

(2020) 05 DEL CK 0072

In the Delhi High Court

Case No : Civil Writ Petition No. 3068 Of 2020

O.P. Gupta

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 14-05-2020

Acts Referred:

Constitution Of India, 1950 — Article 19(1)(d), 226, 301
Code Of Criminal Procedure, 1973 — Section 144

Citation : (2020) 05 DEL CK 0072

Hon'ble Judges : Manmohan, J;Sanjeev Narula, J

Bench : Division Bench

Advocate : Nitin Garg, Maninder Acharya, Ripu Daman Bhardwaj, Viplav Acharya, Anil Grover, Rahul Khurana

Final Decision : Disposed Of

Judgement

Manmohan, J

1. The present petition has been heard by way of video conferencing.
2. It is pertinent to mention that the present public interest litigation has been filed under Article 226 of the Constitution of India seeking a direction to respondent No.1 (Union of India) to take action against respondent No.2 (State of Haryana) for adopting a restrictive policy and not allowing the movement of people involved in essential services like doctors, nurses, paramedics, sanitation workers, staff of Delhi Police, Delhi Transport Corporation, Delhi Jal Board, Municipal Corporations etc. between Delhi and Haryana and to direct the respondent No.2 not to restrict the movement of trucks to and fro between Delhi and Haryana.
3. In the present writ petition it has been averred that the petitioner had come to know through newspapers reports dated 29th April, 2020, 30th April, 2020 and 01st May, 2020 published in "Navbharat Times" and "Times of India" that respondent No.2 had sealed and dug up its border with Delhi and even stopped

the movement of trucks carrying vegetables, fruits and milk, thereby, adversely impacting their supply in Delhi. It has also been averred that the respondent No.2 has created various hurdles and restrictions in the movement of people who are permanent residents of Faridabad, Gurugram, Bahadurgarh, Sonipat etc. but are employed in different organisations which are running essential services in Delhi like Delhi Police, Delhi Transport Corporation, Delhi Jal Board, Municipal Corporations, Hospitals and private Doctors.

4. On the first date of hearing i.e. 08th May, 2020, in the absence of any reply affidavit, arguments were confined to restrictions imposed in Sonipat as the petitioner had annexed only an order dated 25th April, 2020 issued by the District Magistrate, Sonipat. Since it was the case of the respondent No.2-Govt. of Haryana that the order dated 25th April, 2020 had been superseded by the subsequent order dated 30th April, 2020 issued by the District Magistrate, Sonipat, this Court after considering the same had issued notice in the entire writ petition. The order dated 08th May, 2020 is reproduced hereinbelow:-

"1. The present public interest litigation under Article 226 of the Constitution of India has been listed before this Bench by the Registry in view of the urgency expressed therein.

2. The writ petition has been heard by way of video conferencing.

3. Present public interest litigation has been filed seeking a number of directions. The prayer clause is reproduced hereinbelow:-

"a) the respondent no.1 (Union of India) be directed to stop respondent no.2 (Govt. of Haryana) from doing all these restriction activities in violation of their orders dated 15.04.2020;

b) respondent no.1 be further directed to direct respondent no.2 to allow all these activities as stated above i.e. the entry of trucks carrying green & fresh vegetables, milk, food grain, medicines & other essential & life-saving commodities coming Himachal Pradesh, Jammu & Kashmir, Punjab & even from Haryana and allow the entry of persons who are employed in Delhi Jal Board, Delhi Police, Hospitals, Municipal Corporations etc. and having pass and permissible under the orders passed by respondent no.1 dated 15.04.2020 on border points of Singhu, Tikri, Gurugram, Aya Nagar & Badarpur;

c) in case the respondent no.2 does not obey the orders & directions issued vide orders dated 15.04.2020 by respondent no.1 and further in pursuance of this writ petition, the respondent no.1 be directed to deploy Para-Central Forces on these five border points so as to stop the respondent no.2 from the above said illegal activities restricting the movements of essential supply of the vegetable, fruits, milk, medicines & people who are permanently employed in Delhi;

d) any other order which this Hon"ble Court deems just and proper may also be passed in the interest of justice."

