

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
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CHIEF JUSTICE AND E.S.INDIRESH	WP 7483/2020	12/06/2020	<p>We have heard the learned Senior Counsel appearing for the petitioner; the learned Assistant Solicitor General of India representing the respondents No.1 to 3, 6 and 7; and the learned counsel appearing for the fourth respondent and the learned counsel appearing for the fifth respondent.</p> <p>2. The learned Additional Solicitor General of India invited our attention to a memo filed by the first respondent. He has invited our attention to Annexure-I of the Government of India's order dated 21st May, 2020 which contains general instructions for commencement of domestic air travel. We have perused clause (f) thereof. As stated by the learned Additional Solicitor General of India, on the basis of the memo filed by the first respondent, even if a passenger who wishes to travel by air has not downloaded Arogya Setu Application, he can undertake air travel by filing a self-declaration as provided in Clause (f). Therefore, it is not mandatory for a citizen to produce evidence of downloading of Arogya Setu Application as a condition precedent for undertaking domestic air travel.</p> <p>3. The submission of the learned Senior Counsel for the petitioner based on Annexure-J is that it is made mandatory for the passengers to download Arogya Setu Application. However, the learned Additional Solicitor General of India invited our attention to Clause 3 of the Memo date 11th June, 2020 which records that the guideline making it mandatory to all Railway passengers to download and use Arogya Setu Application has been amended by providing that it is advisable to download Arogya Setu Application before commencing rail journey. This makes it very clear that a passenger who wishes to travel by Railways will be permitted to travel though he has not downloaded Arogya Setu Application.</p> <p>4. Therefore, the memo filed by the first respondent makes the issue clear as far as the Air and Rail travel is concerned. In view of Annexure-J to the petition, it will be appropriate if Ministry of Railways issues a clarification in this behalf.</p>

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			<p>5. The learned Senior Counsel appearing for the petitioner pointed out that on 4th June, 2020 Standard Operating Procedures have been issued by the Government of India, which again make downloading of Arogya Setu Application as mandatory for availing certain services. If that is so, the petitioner is free to place those documents on record and seek appropriate relief.</p> <p>6. One of the issues which arises for consideration in this petition is whether the Central and State Government can make use of Arogya Setu Application as a condition precedent for accessing to any Government services or facilities.</p> <p>7. Another issue which arises is whether the action of the Central Government of introducing Arogya Setu application is supported by any provision of law. Even this issue needs to be gone into. We direct both the Governments to file statement of objections within a period of three weeks from today.</p> <p>8. As these issues will have to be gone into, we direct that this petition shall be listed on 10th July, 2020.</p> <p>9. In the event if the petitioner desires to claim any interim relief in respect of subsequent direction issued either by the State Government or the Central Government, the petitioner is free to apply for amendment and move the Court for taking up the matter on an earlier date for consideration of the prayer for interim relief.</p>

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