

IN THE SUPREME COURT OF INDIA

(ORIGINAL JURISDICTION)

PUBLIC INTEREST LITIGATION NO. 2020

IN THE MATTER OF:

MOHD.FUZAILKHAN(ADVOCATE)

PETITIONER

VERSUS

STATE OF U.P.& ORS

RESPONDENT

**SYNOPSIS& LIST OF DATES**

That the petitioner is a practicing advocate and a member of the Supreme Court Bar Association and is having a standing of 15 years in the bar. The petitioner is approaching this Honble Court by way of Filing a Public Interest Litigation whereby his fundamental Rights under Article 14 and 21 of the constitution has been violated by the office order issued by the Incident Commander (Additional District Magistrate, Ghaziabad) vide order dated 3.6.2020.***(which is annexed as annexure No.1)***

That the petitioner is a resident of GATEWAY TOWERS SECTOR 4 VAISHALI and there are 147 flats in this building ,divided into 4 towers A,B,C and D. Each tower has 13 floors and each floor has three housing units and approximately 700 persons reside in this society which includes minors as well as senior citizens.

The position is such that residents including the petitioner has been put under wrongful confinement and the administration has barricaded the society with police men standing at the gates as if residents have committed some offence and the order of the Incident Commander dated

3.6.2020 does not even has a exit plan or any future plan who to deal in the coming days.

As this Honble Court is aware of the fact that even the World Health Organisation, Top world leaders, researchers and our own country leaders have said that we have to live with this Covid 19 and then also such bureaucratic orders are passed with considering the fact that by sealing or confining persons is of no useful purpose as we have seen it for last more than 70 days rather a more research based approach is required to deal with Covid 19.

That on 29.5.2020 one covid 19 positive case was detected in the society and the matter was brought before the notice of the district administration he was referred to a private hospital and his wife his child and his mother were tested covid 19 negative. That after a period of 6 days the district administration on 3<sup>rd</sup> of June 2020 has come out with a notification issued by the incident commander/additional district magistrate letter no.2014/ST-ACM/GZB/2020 declaring the gateway towers as a seized premises thereby restricting complete movement of the residents of the society and has sealed the entire premises. Restricting any kind of entry or exit which is a complete violation of the fundamental rights of the residents of the society.

That the order of 3<sup>rd</sup> June 2020 is contradictory to the order passed by the Chief Secretary GOVERNMENT OF UTTAR PRADESH vide serial no.1382/2020 CX,3 dated 31<sup>st</sup> may 2020.(Copy of the order issued by Chief Secretary, U.P. is annexed as annexure No.2) that the relevant portion of the order of the chief secretary at para 4 clause A sub clause (3)(1) says that if in a multi storey society has one case in one floor or more than one case then in that situation the tower/multi storey shall be declared as containment zone.

2.If in one society there are more than one in multiple towers then in that case all the towers including public utility places such as park, gym, swimming pool, banquet hall etc will also be declared as containment zones and shall be immediately closed so that there is no further spread of virus among other persons.

That in this particular society there is only one case which is in tower A and as per the GO DATED 31.5.2020 the floor should be declared as a containment zone and not the entire society consisting of 147 flats in which 700+ persons resides this court is well aware of the fact that for the past 70 days there was a lockdown in the country and now from the 1<sup>st</sup> of June the process of unlock has been initiated by the GOVT. OF INDIA and the NCT OF DELHI and persons residing in GATEWAY TOWER society are working class people employed in multi national companies in Delhi NCR and employed with central as well as the state Governments and now with this order of sealing of the society has put a complete restriction of their movement to their workplace and also the movement of the petitioner has been restrained as he operates from the chamber in supreme court compound .

That order dated 3 June 2020 does not mention as to when and how the society will de-seal and secondly the order has been passed by after 6 days of the reporting of the incident.

That this also to bring to the notice of this court that there are many other societies in vaishali Ghaziabad with only one covid 19 case that have been sealed by the district administration. And the citizens have been put under captivity by the District Administration which is violates of their basic fundamental rights enshrined in the constitution Of India.

That the state government and the district administration does not have any proper mechanism to deal with COVID 19 cases in multi storey buildings and the easiest and simplest way adopted by the administration is to seal the entire building which causes mental physical and financial loss to the already residents and there is great fear among the working classes in private sector as they face a threat of loss of job. And that the petitioner is also restrained to perform his duties as a lawyer towards his clients in the justice delivery as on many occasions he to brief senior counsels and which will be not possible till the effect of this order dated 3 june 2020 issued by the incident commander ,additional district magistrate Ghaziabad

Hence this petition .

