MANOJ JAIN
REGISTRAR GENERAL

150 YEARS OF CELEBRATING THE MAHATMA

HIGH COURT OF DELHI
Sher Shah Road
New Delhi-110 503
Off. : 23387989
Fax : 23073485

No. 07 /RG/DHC/2021
Dated: 10/03/2021

To,

1. The Principal District & Sessions Judge (HQs), Tis Hazari Courts Complex, Delhi.
2. The Principal District & Sessions Judge (South), Saket Courts Complex, Delhi.
3. The Principal District & Sessions Judge (East), Karkardooma Courts Complex, Delhi.
4. The Principal District & Sessions Judge (SW), Dwarka Courts Complex, Delhi.
5. The Principal District & Sessions Judge (Shahdara), Karkardooma Courts Complex, Delhi.
6. The Principal District & Sessions Judge (SE), Saket Courts Complex, Delhi.
7. The Principal District & Sessions Judge (West), Tis Hazari Courts Complex, Delhi.
8. The Principal District & Sessions Judge (ND), PHC Complex, New Delhi.
9. The Principal District & Sessions Judge (NW), Rohini Courts Complex, Delhi.
10. The Principal District & Sessions Judge (North), Rohini Courts Complex, Delhi.
11. The Principal District & Sessions Judge-cum-Special Judge (PC Act) (CBI), RACC, Delhi.
12. The Principal District & Sessions Judge (NE), Karkardooma Courts Complex, Delhi.
13. The Principal Judge (HQs), Family Courts, SW, Dwarka, Delhi.

Respected Sir/Madam,

This is to humbly bring to your kind notice that W.P (C) No. 2018/2021 and WP (C) No. 2673/2021 came up for hearing before Hon'ble Court on 09.03.2021 and the Hon'ble Court has directed the undersigned to seek report from all the District Courts in Delhi with regard to the footfall/crowing in the functioning of the Courts in the first week after full fledged physical hearing starts on 15.03.2021.

A copy of such order is also attached herewith for ready reference and compliance with respect to various directions.

May I also request you to kindly send the requisite reports to this Court on 22.03.2021 by 11.00 am through email so that the report are compiled and placed before the Hon'ble Court well in time.

Regards

Yours sincerely

(Manoj Jain) 10/03/2021

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
ROHINI COURTS: DELHI

Genl.I/N-W & N/Rohini/2021/ 50-53 (own) Delhi, dated the 15/3/2021

Copy forwarded for information and necessary action/compliance to :

1. All the Ld. Judicial Officers, **(DHJS & DJS)**, North-West & North District, Rohini Courts, Delhi (through email-id).
2. Personal Office, Ld. Principal District & Sessions Judge, North-West & North District, Rohini Courts Complex, Delhi (through email-id).
3. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on LAYERS (through email-id).
4. The Dealing Official, Computer Branch, Rohini Courts, Delhi for uploading the same on WEBSITE (through email-id).

(Rakesh Kumar-IV)
Officer Incharge, General Branch
Rohini Courts Complex, Delhi.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 2018/2021

ANIL KUMAR HAJELAY & ORS. ..... Petitioners

Through Mr. Atul T.N., Mr. Anil Kumar Hajelay, Mr. Sagar Pathak, Ms. Shreya Arneja & Mr. Rajat Gautam, Advs.
Also
Mr. Amitabh Chaturvedi, Mr. Sangeeth K. Mohan and Mr. Ankit Monga, Advs.
Also
Mr. A.S. Chandiok, Mr. Rajiv Nayar, Ms. Geeta Luthra, Sr. Advocates, Mr. Atul Nagarajan, Mr. Manish Vashisht, Mr. Kirtiman Singh, Mr. Jeevesh Nagrath, Mr. Nikhil Rohtagi, Mr. Sachit Jolly, Ms. Amrita Sharma, Mr. Amit Kr. Hajely, Mr. Anuj Aggarwal, Advocates

versus

HONBLE HIGH COURT OF DELHI ..... Respondent

Through Mr. Viraj Datar, Adv. for High Court of Delhi.

Mr. Mohit Mathur, Sr. Adv. with Mr. Jatan Singh, Mr. Abhijat, Mr. Mohit Gupta, Mr. Amit Saxena, Advs. & Mr. Sudhanshu Batra, Sr. Adv., Mr. Ramesh Gupta, Sr. Adv. with Mr. B.S.Dhir, Ms Kajal Chandra, Ms. Rupali Kapoor, Ms. Kanika Singh, Mr. Naginder Benipal, Mr. Nikhil Mehta, Mr. Harshit Jain and Mr. Dhan Mohan, Advs. for DHCBA

\+ W.P.(C) 2673/2021 & CM APPL. 7902/2021, CM APPL. 8835/2021, CM APPL. 8864/2021, CM APPL. 8990/2021, CM APPL. 9553/2021 and CM APPL. 9554/2021

MANASHWY JHA ..... Petitioner

Through Mr. Manish Vashisht, Mr Sameer Vashisht, Mr Rikky Gupta, Mr Amitabh Chaturvedi, Mr Jeevesh Nagrath and Ms Urvi Kapoor, Advs. with petitioner in person

