

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
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CHIEF JUSTICE AND ASHOK S.KINAGI	WP 7483/2020	03/08/2020	<p>Perused the added prayers. Prayer clause III-C relates to clause 3(vii) of Annexure-N which is the Standard Operating Procedure (for short 'SOP') on preventive measures to contain spread of COVID-19 in the offices issued by the Government of India, Ministry of Health and Family Welfare. According to the case of the petitioner, clause 3(vii) makes installation and use of Arogya Setu app by the employees mandatory.</p> <p>The learned Additional Solicitor General of India has invited our attention to a memo dated 2nd August 2020 filed on behalf of the respondent Nos.1 to 4 and 6 to 8. Clause (iii) of the said memo reads thus:</p> <p>"The SOP dated 04/06/2020 issued by the Ministry of Health and Family Welfare is in terms of MHA's order No.40-3/2020-DM1(A) dated 30/05/2020. Clause 3(vii) of the said SOP relating to use of Arogya Setu app is in terms of the advisory contained in the said MHA's order, and voluntary in nature. It is intended to help users have reduced risk of infection with COVID-19. Hence, the apprehension of the petitioner is unsustainable."</p> <p>Hence, the Government of India has clearly stated that clause 3(vii) of the SOP dated 4th June 2020 does not make downloading and use of Arogya Setu app as mandatory. Therefore, as far as SOP dated 4th June 2020 is concerned, no direction is required to be issued.</p>

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			<p>The learned counsel appearing for the petitioner is relying upon a memo filed today. Along with the memo, a copy of 'State wise Quarantine Regulation and Customer Support Guide Version-35' (lastly updated on 30th July 2020) issued by the Airports Authority of India is produced. Our attention is invited to page 15 which deals with 5 airports in the State of Karnataka which provides that it is the obligation of the passengers undertaking air travel to download Arogya Setu app.</p> <p>The learned counsel appearing for the Airports Authority of India seeks time to take instructions.</p> <p>The learned Additional Solicitor General of India states that if the said document is perused very carefully, it is a compendium of the regulations of various States. If that is so, even the State Government will have to clarify on this aspect and state before the Court whether any direction has been issued by the State Government making it mandatory for the passengers travelling by air from any of the airports in the State to download Arogya Setu app.</p> <p>The learned Additional Solicitor General of India invited our attention to the judgment and order dated 25th June 2020 passed by a Division Bench of the High Court of Kerala.</p> <p>Apart from the wider issues raised in the</p>

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			<p>prayer clauses IIIA and IIIB, the issue is whether the State or agencies or instrumentalities of the State can make downloading of Arogya Setu app as mandatory for accessing any facility or services provided by the State or agencies or instrumentalities of the State and that is the specific prayer made in the petition in prayers I and II.</p> <p>If the respondents and the added respondents make a statement that no person who has not downloaded Arogya Setu app will not be denied access to any of the services or facilities, the prayer clauses I and II will stand worked out. However, the Authorities must take a clear stand in that behalf.</p> <p>As regards prayer III-D, the learned Additional Solicitor General of India states that as per the guidelines issued by the Ministry of Home Affairs, opening of the metro rail is not permitted till the end of this month.</p> <p>In any case as far as the State of Karnataka is concerned, the State Government as well as the ninth respondent must take a clear stand.</p> <p>As time is sought on behalf of the learned counsel appearing for the Airports Authority of India, let the petition be listed on 13th August 2020.</p> <p>Shri Basavaraj V.Sabarad, the learned counsel</p>

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			has instructions to appear for the nineth respondent and he will file his vakalath for the nineth respondent.

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