

ITEM NO.32 Court 2 (Video Conferencing) SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Sou Motu Writ (C) No(s). 5/2021

IN RE: ALARMING NEWSPAPER REPORT REGARDING KANWAR YATRA
 IN STATE OF U.P.

Date : 16-07-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) By Courts Motion, AOR

For Respondent(s) Mr. C.S Vaidyanathan, Sr. Adv
 Mr. Garima Prasad, AAG
 Mr. Saran Dev Singh Thakur, AAG
 Mr. Mahesh Takur, Adv.
 Mr. Pradeep Misra, AOR
 Mr. Suraj Singh, Adv.

Dr. Abhishek Atrey, AOR

Mr. Tushar Mehta, SG
Ms. Aishwarya Bhati, ASG
Mr. Rajat Nair, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Digvijay Dam, Adv.
Mr. B. V. Balaram Das, AOR

Mr. K. Radhakrishnan, Sr. Adv.

UPON hearing the counsel the Court made the following
O R D E R

Pursuant to our order dated 14.07.2021, affidavits have been filed by the Union of India, the State of U.P. and the State of Uttarakhand.

The State of U.P. has filed an affidavit through its Additional Chief Secretary/Principal Secretary, Home Department stating as follows:

"6. That after detailed discussions, the SDMA

decided that the officers shall hold consultation and dialogue with the various "Kanwar Sanghs" of their respective areas and direct them not to move for religious reasons/yatras in the light of Covid Pandemic. However, it was decided in case due to compelling religious reasons, if any person still wishes to undertake the yatra, then the person should apply for permission with the authorities through the relevant registered 'Kanwar Sangh' of the area. Such persons should have been fully vaccinated as well as should have a negative RTPCR test in the last three days. Further, stringent guidelines/SOPs should be laid down after consultation with the Health Department. The district administration will ensure that the number of permissions thus granted will be kept to a minimum. The ACS Home and the DGP have been directed to interact with the neighbouring states to ensure Covid protocol is followed in respect of the devotees visiting from such States. The SDMA further advised that the State Government can explore other options of conducting the "Kanwar yatra" using other indigenous means and methods in consultation with the stakeholders in terms of the NDMA guidelines in the larger public interest."

The rest of the affidavit goes on to explain as to how "symbolic" physical Kanwar yatra will then take place. On reading this para, the Court pointed out to Mr. Vaidyanathan, learned Senior Advocate appearing for the State of U.P., that given the Covid pandemic and the fear that looms over all the citizens of India of a third wave of the pandemic whether the authorities would be in a position to reconsider holding or the allowing, for compelling religious

reasons, of this yatra in physical form at all. He responded positively to the Court's suggestion and asked for time to come out with an additional affidavit by Monday, the 19th July, 2021 to apprise this Court as to whether there can be a reconsideration of holding the physical Kanwar yatra at all.

We are of the view that this is a matter which concerns everyone of us as citizens of India, and goes to the very heart of Article 21 of the Constitution of India, which has a pride of place in the fundamental rights Chapter of our Constitution. The health of the citizenry of India and their right to "life" are paramount. All other sentiments, *al beit* religious, are subservient to this most basic fundamental right. Bearing this in mind, we appreciate Mr. Vaidyanathan's stand. We have also heard Dr. Abhishek Atrey, learned counsel for the State of Uttarakhand. He points out that by the affidavit dated 15.07.2021, the State of Uttarakhand has completely banned any physical form of the yatra on 30.06.2021. All the affidavits are taken on record, and the learned Solicitor General along with the other senior advocates/advocates are thanked for the prompt manner in which they have all immediately responded to this Court's anguish.

List on Monday, the 19th July, 2021.

On the oral prayer made by Mr. K. Radhakrishnan, learned Senior Advocate, application for intervention is taken on record.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER