

Supplementary List
Sl Nos.3 to 7.
Supplementary List
Sl. Nos.1
Supplementary List -2
Sl. No.2

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

WP(C) PIL no. 4/2020
(Through Video Conferencing
from Srinagar Wing)

Azra Ismail

.....Petitioner(s)

Through:- Mr. Z. A. Qureshi, Sr. Advocate with
Mr. Main Tuffail, Advocate Ph. (on
Video Conference from his residence at
Srinagar)

Mr. Ateeb Kanth, Advocate
(on Video Conference from Srinagar)

Mr. Taha Khalil, Advocate
(on Video Conference from residence in
Srinagar)

Mr. Babar Qadri, Advocate
(on Video Conference from residence in
Srinagar)

Mr. Shafqat Nazir, Advocate
(on Voice call from residence in Srinagar)

Mr. M. Umar Mir, Advocate
(on Voice call from residence in Srinagar).

Mr. Mohammad Mubasir Gatoo,
Advocate (on Voice call from residence in
Srinagar)

v/s

Union Territory of Jammu and Kashmir

.... Respondent(s)

Through:- Mr. B. A. Dar, Sr. AAG
(on Video Conference from his residence at
Srinagar) for UT.

Mr. T. M. Shamshi, ASGI
(on Video Conference from High Court in
Srinagar).

Mr. Vinod Kumar Jakhu, Jail
Superintendent, Central Jail No. 3,
Tihar, New Delhi and
Mr. Main Abdul Qayoom, detenu
(on Video Conference from Central Jail No.
3, Tihar Jail, Delhi)

WP(C) PIL no. 5/2020
(Through Video Conferencing
in Jammu)

Court on its Own Motion

Ms. Monika Kohli, Amicus (on Video
Conference from her office at Jammu)

v/s

Union Territory of Jammu and Kashmir

.... Respondent(s)

Through:- Mr. Amit Gupta, AAG (on Video
Conference from his residence at Jammu)
for Govt. of UT of Jammu & Kashmir
Mr. Vishal Sharma, ASGI (on Video
Conference from his residence at Jammu)
for NIC
Mr. Ravinder Gupta, Advocate.
(on Video Conference from the office of
CGM, BSNL), for BSNL
Mr Abhay Kumar, SIO NIC, J&K
Mr Shahzad Azim, Registrar IT (on
Video Conference from Jammu Wing of
High Court)
Mr. Raman Sharma, AAG
(on Video Conference from his
residence at Jammu)

Coram:

HON'BLE THE CHIEF JUSTICE (on Video Conference from High Court at Jammu)

HON'BLE MR RAJNESH OSWAL(on Video Conference from High Court at Jammu)

ORDER
27.04.2020

1 This hearing is convened pursuant to our order dated 22nd April
2020.

2. Pursuant to our last order, reports have been received on the issues which were flagged. We deal with them in seriatim.

III. Ensuring provision of care to dependants/families of healthcare personnel/government personnel/officials engaged in COVID-19 management

3. We have received a report dated 7th April 2020 filed by Mr. Amit Gupta, AAG on behalf of Ms. Shabnam Shah Kamli, Mission Director, ICPS, Social Welfare Department. The Social Welfare Department has placed before us the steps taken on the above issue. It appears that Nodal Officers have been appointed at the district level have contacted each of the frontline workers engaged in COVID-19 management; procured details of their family members/dependents who could be approached for making inquiries regarding difficulties. In this regard, it is stated that details of 7614 calls made in different districts to the employees as also the details of 5773 family members who were contacted stand obtained. We are informed that 127 of family members of healthcare workers had reported grievance including need of medicine, ration, movement passes, personal protection kits and transportation which were addressed.

4. In para 6 of the report, a three-pronged mechanism has been adopted.

5. The Mission Director, ICPS has assured this court that the assistance rendered to the family members/dependents would be an ongoing process and each day, contact with relatives/family members of the COVID-19 healthcare personnel is being established and grievances addressed.

6. This report is taken on record. The Social Welfare Department shall ensure compliance with our orders dated 3rd April 2020 and thereafter on the above issue.

A monthly report of the steps taken shall be filed before us.

IV. Removal of Lockdown-desirable public response-provision of information

7. We have not received any report on this important issue. This issue was noted by us in paras 18 and 23 of our order dated 3rd April 2020 and we had called upon the Secretary, Health and Medical Education; Social Welfare Department; Director, Information and Member Secretary, JKSLSA to take appropriate action.

