

MOOT PROBLEM

The COVID-19 pandemic in India is part of the worldwide pandemic of coronavirus disease 2019 (COVID-19) caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The first case of COVID-19 in India, which originated from China, was reported on 30 January 2020. On 22 March, India observed a 14-hour voluntary public curfew at the instance of the Prime Minister. It was followed by mandatory lockdowns in COVID-19 hotspots and all major cities. Further, on 24 March, the Prime Minister ordered a nationwide lockdown for 21 days, affecting the entire 1.3 billion population of India. On 14 April, the PM extended the nationwide lockdown till 3rd May which was followed by two-week extensions starting 3rd and 17th May with substantial relaxations. This Pandemic forced implementation of many laws and policies adversely affecting the citizens in different avenues like that of Commerce, education, economy, establishments, Religious places, Sports, Transport, migrant labour, unemployment, Medical services and food securities. Raising flood of cases in relation to gross violation of Legal and fundamental rights with the High Courts and Supreme Court India, some of the enumerated issues are: -

Case-1

Many residents of Cimpri were keeping unwell for some time showing common symptoms after a few days they all were asked to undergo medical tests to discover whether they are Covid-19 positive. Many people got admitted in Pearl Government Hospital. Later after a period of time the hospital authorities were unable to provide proper assistance to their patients and take regular follow-ups due to sudden increase in the Covid-19 patients and lack of proper facilities.

On the other hand, the medical staff and health care workers began protests resigning from their jobs due to lack of safety equipment such as Personal Protective Equipment (PPE kits). It was reported that a few doctors treating the patients had also contacted the virus. A common complaint of the frontline medical workers was the shortage of proper equipments for safety and treatment. The medical staff at the Hospital agreed that saving lives is their duty; however, they also have the responsibility of health and care of their family members' coz of them who are more prone to be infected by the virus. All this situation had created a havoc for the patients as they were not given proper treatment on time. Many casualties occurred as days passed. An NGO named Jeevan Raksha, which had started adding people voluntarily to provide with some medical assistance, found that the hospital authorities and the Government had failed to control the situation and so had taken initiative by filing a writ petition in Supreme court as against the hospital and local government claiming right to life U/Art 21 of the constitution of India

Case-2

The first cases of Covid-19 were reported in Wuhan, China in the month of December 2019. The World Health Organization (WHO) advised nations to take steps such as social distancing

to prevent the spread of the deadly virus. In response to the rising cases of coronavirus in Kindia the Central government declared a nation-wide lockdown for an initial period of 21 days. This was later extended several times for over 4 months. Due to the lockdown all schools, colleges, offices, and public places were shut down. Many marginal workers were retrenched from their jobs, which resulted in financial crises for many families. Because of the lockdown many day to day activities moved online. People began working from home. Classes were conducted online etc.

Mohan a social worker who frequently visited Sardari Basti found that the students of studying in Primary Valley Government School are withdrawing their admission as they do not have the means (such as smart phones, laptops, stable internet connectivity etc.) to attend classes online. Neither would these students be able to appear for the examinations which were to be conducted online at the end of the academic year.

The rise of unemployment due to the pandemic has added to their woes and it is unrealistic to force them to purchase the above mentioned devices especially in a situation when their parents have already lost their jobs or are facing pay cuts. However, the School Headmaster has made it compulsory for students to attend online classes. This has resulted in many parents withdrawing the candidature of their children from the school. Primary education is the fundamental rights of every child, on this ground, Manoj the social worker decided to fight for the cause and so moved the High Court of state of Marila in Kindia.

Case-3

Because of the lockdown, with factories and workplaces shutting down, many migrant workers were left with no livelihood. It was getting difficult for them to arrange for basic food facilities. In the meantime, even their landlords forced them to pay the rent failing which they were forced to leave their premises. Having no money for food and no place to stay they realised that they must head back to their natives. However due to the lockdown there were no means of transportation thus decided to walk hundreds of kilometres to go back to their native villages, accompanied by their families in many cases.

