if they are supplied to the readers, there is a possibility of spreading of virus through the Newspapers. When the Advanced countries themselves are struggling to control the spread of virus, developing country like India should not suffer because of the circulation of the Newspapers, as there is a likelihood of spreading of virus. Therefore, he seeks an interim order restraining the Print Media from publishing any Newspapers in India.

7. However, Mr. P.H. Aravind Pandian, learned Additional Advocate General would submit that research in this area is very limited and it is not a final one. If there is possibility of spread of vims not only through Newspapers sources, even by circulation of money vims could be spread. He would rely upon Document No.8 filed by the petitioner in which Dr.T.Jacob John, Professor of Virology at Christian Medical College, Vellore stated that spread of vims through Newspapers or papers is a least.

8. The learned Additional Advocate General would further submit that the right to information is a fundamental right and therefore, any steps to restrain the Print Media from publishing will go against the fundamental rights of the Citizens.

9. Heard the learned senior counsel appearing on behalf of the petitioner and Mr. P.H.Aravind Pandian, learned Additional Advocate General on behalf of the State and perused the records.

10. There are two research studies which have been referred to by the petitioner. The relevant paragraphs 5, 6 and 7 in the affidavit is usefully extracted hereunder:

"5. I respectfully submit that Primary transmission is caused by droplet transmission when a person is in in close contact (within 1 m) with someone who has respiratory symptoms (e.g., coughing or sneezing) and is therefore at risk of having his her mucosae (mouth and nose) or conjunctiva (eyes) exposed to potentially infective respiratory droplets. Secondary transmission may also occur through fomites in the immediate environment around the infected person. (Air, surface environmental, and personal protective equipment contamination by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) from a symptomatic patient. JAMA. 2020 Mar 4, paper acknowledged by WHO in article dated 29th

March 2020- Study by Ong SW, Tan YK, Chi a PY, Lee TH, Ng OT, Wong MS, et al). I respectfully submit that I have filed the said report as Doc. No. 9 - Page 2 in the typed-set of Papers and the same may be read as part and parcel of this Affidavit. Therefore, transmission of the COVID-19 virus can occur by direct contact with infected people and indirect contact with surfaces in the immediate environment or with objects used on the infected person.

6. In study named "Persistence of coronaviruses on inanimate surfaces and their inactivation with biocidal agents" Conducted by G. Kampf University Medicine Greifswald, Institute for Hygiene and Environmental Medicine, Ferdinand-Sauerbruch-Strasse, 17475 Greifswald, D. Todt, S. Pfaender, E. Steinmann, Department of Molecular and Medical Virology, Ruhr University Bochum, Universita ? tsstrasse 50, 44801 Bochum, from Germany published in Journal of Hospital Infection (Citation Journal of Hospital Infection 104 (2020) 246 - 251, URL: [https://www.journalofhospitalinfection.com/article/S0195-6701\(20\)30046-3/pdf](https://www.journalofhospitalinfection.com/article/S0195-6701(20)30046-3/pdf); [https://www.journalofhospitalinfection.com/article/S0195-6701\(20\)30046-3/pdf](https://www.journalofhospitalinfection.com/article/S0195-6701(20)30046-3/pdf). Received 31 January 2020 Accepted 31 January 2020 Available online 6 February 2020) showed that endemic human coronaviruses (HCoV) can persist on inanimate surfaces like metal, glass or plastic for up to 9 days. The endemic human coronaviruses (HCoV) could persist on paper material for 4-5 days. I respectfully submit that I have filed the said report in the typed-set of Papers as Document 4 Page 1,2,3 and the same may be read as part and parcel of this Affidavit.

7. Further, in the study named "Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1 " - Document 6 Page 1 (published in The new England Journal of Medicine, on March 17, 2020, at NEJM.org), data consisted of 10 experimental conditions involving two viruses (SARS-CoV-2 and SARS-CoV-1) in five environmental conditions aerosols, plastic, stainless steel, copper, and cardboard were tested. It was identified that the SARS-CoV-2 could persist on Cardboard Medium for 24 hours. (The said paper had been Referred by Department of Homeland Security - Science and Technology Directorate, USA in https://www.dhs.gov/sites/default/files/publications/2020_03_18_mql_covid-19-sars-cov-2_-_cleared_for_public_release_0.pdf at Doc. 7 Page 17, Centers for Disease Control and Prevention at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/decontamination-reuse-respirators.html> at Doc. 10 Page 8 and World Health Organisation at <https://www.who.int/newsroom/commentaries/detail/modes-of-transmission-of-virus-causing-covid-19-implications-for-ipc-precaution-recommendations> at Doc. 9 Page 10). I respectfully submit that I have filed the said report in the typed-set of Papers and the same may be read as part and parcel of this Affidavit."

11. It is evident from the records and also from the Media that spreading of vims through Newspapers or through Paper surface is not that much extensive. As rightly pointed out by the learned Additional Advocate General the research in this field is very limited and minimal. When the researches have not been extensively made and conclusively it has not been decided, based on preliminary researches and in the absence of statistics available, if the Print Media is going to be restrained, then it would go against the fundamental rights of the Citizens of the Country.

12. From the document no.8 filed by the petitioner himself, it is found that Dr.T.Jacob John, Professor of Virology at Christian Medical College, Vellore though agreed, that the paper products have a risk of spreading the disease, still stated that amongst all the scenario through which the virus can be spread, transmission through newspapers is the least probable. He would also suggest that the spread of pathogen can be curbed by simply washing hands with soaps after handling the newspapers or currency notes.

13. When the professor of virology himself stated that transmission of vims through paper products is least probable, there cannot be any apprehension in the mind of people that the vims can spread through newspapers. Even otherwise there are methods by which the spread of vims could be prohibited/prevented by ironing the newspapers using the iron box before reading or washing the hands with soap after reading the newspapers. Mere apprehension or least probability cannot be a ground to prohibit the publication of newspapers as it would amount to violation of the Fundamental Rights, of not only the publisher, editor but also the readers, guaranteed under Article 19(I)(a) of the Constitution of India.

14. Moreover, the researches have been made in Germany and UK and one another country, where based on the abovesaid reasearches, the Governments have not prohibited the publication of newspapers. More reasearch is needed to establish that the virus could spread easily through newspapers. When such is a position based on these preliminary researches and in the absence of sufficient data, the prayer sought for by the petitioner cannot be granted.

15. Thus, while dismissing the writ petition without costs and closing the miscellaneous petition, this Court would like to quote the saying of Mahatma Gandhiji about newspapers:

"Newspapers have become more important to the average man than the scriptures"

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