8. Director Information was directed to place an action plan before us. This has not been done.

9. Let the directions made by us be positively complied with before the next date of hearing.

VII Addressing issues of Safety, Care, Health and Violence against Healthcare Professionals and Clinical Establishments-Need for a legislative framework

10. We are informed by Mr. Vishal Sharma, ASGI that an Ordinance “The Epidemic Diseases (Amendment) Ordinance, 2020” has been promulgated on 22nd April 2020. The same is not on record before us.

11. Let the status report in this regard be brought before us on the next date of hearing.

12. On the last date of hearing we had required Mr. Vishal Sharma, ASGI to file before us the concerns and objections of the Ministry of Home Affairs to the Healthcare Service Personnel and Clinical Establishments (Prohibition of Violence and Damage to Property) Bill, 2019 (“Draft Bill”) which had been proposed by the Ministry of Health and Family Welfare. This has not been done.

13. Let the objections of the Ministry of Home Affairs be also brought on record before us.

14. Notices were issued to the Indian Medical Association through its National President; Junior Resident Doctors Association through its Secretary, GMC Jammu and Doctors Association of Kashmir through Dr. Nisar-ul-Hassan, Medicine Department, SMHS Hospital, Karan Nagar, Srinagar. No representation has been received from them.

15. Ms. Monika Kohli, learned Amicus Curiae submits that she would contact the representatives of these associations and ascertain their stand on the examination being conducted by this Court.

16. Ms. Kohli has filed before us a comparison of the legislations enacted by the various states. She prays for time to examine the matter in more detail. We would request Ms. Kohli to also examine the definition of healthcare personnel and the healthcare institutions as defined in the various legislations.

List this issue for consideration on 5th May 2020.

VIII. Issue of impact of pollen from poplar trees

17. A report dated 24th April 2020 has been filed by Mr. Sajad Amin Shah, Additional Secretary, Health and Medical Education Department informing us about the constitution of the Committee.

18. Let a report in terms of our order dated 10th April 2020 be brought on record at the earliest.

XIII. Lack of efficient internet facility in the Union Territories of Jammu and Kashmir and Ladakh

19. A status report dated 15th April 2020 has been filed by Mr. T. M. Shamshi, learned ASGI for the Government of Union Territory of Ladakh stating that the internet facilities are fully functional. Therefore, so far as the Union Territory of Ladakh is concerned, status report has been filed confirming that the internet facility is fully functional in the Union Territory of Jammu and Kashmir.

20. A report dated 15th April 2020 has been filed by Mr. Irshad Ahmad, Additional Secretary to the Government, Home Department placing a copy of the order dated 9th April 2020 passed by the Supreme Court of India in the Writ Petition (Civil), titled '*Foundation for Media Professionals vs. Union Territory of J&K and anr*'. We are informed that apart from this writ petition, two other writ petitions being; '*Private Schools' Association, J&K vs. Union Territory of J&K*' and '*Soayib Qereshi v. Union Territory of J&K*' are pending consideration before the Supreme Court.

21. Mr. Raman Sharma, AAG informs us that these writ petitions are listed before the Supreme Court today.

22. In view of the matter pending before the Supreme Court of India, we close our consideration of this issue in this writ petition.

XVII. e-Connectivity of Courts

23. It is submitted by Mr. Ravinder Gupta, Advocate that the work of completion of lease lines stand completed in 29 locations and that the same has been jointly inspected with representatives of the Court staff.

24. Mr. Ravinder Gupta draws our attention to a report dated 15th April 2020 (at page-466). He has drawn our attention to a List of Tested And Verified DOJ Circuits (page 472). It is stated in this list of 27 sites, that some sites are '*working*' while others are reported as '*jointly tested and verified*'.

25. Let this position be confirmed by Mr. Shahzad Azim, Registrar (IT) and response filed before us with regard to the status of the sites which are claimed to have been completed.

26. Mr. Ravinder Gupta, Advocate submits that work at several other sites also stands completed.

27. Let the details of these sites be also filed on record after service of advance copy to Mr. Shahzad Azim, Registrar (IT) who may confirm the position as well.

Let the latest status be filed before us before the next date.

