

MANU/BH/0448/2020

Equivalent Citation: 2020(2)PLJR850

IN THE HIGH COURT OF PATNA

CWJC No. 5633 of 2020

Decided On: 30.04.2020

Appellants: **In Re: Functioning of Courts in Bihar during the period of COVID-19 Pandemic (Corona Virus)**

Hon'ble Judges/Coram:

Sanjay Karol, C.J., Dinesh Kumar Singh and Hemant Kumar Srivastava, JJ.

Counsel:

For Appearing Parties: Lalit Kishore, A.G., S.D. Sanjay, ASG, Yogesh Chandra Verma, Sr. Adv., Ajay Thakur and Sanjay Singh

ORDER

1. Heard Shri Lalit Kishore, learned Advocate General, Bihar, Shri S.D. Sanjay, learned Additional Solicitor General of India (Patna), Shri Yogesh Chandra Verma, President, Advocates' Association, Shri Ajay Thakur, President, Lawyers' Association and Shri Sanjay Singh, President, Bar Association of this Court.

2. The Hon'ble Supreme Court of India in *Suo Motu Writ (Civil) No. 5 of 2020 in RE: GUIDELINES FOR COURT FUNCTIONING THROUGH VIDEO CONFERENCING DURING COVID-19 PANDEMIC*, while issuing certain directions has emphasized the need for responding to the call of social distancing, ensuring that "the Court premises do not contribute to the spread of virus". Emphasizingly, it stands pointed out that such a need is not a discretion but a matter of duty.

3. To meet with the hardships caused as a result of a deadly Pandemic COVID-19 (Corona Virus), from time to time this Court has been issuing several instructions/directions. How, when and in what manner, the proceedings of this Court as also the Subordinate Courts are required to be conducted and the nature of cases to be taken up and listed stood clarified.

4. In all earnestness, this Court, with the support of all the stake holders and, more specifically members of the Bar, has endeavoured to have the proceedings conducted with the use of technology. Virtual Court Rooms were established which were made fully functional with effect from 16th and 17th of March, 2020. On 16th of March, 2020, it stood notified that for hearing of urgent matters, limited in number, would be listed before the respective Benches. On 18th March, 2020, it stood notified that Court No. 19 would function as a virtual Court. On 20th March, 2020, it stood notified that matters, which were directed to be listed before the respective Court, by virtue of judicial orders, would be listed before the respective Benches on 4th of April, 2020 and that three Courts would function as virtual Courts through Video Conferencing. With effect from 24th of March, 2020, this Court is fully functioning as a virtual Court, through the facility of Video Conferencing by using a particular application. From the 1st of April, 2020, the notices in the cause list were also published in Hindi. It also stood notified that matters found to be of extremely urgent nature would be permitted to be filed through scanned/soft copies sent on the notified Email-ID and

on 4th of April, 2020, considering the difficulties, it stood notified that matter could be filed even without accompanying an affidavit and Court fee, with an undertaking to have the needful done subsequently. On 7th April, 2020 and 9th of April, 2020, procedure for virtual courts was notified/modified. For the present, filing is done only in a digital form, i.e. through an E-mail. Also all mentioning for getting the matters listed is with the use of technology. Human contact in physical form stands minimized to the maximum extent.

5. In so far as the Courts subordinate to the High Court of Judicature at Patna are concerned, this Court issued the directions/instructions on 15.03.2020, 17.03.2020, 23.03.2020, 25.03.2020, 31.03.2020, 07.04.2020, 10.04.2020 and 14.04.2020.