4. Petitioner, who appears in person, states that as Sonipat is not only contiguous to Delhi but also a part of National Capital Region, a number of Delhi residents have to travel to Sonipat for essential work and similarly a number of Sonipat residents have to travel to Delhi. He submits that the District Magistrate, Sonipat, has imposed blanket cross border transit restrictions between Delhi and Sonipat and granted exemptions to only a few categories of Government officials and for movement of goods not destined for Sonipat.

5. He emphasises that even Doctors, Nurses and Court officials who either reside in Sonipat or work for gain in Sonipat are being prevented from entering/leaving Sonipat. Petitioner submits that the impugned action of the State of Haryana is contrary to and violative of the orders dated 15th April, 2020 and 01st May, 2020 issued by the Union Home Secretary.

6. Ms. Maninder Acharya, learned ASG for UOI, who appears on advance notice, draws this Court's attention to the order/letter dated 30th April, 2020 issued by the Union Home Secretary to all the Chief Secretaries. The relevant portion of the said order is reproduced hereinbelow:-

"D.O. No.40-3/2020-DEM-I (A) 30th April, 2020 Dear Chief Secretary, Kindly refer to Ministry of Home Affairs (MHA) Order of even number dated 15 April 2020 vide which consolidated revised guidelines on lockdown measures were issued. I would like to draw your kind attention to Clause 12 (i & vi) in regard to movement of goods/cargo, which clearly mentions that:

"All goods traffic will be allowed to ply."

Clause 12(vi)

"Movement of all trucks and other goods/carrier vehicles with two drivers and one helper subject to the driver carrying a valid driving licence, an empty truck/vehicle will be allowed to ply after the delivery of goods, or for pick up of goods."

2. However, it has been reported that at inter-State borders in different parts of the country, movement of trucks is not allowed freely and local authorities insist upon separate passes. While this matter has been clarified earlier vide my D.O. letters of even number dated 03.04.2020 and 12.04.2020, it is now re-iterated, as per the guidelines referred to above, that no separate passes are required for through traffic of trucks and goods carriers, including empty trucks etc. This is essential for maintaining the supply chain of goods and services across the country during the lockdown period.

3. Accordingly, all States and UTs shall ensure that district authorities and field agencies are informed of the above instructions, so that there is no ambiguity at the ground level, and movement of through traffic of trucks and goods carriers, including empty trucks is allowed without any hindrance."

With regards,

Yours sincerely,

Sd/-

(Ajay Bhalla)

Chief Secretaries of All States

(As per Standard List attached)"

(emphasis supplied)

7. Mr. Anil Grover, who appears on advance notice for respondent No.2-Govt. of Haryana, disputes and denies the contentions and submissions advanced by the petitioner. He states that the impugned order dated 25th April, 2020 has been withdrawn and a new order dated 30th April, 2020 has been issued by the District Magistrate, Sonipat. The relevant portion of the order dated 30th April, 2020 is reproduced hereinbelow:-

"8. HOWEVER, despite the lockdown efforts, there still have been cases of COVID in District Sonipat with the contact history traced to cross-border sources, THEREFORE, it becomes imperative in public interest that following measures are undertaken to contain any further spread of the virus.

a) Accommodation arrangements for persons working in Sonipat but residents of NCT Delhi & UP shall have to be made by the concerned management at Sonipat so as to preclude any daily cross-border transit.

b) Persons working in NCT Delhi and U.P. but are residents of Sonipat shall pursue similar accommodation arrangement with their concerned management in areas of their work so as to preclude any daily cross-border transit.

xxx xxx xxx

11. The list of consolidated exemptions as below shall be permitted for cross-border movement upon production of valid ID card only. It shall also be mandatory to comply with Clause 9(a) as above at all times and to undergo the procedure mentioned in 9(b) & 9(c) at such frequency as specified from time to time by the Health department or the undersigned.

a) Authorized Government officers/staff of offices covered under 8(b) above and belonging to the PMO (Prime Minister Office), Finance & Defence; Department of Post, Disaster Management and Early Warning Agencies, National Informatics Centre, Food Corporation of India.

b) Those specially issued a Restricted Movement Pass by authorised officers of Government of India/Haryana government in this behalf.

c) Ambulances

d) ATM Cash Vans

e) LPG, Oil Containers/Tankers

f) vehicle with one driver & one helper/security guard for the following:

(i) Supply of grains, eggs/meat/poultry, milk, cereals, lentils & other eatables excluding fruits and vegetables coming from NCT Delhi.

