

MANU/KA/2109/2020

Equivalent Citation: 2020(3) AKR 468

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

Writ Petition No. 6737/2020 (GM-RES-PIL)

Decided On: 15.05.2020

Appellants: **Jacob George**

**Vs.**

Respondent: **The Secretary, Department of Information and Broadcasting and Ors.**

**Hon'ble Judges/Coram:**

*B.V. Nagarathna and Suraj Govindaraj, JJ.*

**Counsels:**

*For Appellant/Petitioner/Plaintiff: Sunil Kumar H., Advocate*

*For Respondents/Defendant: M.B. Nargund, ASG, R. Subramanya, AAG and T.L. Kiran Kumar, AGA*

**ORDER**

**B.V. Nagarathna, J.**

**1.** This writ petition is stated to be filed in public interest. The petitioner has stated that he is a public spirited citizen and in public interest, he has filed this writ petition seeking the following reliefs:-

"WHEREFORE, its most respectfully prayed that this Hon'ble court may kindly be pleased to:

(a) Issue a writ in the nature of mandamus directing the respondents 1 to 2 to provide compensation of Rs. 50,00,000/- to the families of media persons, newspaper delivery agents due to corona virus infection.

(b) Issue a writ in the nature of mandamus to respondents 3 to 35 to provide a compensation of Rs. 50,00,000/- to the families of media persons, newspaper delivery agents in case of any death due to corona virus.

(c) Issue a writ in the nature of mandamus directing the respondents to compulsorily conduct health check ups to all the media persons to identify any of the suspected case of corona virus and encourage work from home instead of working from offices of media houses.

(d) Issue a writ in the nature of mandamus directing the respondents to provide safety kits, masks, gloves and personal protection equipment to the media persons who visit hospitals, quarantine centers and containment zones.

(e) Issue any other writ or directions as this Hon'ble court deems fit in the facts and circumstance of case in the interest of justice and equity."

**2.** Despite there being office objections, we have nevertheless entertained the writ petition by keeping open the office objections.

**3.** According to the petitioner, Novel Corona Virus (Covid-19) has affected the people of this world as well as our country and hence, lockdown has been imposed by the Union Government and the respective State Governments. The World Health Organisation (WHO) has declared Covid-19 as a global pandemic and has directed the nations to take adequate steps to mitigate the same. The Union of India has, from time to time, issued Notifications regarding lockdown and its extensions and has prescribed guidelines, instructions and orders for the safety of the people. The pandemic has adversely affected the livelihood of lakhs of migrant workers and poorer sections of the society both economically and otherwise. During the pandemic, doctors, nurses, health care personnel, ASHA workers, Police and paramilitary personnel are functioning as essential services for the prevention of spread and control of the pandemic. Their services are considered to be essential and they are called "Corona Warriors". According to the petitioner, the media personnel and journalists, both print and electronic media, are working day and night so as to create awareness amongst the general public about the harmful effects of the Corona Virus and also for prevention of its spread and disseminating news, views as well as information in that regard. The role of media, both print and electronic, in this regard is important and vital and it should also be considered as an essential service as the media is providing vital information to the people about the policies and directions of the Government and creating awareness amongst them with regard to the programmes and schemes initiated by the Union and State Governments for the benefit of the people. Thus, the personnel working in the media are the primary source of information to the people and they depend upon the print media, television, news channels and radio for getting information about the Covid-19 virus pandemic. Moreover, various news reporters are interviewing doctors, government officials, patients who have recovered from the disease and family members of the patients infected by Covid-19 virus on a day-to-day basis at great risk of their health and the health of their families. That the media personnel have no social security benefit in the event of an unfortunate death while in the line of duty as their families are not paid any compensation, either from the managements under whom they work or from the State or Central Governments.

**4 .** According to the petitioner, certain State Governments, such as the Delhi Government and Maharashtra Government, have announced compensation to the kith and kin of Police personnel and to the families of health care workers, volunteers, etc., in the event of their death due to the virus infection while discharging their duties. Such schemes boost the morale of the Police and medical personnel who are the front-line workers during the Covid-19 pandemic. But, the media personnel have been ignored and left out by the Governments and the media houses.

