

**CJ & AAJ:**  
16.07.2020  
(through video conferencing)

**W.P.No.6435/2020 &  
connected matters**

We have perused the earlier orders passed by this Court right from 25<sup>th</sup> June 2020. The material orders are of 25<sup>th</sup> June 2020, 2<sup>nd</sup> July 2020 and 7<sup>th</sup> July 2020. The earlier orders extensively refer to the provisions of the Government circular dated 17<sup>th</sup> April 2020 which define the containment zones and which lay down the Standard Operating Procedure (for short 'SOP') to be followed by Bruhat Bengaluru Mahanagara Palike (for short 'BBMP') and other urban authorities dealing with containment zones. The provisions of SOP indicate that the containment zone area would be completely sealed down and all supply shops within the containment zones will be closed. The earlier orders specifically refer to the obligation of BBMP of supplying food packets and ration to the needy persons in the containment zones. It also lays down the requirement of supply of ration from the fair price shops to the doorsteps of the ration card holders. This is the responsibility of BBMP. Though the learned Senior Counsel appearing for BBMP submits that some of the containment zones are very small limited to one or two buildings having residential apartments, it

is not disputed that there are larger containment zones in the City consisting of slum area.

2. In fact, the learned counsel appearing for the All India Central Council of Trade Unions (for short 'AICCTU') pointed out that in one containment area where BBMP officials recently distributed ration kits on the basis of the information supplied by the said Union consisted of three streets having slums.

3. Initially, the statement made by the learned counsel appearing for BBMP was that there are about 3,100 containment zones, as of today, which statement was contradicted by the learned counsel appearing for the applicant and the learned counsel appearing for the Karnataka State Legal Services Authority. Thereafter, the learned counsel appearing for BBMP stated that, as of today, there are 5598 containment zones. There were various directions issued under the earlier orders which are referred above. The main direction was that BBMP must comply with its obligation of providing food packets and ration kits to needy persons in the containment zones. There was a direction to identify the needy

persons based on the order of 19<sup>th</sup> April 2020 passed by the Commissioner of BBMP himself.

4. Though normally this Court is reluctant to procure the personal presence of senior Government officials, considering the complete failure of BBMP to implement the provisions of SOP in the circular dated 17<sup>th</sup> April 2020 regarding the containment zones, we had procured the presence of the Commissioner of BBMP and the Additional Chief Secretary who is in-charge of the Urban Development Department. Though on the last date, an assurance was given by both of them to follow the provisions of SOP for the containment zones, nothing concrete has been done by BBMP thereafter.

5. Today, our attention is invited to the affidavit of Shri B.H.Anil Kumar, I.A.S., Commissioner of BBMP which again is an affidavit showing non-compliance. A simple statement is not made as to how many needy persons have been identified in more than 5,000 containment zones. The affidavit does not state that any systematic effort has been made to ascertain the needy persons from the containment zones. Some figures of ration kits distributed to the various zones is incorporated in the

affidavit. However, it is not stated that the ration kits which are distributed to different zones have reached the needy persons. In fact, the learned Additional Advocate General pointed out that the data of needy persons may be available with the Ward officers of BBMP which was collected during the earlier lockdown period. There is not even a statement made that compliance with the requirement of providing ration at the doorsteps of the ration card holders in the containment zones has been made by BBMP. Certain statements made in the preliminary report dated 2<sup>nd</sup> July 2020 submitted by the Commissioner have been unconditionally withdrawn. One such statement was to the effect that the rules regarding the containment zones were not being strictly implemented and the citizens were allowed to go out of the containment zones and again come back to the containment zones. However, this affidavit is totally silent on the question of strict implementation of the provisions contained in SOP in respect of the containment zones which require complete sealing of the area. BBMP has come out with an excuse that non-compliance with the directions issued by this Court is not intentional as the officers of BBMP are pre-occupied in handling the health emergency prevailing in the City.

6. We are conscious of the fact that the machineries of the State and the machinery of BBMP are working under a great stress. What is important is that there should be earnest effort made to comply with the provisions of SOP issued by the State Government on 17<sup>th</sup> April 2020 and the order of BBMP itself of 19<sup>th</sup> April 2020. None of the affidavits filed by the Commissioner of BBMP indicate that there is any desire to take steps for complying with the provisions of SOP. If there was a genuine desire to do so, BBMP would have come out with an affidavit indicating how many needy persons have been so far identified.

7. The learned counsel appearing for BBMP have been repeatedly stating that some containment zones contain only few buildings. Firstly, there is no material placed on record in that behalf. Secondly, notwithstanding the direction issued on 2<sup>nd</sup> July 2020 to place on record the approximate figures of the citizens affected by containment zones, no such figures have been placed on record. Thirdly, BBMP has itself stated on the last date that about 1,200 ration kits have been distributed to the families. The distribution was made to those families which were included in the list supplied by the third party applicant.

Without there being data available, an excuse is sought to be given that the containment zones may include few buildings or residential apartments. However, it is pointed out across the Bar and even by the learned Additional Solicitor General of India that there are containment zones which include slum areas. The learned counsel appearing for the third party applicant stated that the ration kits were distributed by BBMP officers by visiting the homes of various people in a containment zone having three streets containing slum areas.