(ii) Supply of green and dry fodder for animals and poultry, piggery feed.

(iii) Supply of medicines, medical equipment and the raw materials used in manufacturing thereof.

(iv) Supply of PPE"s, Masks, Gloves, Sanitizers, Ventilators and the like

g) Purely transit logistics movement of essential/non-essential items on National Highways or State Highways for cargo/raw material/finished goods, however, such vehicles shall not be allowed to halt in territory of District Sonipat.

h) Outbound movement from Sonipat of essential/non-essential items on National Highways or State Highways for vehicles carrying cargo/raw material/finished goods.

It is reiterated that for every person covered under clauses 11(a) to 11(h) the measures as outlined under Clause 9 shall be strictly applicable.

FURTHER, The persons covered under 11(d), 11(f) and 11(h) who undertake cross border transit in and out of Sonipat every day shall be mandatorily quarantined in location(s) designated by the undersigned during the entire time from his return to Sonipat till his next travel back out of Sonipat.

xxx xxx xxx

The enforcement shall be strictly carried out at all border check posts and police nakas under supervision of Duty Magistrate alongwith continuous videography. Any violations shall invite criminal proceedings under the relevant provisions of the Disaster Management Act, 2005 and the Indian Penal Code, 1860. The order u/s 144 of Cr.P.C., 1973

ISSUED VIDE No.6623/Camp/MB, dated 25-04-2020 is hereby withdrawn.

Given under my hand and seal.

Sd/-

Anshaj Singh, IAS

District Magistrate, Sonipat

Dated 30/4/2020"

(emphasis supplied)

8. Prima facie, this Court is of the view that the order dated 30th April, 2020 of District Magistrate, Sonipat, prevents and obstructs the movement of trucks from Delhi to Sonipat as well as movement of Doctors, Nurses, Court officials etc. to

and from Delhi to Sonipat. Accordingly, this Court is of the prima facie view that the order dated 30th April, 2020 by the District Magistrate, Sonipat, constitutes an infringement of Articles 19(1)(d) and 301 of the Constitution of India especially when the entire National Capital and Sonipat are not containment zones. This Court is also in prima facie agreement with the submission of the petitioner that the action of the District Magistrate, Sonipat, is contrary to the orders/letters dated 15th April, 2020, 30th April, 2020 and 01st May, 2020 issued by the Union Home Secretary. The Division Bench of High Court of Kerala vide order dated 01st April, 2020 in W.P.(TMP) No.2/2020, The Kerala High Court Advocates' Association vs. State of Kerala has held, "No doubt, restrictions may be imposed in times of a national emergency such as the present, but when the guidelines issued by the Central Government under the Disaster Management Act itself permits travel for urgent medical treatment, then the said guidelines have necessarily to be enforced by the Central Government through the removal of the blockades that prevent such travel."

9. Issue notice.

10. Mr. Ripu Daman Bhardwaj, learned counsel accepts notice on behalf of respondent No.1/Union of India.

11. Mr. Anil Grover, learned counsel accepts notice on behalf of respondent No.2/ Govt. of Haryana.

12. They pray for and are permitted to file their responses on or before 11th May, 2020 by 4.00 p.m.

13. Reply affidavits shall be e-mailed to the Court Masters.

14. List the matter on 12th May, 2020.

15. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email."

5. In the detailed counter affidavit filed by the respondent No.2-Govt. of Haryana, grounds to justify the order dated 30th April, 2020 issued by District Magistrate, Sonipat, were advanced, but no additional Notification or order restricting movement of essential services and goods between Delhi and any other district in Haryana were placed on the record. However, during the course of hearing on 12th May, 2020, learned counsel for State of Haryana admitted that similar restrictive notifications (as issued by the District Magistrate, Sonipat dated 30th April, 2020) had been issued by the District Magistrates of Faridabad, Gurugram and Jhajjar. The order dated 12th May, 2020 is reproduced hereinbelow:-

"The writ petition has been heard by way of video conferencing.

Though the prayers in the writ petition are to direct Union of India to ensure that individuals involved in essential services as well as goods are allowed to move freely between Delhi and Haryana, yet on the last date of hearing in the absence

of any counter affidavit, hearing was confined to Sonipat as the petitioner had annexed only an order dated 25th April, 2020 issued by the District Magistrate, Sonipat, allegedly restricting movement of essential services between Delhi and Sonipat.