XVIII. Welfare of stranded migrant/contract labour, visitors

28. On the above issue, we have received a report dated 26th April 2020 filed by Mr. Sanjeev Verma, Divisional Commissioner, Jammu informing this court that there are no stranded tourists in the districts. So far as migrants/contract labourers are concerned, it is stated that Deputy Commissioners are personally attending to the requirement and needs of these labourers who are being provided all necessary assistance and food. The Divisional Commissioner has confirmed that there is no reported distress or nutritional crisis. Apart from the district administration, efforts of the regional and district red-cross societies and volunteers are being utilised for handling grievance/distress promptly and efficaciously.

29. Additionally, it is reported that on account of gradual opening of industrial and other establishments including brick kilns, that migrants/contract labourers have been gainfully engaged in productive activities.

30. The Divisional Commissioner, Kashmir has not filed report in this issue.

31. Let a report be filed by the Divisional Commissioner, Kashmir before the next date of hearing.

32. Civil Authorities of the Union Territory shall continue to ensure that there is no distress to any of these persons.

I. **Joining Stakeholders in decision making**
&
II. **Needs of healthcare personnel**

33. The respondents have filed status reports confirming that the above issues are being duly provided for.

34. The respondents shall ensure that directions made by us on these issues on 3rd April 2020 are complied with.

35. These issues do not therefore detain this court any further and are therefore closed.

V. **Availability of Safety Equipment to Healthcare Professionals**

36. On 16th April 2020, an issue has been raised by Mr. Ateeb Kanth, Advocate regarding insufficient sampling and shortage of technicians. A status report dated 20th April 2020 has been filed by Mr. Sajad Amin Shah, Additional Secretary to Government, Health and Medical Education Department informing this court that there is no shortage of technicians for carrying out COVID-19 testing in Jammu and Kashmir and the Guidelines issued by MOH&FW, Government of India and ICMR from time to time are being strictly followed. The capacity of testing stands increased from 100 tests to 700 tests per day and is expected to increase to 1000 per day. COVID-19 testing facilities have been made available in five laboratories. The matter is being reviewed under the Chairmanship of the Financial Commissioner, Health and Medical Education Department.

37. Purchase orders to set up rt-PCR labs in New Medical Colleges at Anantnag, Baramulla, Doda, Kathua and Rajouri stand placed. Existing labs, rt-PCR machines on loan have been ordered from the Universities of Jammu, Kashmir and SKAUST-Srinagar.

38. Rapid testing has commenced and guidelines issued. The following steps have been informed to be undertaken:

- “a. Acquiring of fully automated walk away system approved by ICMR for COVID-19 testing with RNA extractor. MD, JKMSCL has been directed to place the orders*
- b. CB-Naat (Cartridge Based Nucleic Acid Amplification test). Cartridges & True Naat are being provided by the ICMR to UT of J&K for starting the facilities of COVID testing at the District Level.”*

39. In view of the above, the Government of the Union Territory of Jammu and Kashmir is conscious of all its responsibilities and has undertaken all requisite steps which are being regularly reviewed. Everything possible to improve the testing is being undertaken.

40. Our directions made in this issue in previous orders including order dated 3rd April 2020 shall continue to be complied with.

This issue is therefore closed.

VI. Report of the High Powered Committee (appointed in terms of the order dated 23rd March 2020 of the Supreme Court of India in Suo Motu Writ Petition (C) No. 01 of 2020) with regard to Prisoners

&

IX. Status of residents of J&K/Ladakh lodged in prisons in other parts of India

41. Pursuant to our order dated 16th April 2020, a report dated 24th April 2020 has been filed by Mr. V. K. Singh, DG Prisons placing the minutes of the Meeting dated 18th April 2020 of the High Powered Committee.

42. Mr. V. K. Singh has informed this court that between 1st April 2020 to 22nd April 2020, the High Powered Committee has released a total of 92 under trial prisoners; 11 persons who had been arrested under Sections 107, 109, 151 CrPC; 24 prisoners have been released on parole and 96 more prisoners have been released.

43. Mr. Singh has placed before us the steps taken by Superintendent Jails in Jammu to prevent the spread of COVID-19 infection.

44. Additionally, the report received from Director General of Prisons, Haryana regarding prisoners from Jammu and Kashmir who are lodged in Haryana has been placed before us. We are informed that 15 prisoners are lodged in District Jail, Karnal and 2 in District Jail, Jhajjar. Mr. Singh has informed that all detenu of Jammu and Kashmir lodged in Haryana are being screened by medical team twice a day; that the health status of all these detenu is thus monitored daily and they have been found normal till 21st April 2020.