**5 .** According to the petitioner, many media houses have not properly maintained social distancing and the reporters who are on the ground, lack basic personal protective equipment when they go out to cover news relating to Covid-19. The media personnel visit hospitals, quarantine zones and containment centre without Proper Protective Equipment (PPE). They are put to great risk while discharging their duties as journalists. Recently, in Mumbai, about fifty two media personnel were

tested positive for Covid-19 virus and they had to be quarantined. The media personnel face the risk of infection while discharging their duties. Therefore, it is necessary that the State and the Central Governments announce a compensation scheme for media personnel just as they have done for Police personnel and doctors/health care workers, as the media persons are also facing the same risk as the aforesaid categories of Corona Warriors.

**6.** That the press and media should be considered to be essential services as they are the eyes and ears of the Government and they are the means of disseminating information to the public. That respondent Nos. 3 to 35 have not taken sufficient steps to ensure social distancing at the workplaces nor has any compulsory medical check up for the disease has been conducted. Similarly, newspaper delivery agents are also under the same risk of contacting the virus and they should also be covered under the compensation scheme. Hence, according to the petitioner, this Court must take into consideration his representations dated 05.05.2020 and grant the aforesaid prayers.

**7.** We have heard learned counsel for petitioner, learned Additional Solicitor General for the first respondent and learned Additional Advocate General for second respondent.

**8.** Notice to respondent Nos. 3 to 35 has not been ordered having regard to the fact that they are private entities.

**9.** Learned counsel for the petitioner submitted that while the Central and State Governments have announced schemes for the 'Corona Warriors' comprising of doctors, nurses, health care personnel, paramedics, Police and paramilitary personnel, no such scheme has been announced for media personnel. He contended that the journalists and persons who work in print and electronic media render most valuable services in a democracy. That during the current times, when the Covid-19 pandemic has engulfed the country, apart from other parts of the world, the public is made aware of the latest developments about the pandemic by the significant role played by the media personnel whether, print, electronic or others. Just as the Police and medical personnel are at the risk of contacting the Covid-19 disease while discharging their duties, in the same way, the media personnel are also facing a similar threat and danger. The journalists and other media personnel visit the containment zones, hospitals and such other places and they are vulnerable to Covid-19 disease. As a result of contacting the said disease, there is a possibility of some of the media personnel losing their lives if they do not recover from the disease. Even if they recover from the disease, their quality of life would not be the same. Thus, it is just and necessary that the 1st and 2nd respondents be directed to take into consideration the valuable services rendered by the media personnel and extend the scheme, which presently covers the medical profession and the police personnel to the media personnel also. Learned counsel for the petitioner submitted that the petitioner has submitted a representation on 05.05.2020 and directions may be issued to the respondents to consider the said representations within a time frame given by this court.

**10.** Per contra, learned Additional Solicitor General appearing on behalf of Union of India, at the outset, contended that this writ petition, although filed in the nature of a public interest litigation, is not maintainable and hence cannot be entertained. He contended that the representation was made by the petitioner on 05.05.2020 and even before the same could have been looked into, within a period of twenty four

hours, i.e., on 06.05.2020, this writ petition has been filed. That the principles for issuance of a writ of mandamus are settled. Without giving an opportunity to the 1st and 2nd respondents to even look into the representations made by the petitioner, directions are sought against them, which is impermissible. He further contended that it is for the Union and State Governments to decide for whom a scheme of compensation must be extended during the current pandemic, if any person is adversely affected by the Covid-19 disease or succumbs to the same. That the Union Government and some of the State Governments have extended a scheme of payment of compensation to police and medical personnel as they constitute essential services. That the same is purely a matter of policy and Article 14 of the Constitution does not apply in the instant case. That the media personnel cannot be equated with Police or medical personnel. He further contended that the journalists do not perform any public duty nor a State function. They are discharging their duties as per the directions of entities such as respondent Nos. 3 to 35 who are private media houses. That if any journalist working under respondent Nos. 3 to 35 is infected by the virus and succumbs to it, his/her family could seek relief from the employer of the deceased and not from the State or the Union Government when no scheme in respect of the media personnel has been announced.

**11.** He further drew our attention to the latest judgment of the Hon'ble Supreme Court in the case of Ramakrishna Mission and another vs. Kago Kunya and others, [MANU/SC/0413/2019 : AIR Online 2019 SC 321], (Ramakrishna Mission) where the Hon'ble Supreme Court has considered Article 226 and Article 12 of the Constitution in the context of public duty and has concluded that when a private body is discharging certain duties, the same cannot be construed to be a public duty or, in the instant case, an essential service, as sought to be contended by the petitioner. He submitted hence, the prayers sought for by the petitioner may not be entertained.