Since it was the case of the respondent No.2-Govt. of Haryana that the order dated 25th April, 2020 had been superseded by a subsequent order dated 30th April, 2020 issued by the District Magistrate, Sonipat, this Court after considering the same had issued notice in the entire writ petition.

In the detailed counter affidavit filed yesterday by the respondent No.2-Govt. of Haryana, a number of grounds to justify the order dated 30th April, 2020 have been advanced, but no additional Notification or order restricting movement of essential services and goods between Delhi and any other district in Haryana has been placed on the record. There is nothing on the file to suggest that any written order restricting movement of people or goods to and fro between Delhi and Haryana has been passed by any official of State of Haryana with regard to any district of Haryana other than Sonipat.

In fact, in the counter affidavit filed by the State of Haryana, it is categorically stated that it has not issued any direction for blocking/sealing the borders with Delhi or stopping the movement of trucks between Delhi and Haryana as has been alleged in the petition. It is also stated that State of Haryana has not issued any order to create hurdles or restrictions for residents of Faridabad, Gurugram, Bahadurgarh and Sonipat who are employed in Delhi.

However, in response to a pointed query, during the course of hearing, Mr. Anil Grover, learned counsel for State of Haryana states that similar notifications (as issued by the District Magistrate, Sonipat dated 30th April, 2020) have been issued by the District Magistrates of Faridabad, Gurugram and Jhajjar.

We are of the view that the State of Haryana should not have been economical with facts. It is a well-settled proposition of law that a party to a writ petition must be held to a standard of "uberrima fides" or "utmost good faith". Consequently, the State of Haryana was obliged in law to disclose all similar notifications/orders issued by District Magistrates of Faridabad, Gurugram and Jhajjar. Accordingly, the State of Haryana is directed to place on record all such similar notifications/orders along with a status report during the course of day by 4.00 p.m. The same shall also be e-mailed to the Court Masters.

Mr. Grover, however, asserts that neither the roads near the border have been dug up nor the Haryana and Delhi border has been sealed by the State of Haryana. He states that the border is being manned by the Haryana security officials and movement of individuals is being allowed on the basis of e-passes issued by the State Government.

In response to a query as to why instead of I-cards issued by Union of India or Government of National Capital Territory of Delhi or Hospitals etc., e-passes are

being insisted upon by the State of Haryana, Mr. Grover states that while I-cards can be forged, e-passes issued by State of Haryana cannot be forged as they bear a bar code. He emphasises that e-passes are being issued within minutes of letters or phone calls being received from officials of Union of India or hospitals. He has been asked as to how on the basis of alleged "forged" identity cards and "deep fake" letters and phone calls, full proof e-passes can be issued!

It has also been put to Mr. Grover as to why "covid warriors" like Doctors, paramedics, Nurses, sanitation workers and Delhi Police personnel who have been enlisted as essential and given right of free movement by Union of India, are being treated as "super spreaders" by the State of Haryana and why the State is wary of implementing the notification dated 15th April, 2020 issued by Union of India in its full rigour.

Ms. Maninder Acharya, learned ASG states that Union of India vide a letter issued yesterday, addressed to all the Chief Secretaries of the States, has echoed a similar sentiment. The letter reads as under:-

"AJAY BHALLA, IAS Home Secretary

Government of India North Block New Delhi.

D.O.40-10/2020-DM-I(A)

Dated:11.05.2020

Dear Chief Secretary,

Kindly refer to the meeting, chaired by the Cabinet Secretary through Video Conference (VC) on 10th May, 2020, wherein the issue of restrictions being imposed by some States/UTs on the movement of medical professionals and para-medical personnel was flagged.

2. As you are aware, the services of medical and para-medical staff are urgently required in meeting the challenge of COVID-19 pandemic. Furthermore, the existing staff, apart from this duty, also have to render normal responsibilities, such as conducting immunization programmes, handling the onset of vector and other seasonal diseases, and meeting other than non-COVID emergencies etc.

3. In this scenario, as pointed out by the Cabinet Secretary, any restrictions on the movement of medical professionals and para-medical staff can lead to severe constraints in rendering COVID and non-COVID medical services. As such, ensuring unhindered movement of all such medical professionals is essential for meeting public health requirements and saving precious human lives.

