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“A MUSJID IS NOT A PUBLIC PLACE”

THAT IS, IN TERMS OF THE LAW

BY ADVOCATE ASLAM MOTALA SC

The suggestion that the regulations promulgated on 15th December 2020 altered the prevailing position in relation to masaajid and other places of worship is, with respect, untenable.

The protocols applicable to gatherings at places of worship remain unchanged. A place of worship, including a masjid, *is not a public place*, least of all is it a place used by the public to obtain goods or services.

The regulation that renders the manager or owner of a building, place or premises used by the public to obtain goods or services guilty of a criminal offence for failure to take reasonable steps to ensure the wearing of face masks by entrants, hence finds no application in the context of masaajid.

The position that prevailed prior to the current regulations in respect of masaajid and other places of worship remains unaffected. A gathering in a masjid that does not comply with the protocols however remains subject to the risk of enforcement action in the nature of dispersal, and failing compliance, possible criminal sanction. The only other criminal liability in relation to a gathering in a masjid that does not comply with the protocols is directed at the convener of the gathering assuming that such an individual can be identified in the context of compulsory congregational salaah in a masjid. There is in my considered view no individual or entity capable of being described as the convenor of congregational salaah.

Adv. Aslam Motala SC