**12.** Learned Additional Solicitor General also drew our attention to the revised guidelines issued on 05.03.2019 for journalists by the Central Government which is in the form of a Welfare Scheme. He submitted that those guidelines are applicable to the journalists and they may seek relief under the same. Learned Additional Solicitor General contended that there is no merit in this writ petition and the same may be dismissed.

**13.** Learned Additional Advocate General also argued on the same lines as above.

**14.** Although, we have noted the contentions of learned Additional Solicitor General as well as learned Additional Advocate General, with regard to the maintainability of the writ petition and particularly, the fact that no time whatsoever had been granted to respondent Nos. 1 and 2, to consider the representation made by the petitioner, as the same was made on 5th May, 2020 and the writ petition was filed on 6th May, 2020, nevertheless, we think it appropriate to issue directions to the first and second respondents to consider the representations made by the petitioner in accordance with law, within a period of two months from the date of receipt of a copy of this order. The reasons for the same are not far to see.

**15.** The importance of the media in our democracy cannot be underestimated. Article 19(1)(a) of the Constitution speaks about the freedom of speech and expression which includes the right to information and conversely, right to freedom of press and electronic media to communicate. The right to information is the right to know, which is an important aspect of right of freedom of speech and expression.

**16.** The Hon'ble Supreme Court in *Reliance Petro-Chemicals Limited vs. Proprietors Of Indian Express Newspapers Bombay Pvt. Ltd.*, [MANU/SC/0412/1988 : AIR 1989 SC 190] (*Reliance Petro-chemicals Limited*) has observed that the right to know is a necessary ingredient of participatory democracy. The converse of the right to know is the right to communicate. Both these rights are vital for participation of people in a democracy. The right to participate by the people is a sine qua non in a democracy. In order to exercise the said right, it is necessary that the people are well-informed and hence, the role of the press and the electronic media assumes importance, and is a necessary concomitant in a democracy. Often the press is called the Fourth Estate, while the Executive, Legislature and Judiciary being the other three pillars of the Constitution. The press and the media function as watch dogs in a democracy. A responsible press and media inform the citizens in a democracy information opinions, views and on any issue of public interest. Hence, it is necessary to have a free and balanced press and media, for the people have faith in what the press and media convey and look up to them for having truthful information on any policy of governments or aspect of governance so that they are equipped to participate in a democracy. The media often provides the platform for people to express their views and opinions on any issue of public importance.

**17.** In present times, when the Novel Corona Virus/Covid-19, which is a pandemic, has engulfed not only India but the entire world, useful and vital information received from the press and electronic media is of utmost significance to the public. The media is a channel through which policies to the people of the country so that there could be enough debate on the pros and cons of such policies of the Government. Hence, the need for responsible reporting by the media, which has to portray a correct and accurate picture of the health crisis particularly during times such as the present. For that, the media personnel would have to risk their health and life to be on ground zero, at hot-spots and in containment zones so as to collect information and convey the same to the public at large, either through the press or electronic media. Hence, journalists, whether working for the press or electronic media, either on the field or in studios/offices play a significant and important role. While discharging their duties, they face immense challenges in times such as the current pandemic as they expose themselves to the risk of being infected by the virus even as they perform their duties on the frontiers.

**18.** An independent and balanced press and media is not only a hallmark of a democracy but it is also vital for the Government to convey to the people its policies and programmes so that there could be a debate in public on pros and cons of such policies and programmes as a result of which, Governments could, on receipt of useful and suitable suggestions from the public, alter their policies so that they have utmost efficacy and in the execution of which would ultimately benefit the citizenry of the country. It is also necessary to observe that in times such as the present, where there is a crisis in public health, the media should be responsible to report the true and correct facts and not exaggerate or sensationalise the same so as to create a fear or panic amongst the people who come across such information. Dissemination of information must be truthful and communicated without any exaggeration and not with the object of sensationalizing or creating a fear psychosis amongst the people. Thus, the role of press and the media in present times, where public health is in danger, is of great importance and in order to discharge their role most efficiently, the journalists and media personnel have to be on the frontiers, on ground zero and at the hotspots and containment zones so that the true and correct facts are collected and communicated to the citizens who are consumers of such information.