Date	Nature of Directions
15.03.2020	<ul style="list-style-type: none"> (i) Not to insist on the physical presence of the parties unless considered unavoidable. (ii) To regulate entry of the litigants and the general public in the Court premises in order to ensure less crowding. (iii) Lawyers be requested to advise their clients not to visit the Court unless directed by the Court. (iv) No adverse/default orders be passed in the absence of the parties. (v) Accommodate the parties/lawyers/witnesses if adjournment is sought. Only in exceptional circumstances, the Court may refuse to grant an adjournment. (vi) Accused may be exempted from personal appearance for the time being and subject to further orders. (vii) Optimize the facility of V C, wherever available, for the purpose of recording evidence and production of under-trials from jails. (viii) Appropriate measures be taken for sanitizing the lock-ups and the persons manning the same be sensitized. (ix) Hearing matters be postponed. (x) The Medical Dispensaries in the Court complexes be kept ready and fully equipped to tackle any emergent situation. The District Judges and District Administration to take preventive measures immediately. (xi) The District Judge shall ensure that sufficient amount of sanitary items i.e. soap, sanitizers, thermal screening thermometers etc. are procured. If sufficient fund is not available, the Registrar General, Patna High Court be informed immediately. (xii) Dedicated/core team be formed for monitoring the remedial steps. (xiii) No functions, where public gathering is expected, be organized during this period. All efforts be taken to minimize the foot-falls in Court complexes. (xiv) Postpone mediation proceedings. (xv) Yardstick would not be followed for disposal of cases during the lockdown period. (xvi) The Chief Secretary, Govt. of Bihar to take measures with regard to Juvenile Justice Board/observation Homes/Sheiters Homes and all the jails premises of the State of Bihar.
17.03.2020	<p>The morning Court timings were preponed with effect from 18th of March, 2020.</p>
23.03.2020	<ul style="list-style-type: none"> (i) At the level of the District headquarters, at least, one Officer of Superior Judicial Service, one Officer of the Subordinate Judicial Service (Sr. Division) and one of the Subordinate Judicial Service (Jr. Division) shall function under their respective Judgeships and function on rotational basis. (ii) At the level of the Sub-Divisional Courts, one Officer of the rank of Superior Judicial Service (if available), one Officer of the Subordinate Judicial Service (Jr. Division) shall function under their respective jurisdictions. They shall be nominated by the District Judge of the respective Judgeships and function on rotational basis. (iii) Judicial Officers, conferred jurisdiction under special powers under any of the special statutes or by virtue of the judicial order, if any, shall continue to function and discharge their duties at their respective places of posting. This they shall do purely as per requirement and convenience. (iv) The Judicial Officers on duty shall take up only matters of extreme importance and urgency. For example, cases of remand/production/ bail etc. (v) The District Judge shall ensure desired communication with the elected members of the Bar through distant communication, such as, video-conferencing/ e-mode, with regard to judicial functions in their respective Judgeship. (vi) The District Judge shall be free to fix roster of staff as per need and requirement, keeping in view the functions, which are/may be required to be discharged under the various statutes, including the Bihar State Legal Services Authority. (vii) In any emergent situation, the District Judge shall be at liberty to take any decision with regard to the functioning of the courts in their respective Judgeships. Such an exercise has to be in concurrence with the High Court, to be obtained through electronic mode. (viii) The District Judge shall form a committee of which he himself shall be the Nodal Officer, for coordinating all activities with all the stakeholders, including the High Court. (ix) In view of the international/national crisis, the judiciary/subordinate judiciary ought to display complete preparedness for tackling any situation and thereby serve the nation in an affirmative manner. (x) Save and except where circumstances do not warrant or law provides otherwise, all applications for remand shall be dealt with, only through the mode of Video Conferencing. (xi) No officer and staff shall leave the station without prior permission of the sanctioning authority. (xii) The District Judge shall take steps of informing the District Administration to render proper medical treatment to the patient of

	<p>COVID-19 if it comes to his notice by the Judicial Officers/Staff of any confirmed or suspected case of CORONA Virus.</p> <p>(xii) All judicial officers shall study, examine and submit their views as to how soon and in what manner technology can be utilized for the purposes of dispensation of administration of justice.</p>
25.03.2020	<p>Ensure presence of minimum working staff in the Courts on rotational basis subject to the conditions that officers and staff not reporting to Court shall be on duty and remain confined to their homes. Also they will make themselves available on Mobiles and not leave the Station.</p>
31.03.2020	<p>To carry out judicial work with bare minimal staffs to minimize footfalls in the Courts and, ensure effective functioning of urgent legal works as also protection of judicial records and the Court premises. Any Judicial Magistrate 1st Class having territorial jurisdiction may pass orders for production/remand/bail under the provisions of the Dowry Prohibition Act, 1961.</p>
07.04.2020	<p>District Judge to take step to set up a virtual Court Room with the help of the Administrator e-mail ID provided to them through BSLSA.</p>
10.04.2020	<p>To give suggestions for effective implementation of the order of the Hon'ble Supreme Court dated 6.4.2020 in Suo Motu Writ (Civil) no.5/2020.</p>
14.04.2020	<p>To continue with the arrangement, so directed in terms of Notices dated 15.03.2020 and 23rd of March, 2020 and also download AROGYA SETU APP.</p>