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IN THE MATTER OF:

MOHD.FUZAILKHAN(ADVOCATE)  
PETITIONER

c-401 Gateway Towers Sec.4 Vaishali

Ghaziabad (U.P.) MOBILE No.9818331923

VERSUS

STATE OF U.P. & ORS

RESPONDENTS

1. Chief Secretary, State of U.P. Lucknow.
2. District Magistrate, Ghaziabad U.P.
3. Incident Commander/Additional District Magistrate, Ghaziabad

**PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS UNDER ARTICLE 14 AND 21 OF THE CONSTITUTION OF INDIA.**

**TO,**

**THE HONBLE THE CHIEF JUSTICE OF INDIA AND HIS LORDSHIP'S COMPANION JUSTICES OF THE SUPREME COURT OF INDIA. THE HUMBLE PETITION OF THE PETITIONER.**

**MOST RESPETFULLY SHOWETH:**

**1. *FACTS OF THE CASE:***

A. That the petitioner is a practicing advocate and a member of the Supreme Court Bar Association and is having a standing of 15 years in the bar. The petitioner is approaching this Honble Court by way of Filing a Public Interest Litigation whereby his fundamental Rights under Article 14 and 21 of the constitution has been violated by the office order issued by the Incident Commander.

B. That the petitioner is a resident of GATEWAY TOWERS SECTOR 4 VAISHALI and there are 147 flats in this building ,divided into 4 towers A,B,C and D. Each tower has 13 floors and each floor has three housing units and approximately 700 persons reside in this society which includes minors as well as senior citizens.

C. The position is such that residents including the petitioner has been put under wrongful confinement and the administration has barricaded the society with police men standing at the gates as if residents have committed some offence and the order of the Incident Commander dated 3.6.2020 does not even has a exit plan or any future plan who to deal in the coming days.

D. As this Honble Court is aware of the fact that even the World Health Organisation, Top world leaders, researchers and our own country leaders have said that we have to live with this Covid 19 and then also such bureaucratic orders are passed with considering the fact that by sealing or confining persons is of no useful purpose as we have seen it for last more than 70 days rather a more research based approach is required to deal with Covid 19.

E. That on 29.5.2020 one covid 19 positive case was detected in the society and the matter was brought before the notice of the district administration he was referred to a private hospital and his wife his child and his mother were tested covid 19 negative. That after a period of 6 days the district administration on 3<sup>rd</sup> of June 2020 has come out with a notification issued by the incident commander/additional district magistrate letter no.2014/ST-ACM/GZB/2020 declaring the gateway towers as a seized premises thereby restricting complete movement of the residents of the society and has sealed the entire premises. Restricting any kind of entry or exit which is a complete violation of the fundamental rights of the residents of the society.

F. That the order of 3<sup>rd</sup> June 2020 is contradictory to the order passed by the Chief Secretary GOVERNMENT OF UTTAR PRADESH vide serial no.1382/2020 CX,3 dated 31<sup>st</sup> may 2020 that the relevant portion of the order of the chief secretary at para 4 clause A sub clause (3)(1) says that if in a multi storey society has one case in one floor or more than one case then in that situation the tower/multi storey shall be declared as containment zone.

QUESTION OF LAW:

1. Whether instead of having a uniformity with guidelines issued by the Central Government and the State Government there is contradiction in the directives issued by the incident commander which is in violation of the fundamental rights of the petitioner?

2. Whether the citizen of India can be subjected to forgo his fundamental rights under article 14 and 21 of the constitution of India by an executive order which is without any application of mind and also does not disclose the date and the methods and steps of the de-sealing of the society?

3. whether the order of the Incident Commander dated 3.6.2020 is in conformity with the fundamental Rights and basic Human rights of the citizens?

3. whether any executive order has the force to take away the basic rights of a citizen and can confine any citizen taking away his fundamental rights?

### **GROUND**

1 Because, the petitioner is a citizen of India having permanent resident at the address quoted in the title clause and is peace living and law abiding citizen. That petitioner is also a legal practitioner having 15 years standing at the Bar and a public spirited person associated with number of social organisations. It is further submitted that the petitioner is a member of Supreme Court Bar Association.

2. Because is submitted that the petitioner in person is approaching to this Hon'ble Court in the most emergency situation and asking for directions by this Honble Court to be issued to the State of U.P. and particularly to the District Administration of Ghaziabad which does not have a proper plan and strategy to deal with Covid 19.

3. Because this executive order of 3.6.2020 is violates of the basic fundamental rights of the citizen and is illegal and arbitrary it takes away the rights which are given to the citizens of this country under the phase called “UNLOCK 1” ISSUED by the Government of India.

4. Because the executive order s passed in haste and without proper understanding of the law and ground realties and has been made in such a manner which only deprives the citizens of his/her basic fundamental rights.

HENCE THIS PETITION:

#### PRAYER

It is therefore, most humbly and respectfully prayed that this Honble Court may kindly be pleased to issue appropriate writ, order or direction to the respondents and thus be pleased to:

- A. To quash the order issued by the Incident Commander of Ghaziabad dated 3.6.2020 which is violates the Fundamental Rights of the petitioner under article 14 and 21 of the constitution of India.
- B. To allow the petition of the petitioner to be listed without complying with procedural limitations as the petitioner has been confined and his movement has been restricted by the order of Incident Commander, Ghaziabad dated 3.6.2020.
- C. To grant any other relief which this Honble Court deems fit and proper in the facts and circumstances of the case, in the interest of justice and general public of India.

Ghaziabad

Dated 3.6.2020  
in Person)

(Petitioner

Mohd.

Fuzail Khan

(Advocate)