

(2020) 04 CHH CK 0047

Chhattisgarh High Court

Case No: Writ Petition (C) No. 1026 Of 2020, Writ Petition (PIL) No. 27 Of 2020

Mamta Sharma And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: April 13, 2020

Hon'ble Judges: Goutam Bhaduri, J; Prashant Kumar Mishra, J

Bench: Division Bench

Advocate: Rohit Sharma, S.C. Verma, V.R.Tiwari, Chandresh Shrivastava, Rajeev Shrivastava, Prateek Sharma

Final Decision: Disposed Of

Judgement

Prashant Kumar Mishra, J

1. This petition is preferred by one Ms. Mamta Sharma and the intervention application (IA No. 2 of 2020) is preferred by Shri Prathmesh Mishra in

suo moto Writ Petition (PIL) No. 27 of 2020, questioning the Chhattisgarh State Marketing Corporation Limited's order dated 02.04.2020 (Annexure

P/7) constituting a committee to take steps for initiating preparations to operate the liquor shops throughout the State.

2. Shri Rohit Sharma, the learned counsel for the Petitioner and Shri Prateek Sharma, the learned counsel for the Intervenor would submit that the

Government of India, Ministry of Home Affairs, has not granted any relaxation allowing the State Government to operate the liquor shops during the

lock-down period as notified by the National Disaster Management Authority on 24.03.2020 (Annexure P/2) and by the Government of India, Ministry

of Home Affairs, on even dated vide Annexure P/3. It is submitted that as per the notification, lock- down shall remain in force in all parts of the

country for a period of 21 days w.e.f 25.03.2020. Therefore, neither the State Government nor the Marketing Corporation had the authority to take steps to operate the liquor shops for the reason that no such relaxation for operation of liquor shops has been granted either by the National Disaster Management Authority or the Government of India, Ministry of Home Affairs.

3. The learned Advocate General appearing for the State and Shri Rajeev Shrivastava, the learned counsel appearing for the Respondent-Marketing Corporation would not dispute the notification issued by the National Disaster Management Authority and the Government of India, Ministry of Home Affairs. However, it is urged by them that the first order issued by the State Government prohibiting operation of liquor shops/bar in the State was issued on 31.03.2020 (Annexure R-4/7 and Annexure R-4/8) till 07.04.2020. Therefore, the Marketing Corporation started preparations on 02.04.2020 in contemplation of commencement of operations of liquor shops/bar after 07.04.2020. However, in the course of hearing, the learned Advocate General and Shri Rajeev Shrivastava, the learned counsel for the Marketing Corporation were not able to satisfy as to how the Marketing Corporation's order dated 02.04.2020 can survive after the State Government's order dated 07.04.2020 (Annexure R-4/10) whereby the State Government decided to extend ban on sale of liquor through retail shops/bar licence till 14.04.2020 when the lock-down notification issued by the Central Government remains in force. If the Marketing Corporation's order dated 02.04.2020 was in contemplation of an order by the State Government allowing operation of liquor shops after 07.04.2020, the same having not happened, the Corporation's order dated 02.04.2020 cannot be allowed to remain intact. Therefore, it deserves to be and is hereby quashed.

4. At this stage of the hearing, Shri Rohit Sharma, the learned counsel for the Petitioner, Shri Prateek Sharma, the learned counsel for the Intervenor, Shri Satish Chandra Verma, the learned Advocate General and Shri Rajeev Shrivastava, the learned counsel for the Marketing Corporation, would submit that since the Marketing Corporation's communication dated 02.04.2020 constituting a committee for operation of the liquor shops does not survive after the State Government's subsequent order dated 07.04.2020, the petition and the intervention application {(IA No. 6 of 2020 in suo moto

WP(PIL) No. 27 of 2020} may be disposed of reserving liberty in favour of the State Government to take decision in the matter considering the proposed fresh lock-down notification to be issued by the National Disaster Management Authority or the Government of India, Ministry of Home Affairs, as the case may be.

5. In view of the above submissions made by the learned counsel appearing for all the parties, the writ petition as well as the intervention application

(IA No. 2 of 2020) preferred by Shri Prathmesh Mishra in suo moto Writ Petition (PIL) No. 27 of 2020, are disposed of reserving liberty in favour of

the State Government to take decision in the matter based on the proposed fresh lock-down notification to be issued by the National Disaster

Management Authority or the Government of India, Ministry of Home Affairs, as the case may be.

6. It is made clear that since the petition is being disposed of on technical grounds, we have not expressed any opinion on the merits of the contentions

raised by the Petitioner or the Respondents on their respective stand. However, depending upon the nature of the steps taken by the State

Government pursuant to the fresh lock-down notification issued by the National Disaster Management Authority and the Government of India,

Ministry of Home Affairs, it will remain open for the Petitioner / Intervenor to move afresh before this Court.

7. In view of the above, the order dated 02.04.2020 (Annexure P/7) is quashed. The writ petition i.e. Writ Petition (C) No. 1026 of 2020, stands

disposed of. Consequently, IA No. 2 of 2020 {in WP(PIL) No. 27 of 2020} also stands disposed of.