6. In view of the decision taken by the Government of India as also the Government of Bihar, the Courts in Bihar have taken up only urgent matters. Initially it appeared that the lockdown period would be restricted to only three weeks but in view of its continuance till 3rd of May, 2020, and the fact that at present, as can be inferred from the news reports, a part of Patna City along with other parts of Bihar stand declared as Red/Orange Zones from the point of Pandemic, as such this Court feels the urgency and need of issuing certain directions with regard to interim protection in the nature of stay, bail, parole, which stood granted either by this Court or by the subordinate Courts or Tribunals or the State Government. After 16th of March, 2020, the litigants, the advocates and their clerks are not in a position to meet in person for taking steps to pursue the litigation and the matters and it stood resolved by all the three Associations of the Advocates, requesting for taking up only urgent matters through Video Conferencing. As such, pro tem interim orders, which have either lapsed during the period of the Pandemic or are in operation in favour of the parties, necessarily have to be directed to be extended or continued, more so till normalcy stands restored.

7. As such, clothed by the orders passed by the Supreme Court (supra), this Court issues further following directions:--

(i) Unless directed by the Hon'ble Supreme Court of India in any particular matter, all interim orders passed by any Court/Authority/Tribunal in Bihar under the power of superintendence of High Court of Judicature at Patna, be it of any nature, prior to 16th of March, 2020 shall stand automatically extended till 18th of May, 2020. Resultant hardship of an extreme nature, caused if any, to any one of the parties would entitle them to seek modification of continuance of such interim order(s), by moving an appropriate application in those proceedings wherein such interim order(s) stood issued by the respective Court(s)/Authority/Tribunal and this order would not come in the way of consideration of such application on merits.

(ii) All interims orders passed by the High Court of Judicature at Patna, all the District Courts, Family Courts, Labour Courts and Industrial Tribunal and all other Tribunals in the State under the powers of superintendence of the High Court of Judicature at Patna, which has expired subsequent to 16th of March, 2020 only for the reason that the matter could not be taken up on account of the Pandemic or are due to expire during the period of the lock down, i.e. upto 3rd May, 2020 shall be deemed to be in continuance till 18th of May, 2020.

(iii) However, we clarify that those interim orders which are not of limited duration/are to operate till further orders would not be governed by these directions.

(iv) The period for complying with any directions issued by this Court in any judicial proceedings or in any Civil Proceedings by the Courts/Authority/Tribunal under the powers of superintendence of the High Court of Judicature at Patna, including peremptory orders shall be deemed to have been extended up to 17th of May, 2020. No adverse order shall be passed or construed to have been passed for non-compliance of such directions directed to be complied with between the period 16th of March, 2020 upto 17th of May, 2020.

(v) All orders or decree for eviction, dispossession and demolition passed by any Court, Tribunal or authority, save and except Hon'ble the Supreme Court of India, shall continue to remain in abeyance, till 18th of May, 2020.

(vi) Considering the prevalent attending circumstances, unless essentially required in public interest, it is expected of the State not to precipitate any action till 17th of May, 2020 so as to compel the citizens to approach the Court for redressal of their grievances.

(vii) The period from 16th of March, 2020 till 17th of May, 2020 shall be deemed to have been excluded for the purposes of computing limitation stipulated under the Statute or for complying with judicial orders passed by this Court or the Subordinate Courts.

8. List on 18th of May, 2020.

9. Registrar (List) shall ensure that a copy of the order is sent through an electronic mode to (a) the learned Advocate General, State of Bihar; (b) learned Presidents of all the three Bar Associations of this Court; (c) learned Additional Solicitor General of India (Patna); (d) all the District & Sessions Judges for information and necessary compliance. This he shall positively do during the course of the day.

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