

Chief Justice's Court

Case :- HABEAS CORPUS WRIT PETITION No. - 264 of 2020

Petitioner :- Nuzhat Perween

Respondent :- State of U.P. and Another

Counsel for Petitioner :- In Person, Manoj Kumar

Counsel for Respondent :- G.A.

Hon'ble Govind Mathur, Chief Justice

Hon'ble Samit Gopal, J.

From perusal of whatever material available with us, it reveals that the petitioner preferred a petition to have a writ in the nature of Habeas Corpus before Hon'ble Supreme Court of India with following prayers:-

"(i) Pass a writ in the nature of Habeas Corpus ordering the immediate release of the Petitioner's son, namely Dr. Kafeel Ahmad Khan, who is illegally placed under detention at the District Jail, Mathura under Section 3(2) of the National Security Act, 1980 in an egregious violation of his right to life and personal liberty as well as in a grave abuse of power and authority.

(ii) Pass an appropriate writ, order or direction quashing the Order No.149 dated 13.02.2020 issued by the District Magistrate, Aligarh under Section 3(2) of the National Security Act, 1980

(ii-A) issue a writ, order or direction quashing the impugned order NO.108/2/06/2020-C.X.7 dated 06.05.2020 (Annexure No.P-31 to this writ petition) and order dated 01.04.2020 passed by the State Government, copy of which has never been served to the petitioner."

The writ petition aforesaid came to be disposed of by an order dated 18th March, 2020, that reads as under:-

“Heard learned counsel for the petitioner.

We consider it appropriate that the matter be taken up by the Allahabad High Court. The record of the matter be transmitted to the High Court forthwith.

The writ petition is disposed of accordingly.”

In light of the order aforesaid, the record of the case was to be transmitted to the High Court forthwith but the same has yet not been received by this Court. It appears that the original record was not sent due to non-availability of postal service during the period of lockdown. An e-mail at the first instance however, was received in the office of Registrar (Civil) of this Court on 8th May, 2020. The recitals of the e-mail are quoted below:-

“Fwd: Urgently order alongwith copy of Petition and complaint letter

From: "Sectopm X, Supreme Court of India" <sec.x@sci.nic.in>

Date: May 8, 2020 1:52:53 PM

To: "registrar civil" <registrar_civil@allahabadhighcourt.in>

Cc: "fuzail ayyubi" <fuzail.ayyubi@gmail.com>, realdrkafeelkhan@gmail.com, nuzhatperwee111@gmail.com

Dear sir,

I am further to inform you that due to lock down in the Country no postal facility is available for Allahabad hence the copy of order alongwith copy of petition (pdf) is being forwarded to you.

*Regards,
Section-X
Supreme Court of India*

From: "Section X, Supreme Court of India" <sec.x@sci.nic.in>

To: "registrar civil" <registrar_civil@allahabadhighcourt.in>

Cc: "fuzail ayyubi" <fuzail.ayyubi@gmail.com>, realdrkafeelkhan@gmail.com

Sent: Friday, May 8, 2020 1:33:42 PM

Subject: Urgently order alongwith copy of Petition and complaint letter

Dear Sir,

Please find enclosed copy of this Hon'ble Court's order dated 18.03.2020 as soft copy for you information/necessary action and compliance alongwith copy of Writ Petition (pdf) and complaint letter. You may, however, also access this Hon'ble Court's order from the official website : www.sci.gov.in.

Regards,
Section-X
Supreme Court of India”

After receiving the e-mail, office of this Court constituted a file of the case by taking out print of the attachments sent in Portable Document Format (PDF). The office of this Court was under impression to have the original record of the case but on being failed to get within a reasonable period even after receiving the e-mail, considered it appropriate to register a writ petition on basis of the printed material sent along with the e-mail dated 8th May, 2020.

The matter then was immediately placed before the Court on 1st June, 2020 but was adjourned for 8th June, 2020 at the request of counsel for the petitioner as he desired to move an application to implead certain more parties and also to file a supplementary affidavit.

The writ petition then was taken up on 8th June, 2020 but was adjourned for 10th June, 2020 as the counsel for the petitioner wanted to argue the matter through Video Conferencing. Suffice to state that the Court was going on with physical appearance of Lawyers and as such at the request of counsel for the petitioner, the case was adjourned for a day.

On 10th June, 2020, the matter again came up before a Division Bench but was adjourned as counsel for the petitioner wanted time to move an appropriate application to amend the relief clause suitably. The matter again came up before the Court on 16th June, 2020 but was adjourned at the request of counsel for the petitioner. Suffice to state that on this day also learned Senior Counsel appearing on behalf of the

petitioner desired to argue the matter through Video Conferencing and that request was made when the case was called to be heard by physical appearance of the counsels.

The writ petition, on reopening after summer vacations was taken up on 7th July, 2020. The Court heard learned counsels on amendment application as well as impleadment application and both were allowed. At the request of counsel for the petitioner time was given to carry out necessary amendments in the petition and also to suitably amend cause title of the case. The case then was taken up on 27th July, 2020 but was adjourned as no amended petition was filed by the petitioner in the period intervening. A week's time was granted to the petitioner to file amended petition for writ. The writ petition then was taken up on 5th August, 2020 but the same was adjourned as the copy of the amended petition was given to the counsel for the State by the petitioner only a day before to the date of listing. A specific direction was also given by the Court to the respondents to file counter to the petition positively before the next date of listing.

It would be appropriate to reiterate that till today office of this Court has not received original record of the case from the Supreme Court. However, in the meantime, the petitioner appears to have filed a Misc. Application before the Supreme Court and that came to be decided on 11th August, 2020 with following order:-

“Ms. Indira Jaising, learned senior counsel for the petitioner seeks leave to withdraw the interlocutory application with liberty to move the Allahabad High Court for peremptory disposal of the matter.

The I.A. is disposed of as withdrawn with liberty as above.

We request the High Court to dispose of the matter peremptorily as early as possible, having regard to the fact

that it involves the liberty of the applicant, within a period of fifteen days from the date the parties appear before it.”

A copy of the order aforesaid was received through e-mail on 14th August, 2020.

The matter accordingly is taken up today.

Learned counsels appearing on behalf of rival parties states that certain facts are yet to be brought on record by way of filing rejoinder/additional affidavit.

Let this petition for writ be listed on 24th August, 2020 at 11.00 am for final disposal.

The Registry is directed to accept whatever document is sought to be filed by any of the party to the proceedings even on holiday.

Order Date :- 19.8.2020

Bhaskar

(Samit Gopal, J.)

(Govind Mathur, C.J.)