Mr. A.S. Chandiok, Sr. Adv. with Ms. Sweta Kakkad and Ms Neelam Deol,

Mr. Rajiv Nayar, Ms. Geeta Luthra, Mr. Chander Lall, Sr. Advocates, Mr. Atul Nagarajan, Mr. Manish Vashisht, Mr. Kirtiman Singh, Mr. Jeevesh Nagrath, Mr. Nikhil Rohtagi, Mr. Sachit Jolly, Ms. Amrita Sharma, Mr. Amit Kr. Hajely, Mr. Anuj Aggarwal, Advocates

versus

UNION OF INDIA & ORS. ..... Respondents

Through Mr. Chetan Sharma, ASG with Mr. Anil Soni , CGSC with Mr. Amit Gupta, Mr. Vinay Yadav, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. R.Venkat Prabhat, Advs. for Respondent No. 1 /UOI.

Mr. Shadan Farasat, ASC and Ms. Tanvi Tuhina, Advocate for R-2/GNCTD.

Mr. Viraj Datar, Adv. for Delhi High Court/R-3.

Mr. Vikas Singh, Sr. Adv. with Mr. Yogesh Swaroop, Mr. D.D. Sharma, Advs. for co-ordination committee of All District Bar Association/R-4

Mr. Mohit Mathur, Sr. Adv. with Mr. Jatan Singh, Mr. Abhijat, Mr. Mohit Gupta, Mr. Amit Saxena, Advs. & Mr. Sudhanshu Batra, Sr. Adv., Mr.

Ramesh Gupta, Sr. Adv. with Mr. B.S.Dhir, Ms Kajal Chandra, Ms. Rupali Kapoor, Ms. Kanika Singh, Mr. Naginder Benipal, Mr. Nikhil Mehta, Mr. Harshit Jain and Mr. Dhan Mohan, Advs. for DHCBA/R-5.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **09.03.2021**

1. We have heard a host of counsels including a number of senior counsels in the matters. Some of them have supported the petitioners and have contended that even if the Courts are going to reopen physically with effect from 15.03.2021, as per the decision of the Full Court taken in its meeting on 19.02.2021, the hybrid form of hearing should be undertaken in appropriate cases. The hybrid form of hearing is one, where some of the parties/ their counsels may be physically present in the Court room when the matter is taken up by the Court for hearing, while other(s) may participate through the online mode. On the other hand, learned senior counsels appearing for Delhi High Court Bar Association, Bar Council of Delhi and Co-ordination Committee of All District Bar Association have supported the full-fledged resumption of physical hearing from 15.03.2021 and have also supported the decision of the Full Court on 19.02.2021 that the hybrid system of hearing should be permitted only in exceptional cases.

2. Considering the fact that the number of Covid-19 positive cases has declined considerably, and more and more services and facilities have been opened in the last few months including schools, colleges, cinema halls, gymnasiums, swimming pools etc.; it is high time that the Courts should

also resume physical hearing. A beginning has to be made and the fear that has gripped the people – including the Advocates, has to be shaken off. It also appears to us that some amount of complacency has crept in, and a large number of people have found comfort in working from home, and do not wish to get out of their comfort zone. At the same time, there can be no denial to the fact that with an increase in intermingling and congression of people, there is a possibility of a spike in the number of Covid-19 positive cases. It would, therefore, be necessary for the Court administration to keep a close watch on the situation and take appropriate steps when physical hearing is resumed in the High Court and the Courts subordinate to it, with effect from 15.03.2021 onwards.

3. The report filed by the learned Registrar General of this Court shows that considering the presently provided infrastructure, the hybrid system of hearing in the courts subordinate to the Delhi High Court is not feasible. We are informed that in some courts, the learned Judges are providing the facility of hybrid hearing by using their mobile phones and/or by sharing the screens of their computers with the arguing counsel in the courtroom. However, such a hybrid system is not completely satisfactory, particularly since social distancing norms are required to be maintained between the learned Judge, the court staff as also the lawyers present in the courtroom for which purpose transparent screens have been erected between the lawyers, court staff/learned judges.

4. On the other hand, so far as the High Court of Delhi is concerned, we are informed that the video conference facility which is essential for conduct of hybrid system of hearing is already available in 13 courtrooms, out of the 25 courtrooms - wherein the Hon'ble Judges of the High Court

would be simultaneously holding courts regularly w.e.f 15.03.2021 .

5. Mr. Viraj Datar, learned counsel for Delhi High Court, has taken instructions and states that the said facility shall be made available in the remaining 12 court rooms as well, before the resumption of physical hearing on 15.03.2021. We direct the High Court to provide adequate infrastructure and install the required system in all the 25 courtrooms from where the physical hearing will be resumed from 15.03.2021 onwards, as also to impart requisite training to the court staff to be able to operate the hybrid system. We may note that it was implicit in the decision of the Full Court taken on 19.02.2021, that each Court should have the facility of holding hybrid hearing. Otherwise, it would not be possible to entertain requests for hybrid hearing, or hearing through video conference, in exceptional cases. It goes without saying that the requisite infrastructure should be available in all Court rooms, so that the requests for virtual/ online hearing in exceptional cases may be entertained on merits, and are not filed on the ground of non-availability of hybrid hearing facility in some Court rooms. Therefore, without any further delay, the said facility should be made available in all 25 court rooms before 15.03.2021.

