

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal Nos 1661-1664 of 2022
(Arising out of SLP (C) Nos 11158-11161 of 2021)

State of Himachal Pradesh and Others

Appellants

Versus

Tarun Pathak

Respondent

ORDER

- 1 Leave granted.
- 2 These appeals arise from orders dated 7 July and 14 July 2021 of the High Court of Himachal Pradesh.
- 3 While entertaining the Special Leave Petitions on 13 September 2021, the following order was passed:

“1 The High Court of Himachal Pradesh, by its order dated 7 July 2021, constituted a District Monitoring Committee for each District in the State consisting of:

- (i) The Deputy Commissioner of the District;
- (ii) The Secretary of the District Legal Services Authority;

- (iii) The President of the Bar Association at the District Headquarters for monitoring the position in relation to the Covid-19 pandemic and suggesting measures to curb its spread.
- 2 The High Court, while observing that it is aware of the work which has been done by the State, was of the view that one set of guidelines cannot operate for the entire State and, hence, a local monitoring committee would be "more useful in such circumstances".
- 3 Mr Abhinav Mukerji, Additional Advocate General submits that the State of Himachal Pradesh has constituted several Committees from the Panchayats to the State Level. Relevant government orders are annexed to the paper-book. The details of the committees appointed by the State are indicated below:
 - (i) A Panchayat Level Covid Management Task Force was constituted on 27 May 2021;
 - (ii) District Level Committees were constituted on 19 May 2021;
 - (iii) (a) A Logistics Committee; (b) A Covid-19 Patient/Ambulance Management Committee; (c) A Corporate Social Responsibility Coordination/Contribution Committee; and (d) A Media/IEC Committee were set up on 28 April 2021; and
 - (iv) A State Task Force has been constituted by the Governor of the State on 23 November 2020.
- 4 Hence, it has been submitted that there was no need for the High Court to constitute District Level Monitoring Committees on the basis that one set of guidelines cannot operate for the entire State. Counsel urged that the Monitoring Committee appointed by the High Court has to report back every week and the time of the officials is occupied in preparing for the hearings rather than attending to the challenges posed by the pandemic. The Additional Advocate General has submitted that the State of Himachal Pradesh is the first State in the country where:

- (i) 100% of the population above the age of eighteen years has been vaccinated with the first dose;
- (ii) The entire population is anticipated to be vaccinated with the second dose by the end of November 2021; and
- (iii) The rate of positivity in the State is estimated at 0.7%.

- 5 Prima facie, the Committee which has been constituted by the High Court is not an expert Committee consisting of domain experts who are expected to assist on specific aspects of the response to the Covid-19 pandemic.
- 6 The submissions of the State would require consideration.
- 7 Issue notice, returnable in four weeks.
- 8 Dasti, in addition, is permitted.
- 9 Pending further orders, there shall be a stay of the direction of the High Court in its order dated 7 July 2021 constituting the District Level Monitoring Committees.
- 10 The pendency of these proceedings shall, however, not restrain the High Court from exercising its jurisdiction under Article 226 of the Constitution to monitor the steps which have been taken for dealing with specific aspects of the Covid-19 pandemic."

- 4 The respondent has been served. No appearance has been entered in these proceedings on behalf of the respondent.
- 5 For the reasons which were indicated in the previous order of this Court dated 13 September 2021, we are of the view that the High Court was not justified in constituting an Expert Committee, as directed on 7 July 2021. In

any event, having regard to the developments which have taken place towards meeting the challenges of the Covid-19 pandemic, the constitution of the committees by the High Court would not serve any purpose. The High Court has, while constituting such committees, transgressed into an area which falls within the domain of the executive.

6 For the above reasons, we dispose of the appeals by setting aside the impugned orders of the High Court dated 7 July 2021 and 14 July 2021.

7 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Surya Kant]

New Delhi;
February 25, 2022
CKB

ITEM NO.33

Court 4 (Video Conferencing)

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos.11158-11161/2021

(Arising out of impugned final judgment and order dated 07-07-2021 in CWPIIL No.3/2020 07-07-2021 in CWP No.2795/2021 14-07-2021 in CWPIIL No.3/2020 14-07-2021 in CWP No.2795/2021 passed by the High Court of Himachal Pradesh at Shimla)

STATE OF HP & ORS.

Petitioner(s)

VERSUS

TARUN PATHAK

Respondent(s)

(With appln.(s) for IA No.85785/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.101686/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No.85783/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 25-02-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s) **Mr. Abhinav Mukerji, AOR**
 Mrs. Bihu Sharma, Adv.
 Ms. Pratishtha Vij, Adv.
 Mr. Akshay C. Shrivastava, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1 Leave granted.

2 The appeals are disposed of in terms of the signed order.

3 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Court Master

(Signed order is placed on the file)