This report is taken on record.

45. Annexed with the report of Mr. Singh, also is a report dated 23rd April 2020 filed by Mr. Amrish Gore, SP (Headquarters), from the office of the Prisons Department, Uttar Pradesh. We have been informed that there are prisoners from Jammu and Kashmir in six jails in UP (Varanasi, Naini

(Prayagraj), Agra, Barailly, Ahmednagar, Lucknow). The jail authorities are taking all steps for social distancing and ensuring the health and safety of the prisoners from Jammu and Kashmir. This report is taken on record.

46. In view of the above, it would appear that the jail authorities are conscious of the responsibility regarding the health and safety of the residents of the Jammu and Kashmir and Ladakh who are lodged in prisons in other parts of India.

The DG Prisons shall continue to monitor their well being and ensure that the health and safety is not compromised in any manner.

47. The High Powered Committee constituted in terms of the order dated 23rd March 2020 of the Supreme Court of India in Suo Motu Writ Petition (C) No. 1 of 2020 with regard to prisoners stands constituted and is also continuously taking steps and making recommendations for release of prisoners as directed.

48. In view of the above, these two issues do not need to detain this court any further. So far as the consideration of these issues by this court is concerned, same are closed.

In case any difficulty is faced, it shall be open to the DG Prisons to approach this court for appropriate directions.

XVI. Limitation on the messaging quota of the High Courts in Jammu and Kashmir and Ladakh as is imposed by NIC

49. So far as this issue is concerned, we are informed by Mr. Shahzad Azim, Registrar (IT) that difficulty was expressed by NIC to enhance quota without payment.

50. However on request of the High Court, the facility of additional users has been permitted by e-Committee of the Supreme Court of India. As a result, the High Court has been able to release additional messaging. It is submitted that in case of any further difficulty, appropriate request would be made.

This issue is closed so far as the present consideration is concerned.

EMG-CM No. 1/2020 in WP(C)PIL No. 4/2020 (filed by Mr. Hanan Moumin & Mr. Taha Khalil, Advocates)

51. The petitioner has made a grievance regarding sealing of shops dealing with essential commodities. The respondents have filed an application submitting that every effort is being made to maintain and ensure supply of essential commodities. Details of the services which have been permitted to operate have been enclosed.

52. The petitioner has filed a rejoinder making a general complaint that the respondents are illegally sealing shops which require to be kept open disrupting availability of essential supply.

53. It is not open for this court to make a fishing and roving inquiry. Liberty is given to the applicant to file appropriate petition giving specific details of any shops which may have been illegally shut down.

This application is dismissed.

EMG-CM No. 2 of 2020 in WP(C)PIL No.4/2020 (filed by Mr. Saqib Amin Paaray, Advocate & Mr. Mohammad Mubashir Gatoo, Advocate)

54. This application was filed by Mr. Saqib Amin Paaray seeking direction to the respondents for grant permission to and facilitation for return of Kashmiris stranded at Jammu. It is submitted by the learned counsel that the official respondents have permitted the Kashmir based High Court employees and their own employees to travel to Kashmir. It is submitted that the respondents have permitted other private persons as well. It is submitted that arbitrary pick and chose policy is being followed in granting permissions. The submission is that a similar provision requires to be made with regard to all Kashmiri families as well and there is no justification for the discrimination.

55. Mr. B. A. Dar, Sr. AAG has submitted that the restrictions stand imposed in the best interest of the people at large to prevent the spread of the COVID-19 infection.

56. A response has been filed by Mr. Sanjeev Verma, Divisional Commissioner, Jammu submitting that it is as part of the scheme for containment of COVID-19, that inter-State and provincial movement of passenger traffic has been barred. A Standard Operating Procedure stand issued by DMRRR for exceptionally allowing the movement of persons on account of medical grounds, death etc.

57. In view of the above, no orders are warranted on this application inasmuch as no general or over arching orders for grant of permission to all

persons desirous of going from Jammu to Srinagar can be granted. Each individual case has to be examined on its own merit.

This application is dismissed.

EMG-CM 3 of 2020 in WP(C)PIL No. 4/2020 (filed by Mansoor Ahmed Mir, Advocate from District Kupwara)

58. A reply dated 24th April 2020 has been filed by the Director Health Service, Kashmir Division.

59. Additionally, a status report dated 25th April 2020 has been filed.

60. The applicant had made a grievance that Gynae services and other critical services in the SDH, Kupwara were closed to the public on account of the hospital being converted to into an isolation hospital for COVID-19 treatment.