6. As per the Full Court resolution, the parties or/and counsel may be permitted to join proceedings through video conference in exceptional cases, subject to availability of the requisite infrastructure. It has been submitted before us that it is not clear as to what would be considered as an exceptional case, since no yardstick for consideration thereof has been specified, and there may be instances when one person may perceive the circumstances to be exceptional, but another may not think so. Therefore, if such a request is made on the date of hearing, when the matter is called out,

and the request is declined, the same could result in a difficult situation, since the counsel/ party who makes the request would not be able to reach the Court, or may still choose not to proceed to the Court on account of his/her own circumstances.

7. As to what would constitute exceptional cases, would have to be left to the discretion of the Judge/Judges before whom the cases are listed, and before whom the request for video conference hearing is made. However, to put to rest to any uncertainty in this regard, it would be appropriate that such a request is permitted to be made at least one working day in advance, and the same be considered by the Judge/Judges and a decision thereon communicated through the concerned Court Master to the counsel and/or parties well in advance, so that they may be made aware of the fact as to whether or not their request for video conferencing has been acceded to. While making such a request, the opposite counsel/parties should also be put to notice. We, however, make it clear that the decision on whether or not to grant such a request would be entirely on the discretion of the Judge/Judges and no personal hearing or any other form of hearing would be required to be given to the party in support of the request, or to the party who is opposing such a request - otherwise, it would lead to valuable time being spent by the Judge/Judges in arguments on this aspect, and would lead to a complete mess.

8. We are also of the view that the parties/counsel who make a request for hearing through video conference after the courts have resumed physical hearing, should know that the said request, if allowed, would be entirely at their peril. The hearing through video conference, on or from 15.03.2021, would be the exception and not the norm. Therefore, it would

fall upon the concerned parties/counsel to ensure that the hearing of the case, when taken up by the Court, is not obstructed or defeated on account of his/her not being physically available in the Court for any reason whatsoever. In case of poor internet connectivity, the Court would not be obliged to adjourn the proceedings. Similarly, in case any documents or copies of decisions etc. are to be provided to the Court at the time of hearing, it will be the obligation of the parties/counsel to ensure that the same are circulated well in advance, so that they are brought on record and also served on the opposite party(ies).

9. While making their request for hearing through video conference, the parties/counsel should clearly set out the exceptional circumstances, and also indicate their geographical location from where he/she would be joining the proceedings. Their absence from the geographical limits of GNCTD alone, may not be a sufficient ground for making a request for video conference hearing.

10. Keeping in view the possibility that the Covid-19 positive cases may surge when physical hearings start due to heavy footfall in the premises of Delhi High Court as well as in the Courts subordinate to it, we deem it appropriate to direct the Registry of this Court, and the concerned District & Sessions Judges to prepare the cause-list of cases listed for hearing on a particular day, in at least two parts *i.e.* one for the pre-lunch session and the other for the post lunch session, so that number of people visiting the court at the same time is curtailed.

11. It has been argued by Ms. Vertika Sharma, Advocate that she is a young mother of two children, and it is extremely difficult for her to leave them at home to attend the court proceedings in these times, since the

schools for small children have not re-opened yet. However, she also wishes to pursue her profession and does not wish to sacrifice the same. We are hopeful that any request made for the aforesaid reason by any lady counsel would be examined compassionately by the concerned Judge(s).

12. As far as District Courts are concerned, since the infrastructure to put hybrid form of hearing is not in place, a similar arrangement cannot be directed for the District Court for the time being.

13. Mr. Farasat, Advocate, who appears for GNCTD, seeks a week's time to place on record an affidavit with regard to the time the State would need to provide adequate infrastructure in the District Courts, so that hybrid hearing can be held in those courts as well. Let the affidavit be filed within a week, as prayed for.

14. Mr. Viraj Datar, learned counsel for Delhi High Court, submits that the direction issued by the learned Single Judge of this Court on 26.02.2021, to the effect that no adverse order shall be passed by subordinate courts in Delhi if the counsel does not appear for physical hearing, is not called for, since it is leading to delay in the progress of the cases, as one or the other counsel invariably takes advantage of this direction, and chooses not to appear in the matter. In our view, a general direction of this kind is not called for, since the Courts always examine the situation on case-to-case basis and exercise their discretion whether, or not, to accommodate a party in the absence of its counsel. This direction of the learned Single Judge, is, therefore, withdrawn forthwith.

15. Let a report be called from all the District Courts in Delhi with regard to the footfall/crowing in the functioning of the Courts in the first week after full fledged physical hearing starts on 15.03.2021 and the same be

placed before the Court by the Registrar General on the next date of hearing.

16. List on 24.03.2021.

VIPIN SANGHI, J

REKHA PALLI, J

MARCH 9, 2021
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