4. At many places, private clinics and nursing homes are also reported to have not been allowed to open. The functioning of these medical facilities, which supplement the regular medical infrastructure, and relieve the burden on hospitals, is also crucial. I would urge all States and UTs to ensure that such clinics and nursing homes continue to function without any hindrances.

5. I would like to emphasize that all State/UT Governments should ensure that their field officials allow smooth movement of all medical professionals, nurses, para medical, sanitation personnel and ambulances, and ensure the opening of all private clinics, nursing homes and labs with all their medical professional and staff. Such movement shall also be facilitated inter-State, wherever required.

With regards,

Yours sincerely,

Sd/-

(Ajay Bhalla)

To

Chief Secretaries of All States"

(emphasis supplied)

Learned ASG prays that Union of India be given a day"s time to resolve the issue with the State of Haryana.

Prima facie, the screening and stopping of individuals involved in essential services at the Delhi-Haryana border by the State of Haryana is contrary to aforesaid letter issued by the Union of India.

At the request of learned ASG, list the matter on 14th May, 2020 at 2:30 p.m.

It is made clear that no adjournment would be granted on the next date of hearing and an endeavour would be made to dispose of the matter on the said date.

Union of India may file its counter affidavit, if any, by 4.00 p.m. tomorrow. The same shall be e-mailed to the Court Masters also.

Rejoinder affidavit, if any, by the petitioner shall be filed on or before 13th May, 2020 by 4.00 p.m. and shall be e-mailed to the Court Masters.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email."

6. Subsequent to the last hearing, it transpires that the Ministry of Home Affairs, Government of India vide its letter dated 12th May, 2020 addressed to the Chief Secretary, Haryana drew her attention to the aforesaid order and requested for its compliance. The letter of the Ministry of Home Affairs dated 12th May, 2020 is reproduced hereinbelow:-

URGENT COURT CASE

No. 40-10/2020-DM-I(A)

Government of India

Ministry of Home Affairs

North Block, New Delhi

Dated: 12th May, 2020

To,

Smt. Keshni Anand Arora

Chief Secretary

Government of Haryana

Chandigarh.

SUBJECT:- WPC 3068/2020 titled as "O.P. Gupta Vs UOI" in Delhi High Court.

Madam,

I would like to inform that proceedings were held today in the Delhi High Court on the above matter regarding free movement of Goods and individuals involved in essential services between Delhi and Haryana.

2. The Counsel appearing for State of Haryana informed the Hon"ble Court that the notifications are issued by various District Magistrates i.e. Sonipat, Faridabad, Gurugram and Jhajjar for restricting movement across border as Haryana Government is of the view that COVID-19 is spreading in the State because of to and fro movement of people from Delhi and all the districts of Haryana bordering Delhi.

3. In this regard your kind attention is drawn to Para 11 of MHA order No. 40-3/2020 DM-I(A) dated 1st May 2020 which mandates that all States/UT"s shall allow inter-state movement of goods/cargo, including empty trucks. Further, MHA Vide DO 40-10/2020 DM-I (A) dated 11th May 2020 has emphasised that all States/UTs Governments should ensure that their filed officials allows smooth movement of all medical professionals, nurses, paramedical, sanitation personnel and ambulances and ensure the opening of all private clinics, nursing homes, and labs with all their medical professional and staff. Such movement shall also be facilitated inter-State, wherever required.

4. The Hon"ble High Court was of the view that prima facie, the screening and stopping of individuals involved in essential services at Delhi-Haryana border by the State of Haryana is contrary to aforesaid letter issued by Union of India. The Hon"ble court has listed the matter on 14th May, 2020 at 2.30 PM and has directed that an endeavour would be made to dispose of the matter on the said date.

5. Since the Union of India has to file the counter affidavit by 4.00 PM tomorrow (13.05.2020), State Government of Haryana is requested to look into the issue, and inform action taken to ensure compliance of the aforementioned orders/D.Os

of MHA.