61. We have been informed in the response by the Director Health Service, Kashmir Division that services of SDH, Kupwara have been shut down under the direction of higher authorities which has been designated as an isolation hospital to manage the COVID-19 positive cases and the premises of this institution have been declared as a red zone to avoid inward and outward movement in order to control the spread of the virus.

62. It is further informed that in order to address the hardships faced by the people and for making patient care facilities available to them, the District Administration has taken over two Private Nursing Home namely ESS BEE Nursing Home, Kupwara (where, on 16.04.2020, almost 15 LSCS were successfully conducted) and the Quality Care Nursing Home, Kupwara, where even dialysis is being conducted.

63. It is submitted that OPD/IPD is also being run on daily basis in these Nursing Homes. These Nursing Homes have been equipped with all the facilities and requisite man power has also been deployed to the said Nursing Homes for best patient care services.

64. It is further submitted that in addition to these institutions, district Hospital Handwara, SDH Sogam and SDH Kralpora have also been equipped with all requisite facilities to meet out the healthcare/medical facilities of the patient at this crucial stage.

65. In view of the above, thus respondents have ensured the provision of health care facilities to the residents of the district.

66. Grievance is made by Mr. Mansoor Ahmed Mir, learned counsel that the residents of the district are having to travel long distance on foot. It is submitted that patients are being carried on shoulders for accessing the healthcare.

67. Liberty is given to Mr. Mir to inform of his problems to the Deputy Commissioner, Kupwara. The Deputy Commissioner, Kupwara shall ensure that a system devised and efforts are made to ensure even such problems of the people of Kupwara are resolved.

This application is disposed of in the above terms.

EMG-CM No.4/2020 in WP(C)PIL No. 4/2020 (filed by Mr. T. A. Lone and Mr. M. Umar Mir, Advocates)

68. It is submitted by Mr. M. Umar Mir, Advocate who has filed this application that issue No. 2 raised by the applicant regarding mode and method of enforcing the lockdown survives for consideration.

69. It is submitted that facilities like extensive fumigation and sanitization is being undertaken in the towns and cities, however, these steps are completely missing in the rural areas.

70. Let a copy of this application be furnished to Mr. B. A. Dar, Sr. AAG who would file reply on these issues before the next date of hearing.

EMG-CM 5/2020 in WP(C)PIL No. 4/2020 (filed by wife of detenu-Mian Abdul Qayoom)

71. Pursuant to our order 22nd April 2020, Mr. Mian Abdul Qayoom has been produced before us on video conferencing. Also present is Mr. Vinod Kumar Jakhu who is Superintendent of Jail No. 3, Central Jail, Tihar, New Delhi.

72. This application has been filed by the wife of Mr. Mian Abdul Qayoom who stands detained under the Public Safety Act and is at present lodged in Jail No.3, Central Jail, Tihar, Delhi. Pursuant to our order dated 22nd April 2020, a reply dated 25th April 2020 stands filed by the Home Department, J&K.

73. Additionally, a report dated 25th April 2020 has been received from the Inspector General of Police informing this Court that on account of the risk of the COVID-19 infection, it was not possible to depute police personnel from Jammu and Kashmir to Delhi for delivering clothing to Mr. Qayoom. However, summer clothing for Mr. Qayoom has been arranged in Delhi through the CID Cell, New Delhi.

74. We have also received a report dated 25th April 2020 from the Deputy Superintendent, Central Jail No.3, Tihar, New Delhi-110064 placing before us the receipt by Mr. Qayoom confirming receipt of summer clothing specified therein. Therefore, the apprehensions expressed in this application regarding lack of summer clothing for the detenu stand allayed.

75. We are informed by Mr. Jakhu that there are 196 Muslim prisoners who are keeping the fasts (Roza) in the holy month of Ramazan. He submits that full arrangements stand made keeping in view their special dietary needs in consonance with their religious practices including providing the meal early morning between 2.45 am to 3.35 am, depending upon the time which is scheduled by their requirements as well as in the evening/night.

76. Every effort is being made to enable that all other obligations to be discharged and religious practices as required are fulfilled by the prisoners. It is submitted that milk and fruit are made available during the day.