To avoid spread of corona virus, many districts and states had sealed their borders, added fire to the problems of the Migrant Labours, as a result of which, they started to revolt The central government then announced on media platform, that it had asked state governments to set up immediate relief camps for the migrant workers returning to their native states, and later issued orders protecting the rights of the migrants. In its report to the Supreme Court of Kindia on 30 March, the central government stated that the migrant workers, apprehensive about their survival, moved in the panic. Factories industries, undertakings were closed down. No work no money for the labour class. the Supreme Court admitted that the problems of the migrants had still not been solved and ordered the Centre and States to provide free food, shelter and transport to stranded migrant workers

As to the orders of the Central, State Government Saurashtra in Kindia announced that they will be giving free Rations to all the people having Ration Cards. The labours rushed to the Ration Distribution Centre to get their Ration but unfortunately they were told that they will not be getting any food as the Ration Card which they had was of other state and was not valid in Saurashtra. Seeing the suffering of the people a public spirited person who was a practicing lawyer filed a writ petition in the Kombay High Court stating that the right to livelihood of

these people to be safeguarded in the interest of justice, the High Court of Kumbay had considered the petition maintainable and the hearing is fixed for next date

Case-4

On 17th April, 2020, Mandra Government a state in Kindia issued a notification in public interest announcing no rent shall be collected from the tenants for next 4 months.

Sneha, a 19 year old girl studies in a Law college of Ghune, stayed in a 2bhk flat near Kamlanagar, Ghune on sharing basis which was owned by one Mr. Ajabrao he used to asked for rent on the 1st day of every month. On 10th April the District Magistrate of Ghune passes an order calling for the closure of all schools and colleges, accordingly even Sneha's college was closed. Sneha immediately went back to her hometown in Surjab. On May 1, 2020, Ajabrao called Sneha and asked her to pay rent, she informed him about the 'no rent rule' but he refused to budge from his demand for rent. The next day Ajabrao again called Sneha and told her that his sister is admitted to a hospital in Ourangabad and he is immediately in need to transfer her money for medical treatment. Ajabrao adds that he has no other source of income and therefore Sneha must pay him his rent. Understanding the gravity of the situation Sneha paid the rent amount for May immediately.

After one month on June 1st, 2020 Ajabrao again asked Sneha to pay rent. Sneha declined to pay any rent this time as her father had lost his job hence she did not have any money to pay to her landlord. Disturbed by the above situation Ajabrao files complaint in the police station but no action was taken by the police. At the Police station he found that there were many people like him who were suffering as to the order of the District Magistrate. All the landlords who were affected by the above said order in an association filed a Representative suit in the district court but no relief was provided against the order. So they decided to file a case with the High Court Claiming their legal and Constitutional rights. The High Court in this case was appellate Authority who is barred to take cognisance of Constitutional and fundament Rights issues and so granted a certificate to move the Supreme Court

Case-5

Covid - 19 the deadly corona virus hit the Kindian shores on January, 2020. The virus spread quickly across Kindia affecting several thousands of people across multiple states. The central government in line with the advisory of the World Health Organisation (WHO) instructed its citizens to maintain social distancing. To keep a track of people who were infected or who showed symptoms of the virus The Ministry of Electronics and Information Technology launched a mobile phone application named Aarogin app to help in "contact tracing and containing the spread" of COVID-19 pandemic in the nation. The application was capable of detecting how many people were infected by the virus and the number of people who had symptoms of being infected by the virus. The app also showed the number of such abovementioned people in specific vicinity. The World Bank also lauded the early deployment of such technology to combat the pandemic. At first the use of the application was voluntary however later the government ordered that all those who wished to go out of their homes for any reason must download the application failing which a penalty would be imposed upon them.

The citizens of Kindia began downloading this application and signing in with personal information such as their name, numbers and their location. The people did not even think of

the possibility of the misuse of their information as the application was developed by the government. Many cyber experts across Kindia and the world alleged that the application was not safe and that personal data might be leaked from the Aarogin application. The government refuted these claims as baseless and ensured the citizens that the application was completely secure. Unfortunately, the application was hacked into by one terrorist organisation from Cagladesh and threatened the Government to misuse the data to comply their illegal intentions

Dharmesh a citizen of India filed a petition with the High court stating that the government should withdraw its order of making the downloading of the application mandatory and also that the government should take responsibility of the alleged hacking.

As all the cases had arisen from same cause (lockdown)and the relief claimed is to be satisfied from one defendant, to avoid with multiplicity of proceedings, in the interest of justice the Supreme Court of Kindia in its inherent powers had decided to combine the issues in the cases

Issues:

1. Whether Supreme Court of Kindia has Jurisdiction to try this Matter U/ Art. 136 of the Constitution of Kindia
2. Whether there is violation of any legal and fundamental rights of the citizens of Kindia.

NOTE: The laws in Kindia are in Pari materia with laws in India

NOTE: This Moot Problem is Fictitious, taken or assumed for the sake of seeking and disseminating legal knowledge.

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