Yours faithfully

Sd/-

(Sanjeev Kumar Jindal)

Joint Secretary to the Government of India"

7. The Government of Haryana vide their DO letter dated 13th May, 2020 informed that Para 10 of the Order of Ministry of Home Affairs, Government of India dated 1st May, 2020 stated that all other activities, which are not specifically prohibited/permitted with restrictions in the various Zones under these guidelines will be permitted activities. It was also pointed out that the States/UTs based on their assessment of the situation, and with the primary objective of keeping the spread of COVID-19 in check, may allow only select activities from out of the permitted activities, with such restrictions as felt necessary. Therefore it was stated that inter-state movement of medical professionals and their staff was being facilitated in line with the directions of Ministry of Home Affairs, Government of India. It was also stated that henceforth all District Magistrates of Haryana shall issue e-passes to allow smooth inter-state movement of all medical professionals, nurses, para-medical and sanitation personnel, on priority for the entire duration of the lockdown. The letter dated 13th May, 2020 issued by the Government of Haryana is reproduced hereinbelow:-

"D.O. No. PS/ACS Home/Spl.96

VIJAI VARDHAN, IAS

Addl. Chief Secretary to Govt. Haryana,

Home, Jail, Criminal Investigation and

Administration of Justice Departments.

Dated 13th May 2020

Subject: WPC 3068/2020 titled as "O.P. Gupta Vs UOI" in Delhi High Court.

Dear Mr. Jindal,

This is with reference to your D.O. letter dated 12.05.2020 on the subject noted above. I have been directed to convey to you that Para-5 of Ministry of Home Affairs' D.O. Letter dated

11.05.2020 reads as follows:

" I would like to emphasize that all State/UT Governments should ensure that their field officials allow smooth movement of all medical professionals, nurses, para medical, sanitation personnel and ambulances, and ensure the opening of

all private clinics, nursing homes and labs with all their medical professional and staff. Such movement shall also be facilitated inter-State, wherever required". (emphasis added).

To check the unnecessary inter-state movement of persons Para-8 of the order of the District Magistrate Sonapat explicitly provides as follows:

"8. HOWEVER, despite the lockdown efforts, there still have been cases of COVID in District Sonapat with the contact history traced to cross-border sources, THEREFORE, it becomes imperative in public interest that following measures are undertaken to contain any further spread of the virus.

a) Accommodation arrangements for persons working in Sonapat but persons working in Sonapat but residents of NCT Delhi and UP shall have to be made by the concerned management at Sonapat so as to preclude any daily cross-border transit.

b) Persons working in NCT Delhi and U.P. but are residents of Sonapat shall pursue similar accommodation arrangements with their concerned management in areas of their work so as to preclude any daily cross-border transit."

1. For those managements of medical facilities in Delhi who cannot make such arrangements, Government of Haryana is willing to offer its own buildings for this purpose. Be that as it may, District Administrations have already been liberally issuing e-passes to their staff upon requests.

2. Therefore, the inter-State movement of medical professionals and their staff is being facilitated in line with directions of MHA (GOI).

3. It is also submitted that it is wrong to think that "screening" has been made mandatory at the border for such pass holders by Para-9(b) of the order dated 30.4.2020. The fact is that Para-11 of the said order clearly says that the procedure of thermal scanning and symptomatic screening prescribed in Para-9(b) is to be undergone "at such frequency as specified from time to time by the Health department or the undersigned."

4. The above submissions apply mutatis mutandis to orders of District Magistrates of Faridabad, Gurugram, Jhajjar, Panchkula, Yamunanagar, Sirsa.

5. To the extent that a quick reading of the MHA's letter dated 11.05.2020 might make it appear that the paras-9 and 10 of the order of District Magistrate, Sonapat are in its violation, it is requested that MHA may, in continuation of their letter dated 11.05.2020 clarify that "whenever Inter-State movement of medical professional and staff is required, State government may devise such operational regulations as they may deem fit but necessarily prescribing usage of Aarogya Setu App at all times by such persons". It is pertinent to cite a similar precedent of the sentence contained in para 10 of instructions dated 01.05.2020 of MHA viz. "However, States/UTs, based on their assessment of the situation, and with the primary objective of keeping the spread of COVID-19 in check, may allow

only select activities from out of the permitted activities with such restrictions as felt necessary."

6. However, it is reiterated that henceforth all District Magistrates of Haryana shall issue e-passes to allow smooth inter-state movement of all medical professionals, nurses, paramedical and sanitation personnel on priority for the entire duration of the lockdown.

With regards

Yours sincerely,

Sd/-

(VIJAI VARDHAN)

Sh. Sanjeev Kumar Jindal,

Joint Secretary to Govt. of India,

Ministry of Home Affairs,

New Delhi."