77. We have heard Mr. Mian Abdul Qayoom at great length with regard to the food which is being provided to him enabling him to maintain the discipline to be followed during Ramazan. Mr. Qayoom has expressed one grievance regarding the statement made by Mr. Vinod Kumar Jakhu about provision of the milk and fruit in the day. Mr. Qayoom complains that these are required to be purchased but neither he nor do other prisoners have the money to purchase these as their resources have finished.

78. Mr. Vinod Kumar Jakhu submits that he shall ensure that steps are taken for ensuring provision of such of the dietary requirements of Mr. Mian Abdul Qayoom during the day including the milk and fruits, if any.

79. We are assured by Mr. Vinod Kumar Jakhu that in case any other fasting prisoner has any difficulty on account of non availability of money in his account, if he or she requests the jail authorities, all requirements of milk and fruits would be provided.

80. The applicant has expressed concern regarding the medical health of Mr. Mian Abdul Qayoom. The respondents have given details of the medical treatment being given to the detenu in their replies.

81. So far as the apprehensions regarding the health of Mr Qayoom as expressed in this application is concerned, a status report dated 26th April 2020 has been filed by Mr. Vinod Kumar Jakhu, Superintendent, Central Jail No. 3, Tihar, New Delhi. Mr. Vinod Kumar Jakhu informs us that regular medical checkups of the detenu are being ensured regarding which a detailed report has been submitted in writing before us.

82. In this regard our attention is drawn to a report dated 17th March 2020 of the Medical Board constituted by the Medical Superintendent, AIIMS, New Delhi to examine Mr. Qayoom. This Board was headed by Dr. Nitish Naik, Professor, Department of Cardiology and included four other senior doctors from the Departments of Endocrinology, Urology and Hospital Administration. All necessary tests in the required disciplines were got conducted upon Mr. Qayoom by the Board which has opined that the applicant does not require hospitalization and can be treated for his ailments in Jail Hospital or at the first referral center.

83. Mr. Qayoom submits that it is correct that he is being treated at AIIMS. However, on account of the COVID-19 lockdown, he cannot be taken to the said hospital and is being treated in the jail facilities.

84. The Superintendent, Central Jail No. 3, Tihar, Delhi in his aforesaid report has submitted that the medical history of Mr. Qayoom has been reviewed in the Jail Dispensary as a follow up on 13th March, 27th March, 09th April and 17th April 2020; On 19th March, 20th April and 21st April, 2020, the applicant was reviewed by the Jail Senior Resident Ophthalmology. On 18th April 2020, his medical condition was reviewed by the Jail Senior Resident Orthopedics. Given a complaint of the applicant, x-rays were conducted and necessary treatment in the form of medication, ointment for local application was given, physiotherapy enabled and a Lumbo-sacral belt has been provided to him.

85. In the report, the Superintendent confirms that the general condition and vitals of the applicant were stable and satisfactory and that he is under regular treatment and follow up from the doctors on duty and Senior Residents from the discipline of medicine, ophthalmologist, orthopedics as well as specialists at AIIMS. All prescribed medication are regularly being provided.

86. Dr. Akash Narade, Medical Officer Incharge, Central Jail Hospital and Dispensary, Central Jail No. 3 has confirmed the medical reviews of the applicant. It is reported that the applicant did not give any history of any system or suggestion of COVID-19; his clinical examinations

ruled out COVID-19 and that he would be assessed every week for the COVID-19 infection.

87. Mr. Mian Tuffail, Advocate submits that in the examination on 18th April 2020 by the Jail Senior Resident Orthopedics, this court has been informed that the X-ray Lumbo-sacral spine of the applicant was suggestive of the L1 compression fracture. It is submitted that the applicant would need further treatment for this.

88. We find that the report which has been filed by Dr. Akash Narade has stated that necessary treatment was given to the applicant who was also advised to avoid forward bending, cross leg sitting and squatting position.

89. The jail authorities shall ensure that review of this problem of the applicant is carried out and facilities as medically advised to him are enabled.

90. In view of the above and having heard Mr. Mian Abdul Qayoom in person, we are satisfied that his medical health is being fully taken care of and his requirements to enable him to keep the fasts during the month of Ramazan as well as his medical health is being fully looked after by the authorities of the Tihar Jail.

91. The Superintendent, Central Jail No. 3, Tihar shall continue to ensure that all medical treatment is continued to be provided to the applicant Mr. Mian Abdul Qayoom and also such tests as are medically advised are duly provided keeping in view his fragile state of health especially regarding his kidney and cardiology problems.