**19.** It is on an appreciation of the role of the press and media that we think, despite there being no time whatsoever for the first and second respondents even to take cognizance of the representations made by the petitioner, but having regard to the current situation and the important role which the press and media is playing during the current pandemic, we think it necessary to direct the first and second respondents to consider the representations made by the petitioner as early as possible and within a period of two months from date of receipt of certified copy of this order.

**20.** We are mindful of the contentions raised at the Bar, particularly, by learned Additional Solicitor General for South India, with regard to the issuance of a writ of mandamus, when sufficient time has not been given for even taking note of the fact that the representations were made to first and second respondents and also, the judgment of the Hon'ble Supreme Court in the case of Ramakrishna Mission cited by him as well as the fact that no direction could be issued in the instant case as what is sought for by the petitioner is in the realm of policy.

**21.** Nevertheless, the reason as to why we think it just and proper for the first and second respondents to consider the representations in accordance with law and within a time frame is, having regard to the object and purpose of this writ petition. The petition is filed in public interest for and on behalf of those persons, who are in the Fourth Estate, namely journalists and media personnel who are working in the press or the electronic media. We cannot undermine the role played by the press and electronic media in a democracy such as ours.

**22.** The Hon'ble Supreme Court in a catena of cases has always thought it fit to enlarge the right of freedom of press in the context of Article 19(1) of the Constitution. The role of the press and electronic media in recent times has been of significance and immense. In this context, we would like to refer to the judgment of the Hon'ble Supreme Court in *Indian Express Newspapers (Bombay) Private Ltd. Vs. Union of India* [MANU/SC/0406/1984 : AIR 1986 SC 515], (*Indian Express Newspapers*) wherein, it has been stated that in today's free world freedom of press is the heart of social and political intercourse. The press has now assumed the role of public educator, making formal and non-formal education possible in a large scale, particularly, where television and other kinds of modern communication may not still be available for all sections of society. The purpose of the press is to advance public interest by publishing facts and opinions, without which, citizens in a democracy can make responsible choices. Newspapers being purveyors of news and views having a bearing on public administration often carry material which would educate the citizenry about the programmes and policies of the governments and other authorities.

**23.** Thus, the object of free speech under Article 19(1) through the press and other electronic media is to ensure that there is free flow of information from the Government to the public at large and at the same time, to bring to the notice of the powers that be the thinking and views of the people. In times such as this, where the novel Corona virus Covid-19, which is a pandemic has engulfed the world at large including India and during this lockdown period, journalists are visiting the containment zones, apart from green, orange or even red zones designated by the State Governments, having regard to the intensity of spread of the disease in the State. This is for the purpose of bringing to the knowledge of the public at large the true facts and to disseminate the correct information about the pandemic and also to further ensure the distress of the people and their despair are made known to the Government and its instrumentalities so that suitable action is taken for the

containment of the virus.

**24.** We think that the role of journalists and media personnel cannot be underestimated nor undermined during this pandemic and just like the police doctors, nurses, and Government personnel and others who are carrying out essential duties, in the same way, the journalists and other media personnel are on the field so as to disseminate and convey correct information to the citizens of the Country about the impact of the pandemic and also other information from the world over. Therefore, having regard to the role of the Fourth Estate which is one of the pillars of democracy, we think that without making any observations on the merit or otherwise or of the representations made by the petitioner and bearing in mind the fact the petitioner has reached this Court without giving any time to first and second respondents to even take note of the representations made by him, we think it appropriate to direct the first and second respondents to consider the representations made by the petitioner within a period of two months from the date of receipt of a copy of this order. It is needless to observe that the said representation would be considered in accordance with law and a reply shall be issued to the petitioner.

**25.** We further observe that the directions issued in this writ petition is having regard to the functions that are being performed by journalists and media personnel during the pandemic and generally the role that they play in democracy such as ours.

**26.** We further observe that the directions issued is particularly having regard to the Novel Corona Virus (Covid-19) pandemic and any untoward death that may occur during the period of this pandemic of any journalist or the media person only.

**27.** In this regard, we also observe that while considering the said representations first and second respondents are at liberty to consult respondent Nos. 3 to 35 or any other similar entity and may secure necessary insight from the said respondents as they form part of the Fourth Estate. In view of the judgment of the Hon'ble Supreme Court in the case of Ramakrishna Mission, we have not issued any notice nor direction to respondent Nos. 3 to 35, as they are not amenable to the writ jurisdiction under Article 226 of the Constitution as an authority within the meaning of the Article.

**28.** With the aforesaid observations and directions, the writ petition stands disposed.

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