8. After receipt of the aforesaid letter, the Union of India sought further clarifications from the Government of Haryana. Vide letter dated 14th May, 2020, the Government of Haryana clarified that the concerned District Magistrates of Haryana, in addition to medical professionals, nurses, paramedical and sanitation personnel shall promptly issue e-passes to all the employees engaged in providing essential services outside the State of Haryana on receipt of a request of the concerned employer for such duration as will be requested. It was stated that this will ensure smooth and unhindered inter-State movement of personnel engaged in critical health and essential services. The State of Haryana also clarified that inter-State movement of essential/non-essential goods has already been allowed as per the instructions issued by the Ministry of Home Affairs, Government of India. The said letter dated 14th May, 2020 written by State of Haryana is reproduced hereinbelow:-

"D.O. No. PS/ACSHOME/Spl./99

VIJAI VARDHAN, IAS

Addl. Chief Secretary to Govt. Haryana,

Home, Jail, Criminal Investigation and

Administration of Justice Departments

Dated 14th May 2020

Subject: WPC 3068/2020 titled as "O.P. Gupta Vs UOI" in Delhi High Court.

Dear Mr. Jindal

In continuation of my demi official letter dated 13th May 2020 (No. PS/ACSHome/Spl./96) I have been directed to clarify to you that henceforth the concerned District Magistrates of Haryana in addition to medical professionals, nurses, paramedical and sanitation personnel shall promptly issue e-passes to all employees engaged in providing essential services outside the state of Haryana on receipt of a request of the concerned employer for such duration as will be requested. This will ensure smooth and unhindered inter-state movement of personnel engaged in critical health and essential services.

The inter-state movement of essential/non-essential goods has already been allowed as per the instructions issued by the Ministry of Home Affairs GOI from time to time since the imposition of the first lockdown.

With regards

Yours sincerely,

Sd/-

(VIJAI VARDHAN)

Sh. Sanjeev Kumar Jindal,

Joint Secretary to Govt. of India,

Ministry of Home Affairs,

New Delhi."

9. Today, Mr. Anil Grover, learned Additional Advocate General of Government of Haryana has handed over a list of documents by way of e-mail, which is taken on record. He refers to a sample of "Acknowledgement of application for e-pass" and sample of an "e-pass" issued to contend that the State of Haryana has now started issuing e-passes even to private health workers within thirty minutes of an application being filed. He states that an e-pass holder can during its validity make multiple trips to and fro between Delhi and Haryana.

10. To put the matter beyond controversy, Mr. Anil Grover, learned Additional Advocate General of Government of Haryana, during the course of hearing, undertakes as under:-

A) Free movement of trucks carrying both the essential as well as non-essential goods between Delhi and Haryana (except to and fro between Containment Zones) as well as transiting through Haryana shall be allowed.

B) The Delhi - Haryana border is open and the roads near the border have not been dug up. The said border shall be kept open and shall be manned by security personnel.

C) Movement of people who man essential services as mentioned in notifications/orders/letters issued by Union of India including but not limited to government as

well as private doctors, nurses, paramedics, sanitation workers, staff of Delhi Police, Delhi Transport Corporation, Delhi Jal Board, Municipal Corporations, High Courts, trial courts etc. shall be allowed between Delhi and Haryana on production of e-passes and they shall not be quarantined unless and until they test positive for COVID-19 or have been found in contact with COVID-19 patient.

D) E-passes shall be issued to all the aforesaid individuals within thirty minutes of receipt of the applications. Each e-pass shall be valid for the entire duration of the lockdown and could be used for multiple visits.

11. The aforesaid undertakings/statements are taken on record and the Government of Haryana is held bound by the same. In the event of breach of any of the aforesaid statements/undertakings, the petitioner shall be at liberty to file appropriate legal proceedings against the officials of Government of Haryana in accordance with law.

12. In view of the aforesaid, the petitioner who appears in person does not wish to press the present writ petition any further.

13. Recording the aforesaid statements/undertakings, present public interest petition stands disposed of.

14. Before parting with this case, this Court places on record its appreciation for the services rendered by the petitioner as well as all the counsel in the present case and the officials who assisted them as without their assistance it would not have been possible to dispose of the present contentious matter within a short period during the lockdown.

15. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.