92. The third issue raised by the applicant is her expressed anxiety about the possibility of Mr. Mian Abdul Qayoom getting the COVID-19 infection on account of crowding in the Tihar Jail and unhygienic condition. So far as the special requirements for social distancing in Tihar Jail are concerned, it is reported that the Delhi prisons have undertaken the following steps:

“The principle of social distancing is being followed scrupulously in Central Jail, Tihar which include maintaining 1 mtr distance amongst the inmates at common areas which are frequented by the inmates like Jail Dispensary, Jail Hospital, Bathing Area, Kitchen Area and Jail Telephone Area. These areas and wards of the inmates are being regularly cleaned and sanitized using appropriate disinfectants. The face masks have also been provided to all inmates. The necessary steps are also being taken to practice, promote and demonstrate positive hygiene behaviours in Jails.”

93. The Superintendent of Prisons, Central Jail No.3, Tihar, New Delhi has given the further following details:

“2. MEASURES TAKEN IN RESPECT OF SOCIAL DISTANCE IN TIHAR JAIL:-

In view of the threat of Corona Virus (Covid-19) Pandemic, several steps have been taken by the Delhi Prisons, including steps to maintain social distancing, as follows:-

- i. Creation of isolation wards in each Jail for Medical suspect cases.*
- ii. Segregation of new inmates for at least 4-5 days, for which separate “New Inmate Barrack” had been earmarked earlier in each Jail. Now, with reduction in number of new inmates, we have made provisions for keeping them isolated for 14 days.*
- iii. Stoppage of Court production of inmates*
- iv. Stoppage of family Mulakat of inmates*
- v. Medical screening of everyone entering the jails (including inmates, Jail Staff, Security, Medical maintenance Staff and other agencies). A specific checklist has been designed by the Medical Staff for COVID-19 screening of entrants,*

- vi. Repeated screening of all the existing inmates for any symptoms of Covid-19,*
- vii. Discontinuation of all visits of outside agencies, including NGO's*
- viii. Restriction on movements of inmates outside the wards in all Jails,*
- ix. Referral and visits to outside hospitals have been restricted to only emergency situations*
- x. Sanitization and disinfection of the lodgment areas on regular basis*
- xi. Information, education and Communication (IEC) material has been displayed at all the prominent places within the jails and at the entrances, including Do's and Don'ts for the inmates and steepers for Covid-19 infection control*
- xii. Regular awareness of inmates as well as Jail Staff including security forces and other agencies in all jails by briefings & announcements on Public Address (PA) systems, etc*
- xiii. In-house production of mask, hand wash, phenyl and hand sanitizer*
- xiv. Standard Operating Procedure (SOP) for transfer of suspected Covid-19, cases to referral Hospital has been formulated and is being implemented.*
- xv. Special Task Force (STF) formed for "Contact Tracing" of suspected Covid-19 cases in all Jails."*

94. The Superintendent, Central Jail, Jail No. 3, Tihar Delhi has confirmed that the above are being scrupulously followed in the Central Jail, Tihar and minimum distance of one metre amongst his inmates at common areas is being maintained. Face masks stand provided. Visitation has been stopped and all necessary steps are being taken to protect, promote and demonstrate positive hygienic behaviour in the jail.

95. So far as decongestion of jail inmates is concerned, as on 20th April 2020, 3548 inmates have been released on interim bail and emergency parole.

96. It would therefore appear that the Central Jail Tihar is following the requisite protocols for ensuring social distancing to ensure COVID-19 containment and prevention of the infection of prisoners.

97. We now come to the last issue raised in the application. A grievance is made by Mr. Z. A. Qureshi, learned Senior Counsel for the applicant, that the respondents have not complied with the directions made by this Court in paras 30 and 31 of the order dated 22nd April 2020 and that the Government was required to consider the case of the applicant under Sections 19 and 20 of the Public Safety Act, 1978 for temporary release from detention. Mr. Qureshi further submits that the oral prayer on behalf of detenu that in the alternative, his detention to be held in his private property in Shaheen Bagh has not been considered.

98. In response thereto, our attention is drawn by Mr. B. A. Dar, Sr. AAG to the reply filed by the Home Department.

99. Mr. B. A. Dar, Sr. AAG has submitted that the respondents have complied with the observations made by this Court in paras 30 and 31 of the order dated 22nd April 2020. He has drawn our attention to paras 9 and 12 of the reply submitting that High Powered Committee has taken a view that the release of a PSA detenu is not covered in the guidelines issued by the Supreme Court of India and therefore the request of the applicant for release cannot be considered by it.