8. After making a solemn statement in the earlier report that the provisions of SOP governing the containment zones are not strictly being implemented, while withdrawing the said statement, BBMP has not come out with the case that now, there is a strict compliance of SOP in the containment zones. This will have to be appreciated in the context of the fact that during the last few days, more than 1,000 COVID-19 positive cases are being reported from the City and yesterday, the figure has almost reached 2,000. A very detailed SOP governing the containment zones is a part of the circular which constitutes order of the State Government. The SOP

prescribed by the State Government will have to be read as directions issued by the State Government.

9. Though several orders have been passed by this Court with a view to ensure that the provisions of SOP are strictly implemented, BBMP has not even shown inclination to do so. In fact, this is a classic case where sub-section (1) of Section 99 of the Karnataka Municipal Corporations Act, 1976 may be attracted. However, during the pandemic when grave difficulties are being faced by the City due to ever increasing positive cases, we are not going to that extent. In fact, this is a fit case where action under the Contempt of Courts Act, 1971 could have been initiated against the top ranking municipal officers. However, we are of the view that sending the top ranking officers of BBMP to civil prison will not resolve the issue at this point of time. What is more crucial at this point of time is that the provisions of SOP governing the containment zones are strictly implemented, the provisions regarding sealing of the containment zones are strictly implemented and more importantly, the needy persons must get adequate ration and food packets. As suggested by the learned Additional Solicitor General and the learned Senior Counsel appearing for

BBMP, immediate steps will have to be taken to identify the needy persons in at least those containment zones which have slums.

10. As we found that notwithstanding several orders passed by this Court, BBMP was not in a position to comply with not only the orders of this Court but the provisions of SOP issued by the State Government, we suggested to the learned Additional Advocate General that the State Government should nominate a Senior Officer to monitor compliance by BBMP of the provisions governing the containment zones in the circular dated 17<sup>th</sup> April 2020.

11. Accordingly, the learned Additional Advocate General makes a statement that Shri G.Kumar Naik, Principal Secretary of Social Welfare Department will be nominated by the State Government who will supervise the implementation by BBMP of the provisions of the SOP concerning the containment zones.

12. Though a specific direction was issued on 25<sup>th</sup> June 2020 to create helplines to enable the persons in the containment zones to complain about the non-availability of

food and other necessities of life, no such helplines have been created. There is an annexure to the affidavit dated 13<sup>th</sup> July 2020 which is a circular which contains two telephone numbers on which grievances can be made. However, no effort has been made to ensure that wide publicity is given within the containment zones to the availability of these two numbers on which the residents of the containment zones can make grievances about non-availability of ration and food.

13. In fact, there is a specific provision in SOP that no shops including grocery shop shall be kept open within the containment zones and therefore, the responsibility has been entrusted to the police to allow entry of persons for delivery of groceries and other items in the containment zones and a responsibility has been given to BBMP to ensure that those who are entitled to ration from the fair price shops get the ration at their doorsteps. Even in the order dated 25<sup>th</sup> June 2020, this Court observed that the failure of BBMP to abide by the provisions of SOP and in particular, the provision regarding supplying food packets and ration kits to the needy persons will amount to violation of the fundamental rights under Article 21 of the Constitution of India.

14. Now, with this action of the State Government of nominating a Senior Secretary to supervise the implementation of SOP by BBMP, we hope and trust that now the officials of BBMP will take all possible steps to immediately identify the needy persons in those containment zones in which slum areas are included and ensure that food packets and ration kits are immediately supplied to them.

15. The learned Senior Counsel appearing for BBMP submitted that ration kits and food packets can be supplied after verification of documents. The question is of identifying the needy persons who are deprived of their source of livelihood as they are confined to the limits of containment zones. As suggested by the learned Additional Advocate General, the production of identity document can be insisted only to ensure that no one can take double benefit.

16. We do not think it is a proper approach on the part of BBMP to suggest that on the basis of documents produced by the individuals, BBMP officials will decide whether the person is needy or not. We may note here that the learned counsel appearing for AICCTU pointed out that in one particular

containment zone containing 3 streets having slum area, BBMP officials went from structure to structure and they could easily identify the needy persons.

17. We are, therefore, of the view that possibly BBMP can insist on the production of some identity document only to create a record of persons to whom ration kits and food packets are already supplied. However, if BBMP is of the view that scrutiny of documents will be made to identify the needy persons, the very object of the provisions of SOP of putting an obligation on BBMP to supply food packets and ration to the needy persons will be completely frustrated.

18. We hope and trust that Shri G.Kumar Naik who will be appointed by the State Government will issue necessary directions to the Commissioner of BBMP and other officials to ensure that SOP is strictly implemented in relation to containment zones. We direct the State Government to immediately issue a notification appointing Shri G.Kumar Naik in terms of what is stated in this order.

19. We direct Shri G.Kumar Naik to file a report on the steps taken by BBMP for implementation of the provisions of SOP

which is a part of the circular dated 17<sup>th</sup> April 2020. We may also make it clear that he can entrust the work of preparation of detailed report to any officer who is working under his supervision. Such a report shall be submitted on 24<sup>th</sup> July 2020.

20. Let the petitions be listed on 20<sup>th</sup> July 2020 at 12.45 p.m.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

bkv/AHB