100. It is further submitted that the authorities have taken a view that the lodgment of the applicant in the jail is conducive and convenient for him

as compared to other places in view of the ailments by which he is suffering from.

101. Mr. Z. A. Qureshi, Sr. Advocate and Mr. Mian Tuffail, Advocate would submit that order of the respondents is contrary to the provisions of Sections 19 and 20 of the Public Safety Act, 1978.

102. It needs no elaboration that in the present proceedings this court is concerned with public interest issues and not with any issue involving an individual case. It was only because of the apprehensions expressed about the fragile medical condition of the husband of the applicant, the imminence of Ramzan, the risk on account of COVID-19, the delay which would have resulted in diverting the matter at that stage to the other Wing and the difficulty of Mr Dar for want of the official records and instructions in Srinagar, that the above three issues were taken up as an exception. Therefore, it is not open to this court to examine the objections pressed by Mr. Z A Qureshi to the correctness of orders passed against the applicant. It is open to the applicants to raise these issues in appropriate legal proceedings.

103. At this stage, Mr. Z A Qureshi submits that inasmuch as the respondents have filed replies to this application, keeping in view interests of expediency, the restrictions on movement, internet and procedural difficulties on account of the lockdown, this application along with reply filed by the respondents may be electronically transferred for consideration of the fourth and last issue to the record of LPA No. 28/2020 which is listed on 4th May 2020.

This request appears to be fair.

104. It is therefore directed that copies of this application, replies/status reports filed by Mr. B. A. Dar, Sr. AAG, Mr. T. M. Shamshi, ASGI and the Superintendent, Tihar Jail No. 3, Delhi shall be electronically sent by the Registrar Judicial, Jammu to Registrar Judicial, Srinagar for registration of the application and placing on the record of LPA No. 28/2020 and listing on 4th May 2020.

105. It is further directed that this application shall be placed in the record of LPA No. 28/2020. It shall be separately registered as an application in that appeal and listed along with the main appeal on the 4th of May, 2020.

106. Apprehension is expressed by Mr Z.A. Qureshi, Sr. Advocate that the hearing in the appeal would be delayed by the respondents by non production of the record.

107. We are assured by Mr. B. A. Dar, Sr. AAG that the record necessary for hearing shall be positively produced before the Division Bench.

This application is disposed of.

EMG-CM No. 8 & 9 of 2020 in WP(C)PIL No. 5/2020

108. Mr. Amit Gupta, AAG seeks further time to file reply.

109. Let the same be filed before the next date.

EMG-CM No. 12 & 20 of 2020 in WP(C)PIL No. 5/2020

110. Notice was issued to the Jammu Municipal Corporation and Srinagar Municipal Corporation.

111. Issue fresh notice.

112. Notice issued to the Corporations shall be served on the Commissioners of these Corporations as well as standing counsels who appear for them.

EMG-CM No. 13/2020 in WP(C) PIL No.5/2020 (filed by Lt. Sh. Zakir Hussain Keen, Kishtwar)

113. Notice in this application was issued earlier.

114. It is submitted by Mr. Amit Gupta, AAG that copy of this application is not forwarded to him.

115. Let the Registrar Judicial forward copy of this application to Mr. Amit Gupta, AAG immediately.

116. Response shall be filed after contacting the applicant(s).

EMG-CM No. 14/2020 in WP(C)PIL No. 5/2020(filed by Ms. Deepika Mahajan)

117. This application has been wrongly listed. This application was disposed of by our order dated 16th April 2020 (para-30).

EMG-CM No. 22/2020 in WP(C)PIL No. 5/2020

118. A newspaper report dated 24th April 2020 in the Tribune reporting several quintals of floors in District Doda has been directed to be treated as an application.

119. Let copy of this report be furnished to Ms. Monika Kohli, Amicus Curiae as well as Mr. Amit Gupta, AAG.

120. Issue notice.

121. Mr. Amit Gupta, AAG accepts notice.

122. Mr. Gupta, AAG shall positively file a reply before the next date of hearing.
123. List the matter for consideration on 12th May 2020.
124. List for consideration Issue No. VII on 5th May 2020.

(RAJNESH OSWAL)
JUDGE

(GITA MITTAL)
CHIEF JUSTICE

Jammu
27.04.2020
Raj Kumar

