

In Chamber

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 574 of 2020

Petitioner :- In-Re Inhuman Condition At Quarantine Centres And For Providing Better Treatment To Corona Positive

Respondent :- State of U.P.

Counsel for Petitioner :- Gaurav Kumar Gaur,Abhinav Gaur,Aditya Singh Parihar,Amitanshu Gour,Arvind Kumar Goswami,Bhagwan Dutt Pandey,Ishir Sripat,Jamil Ahamad Azmi,Jitendra Kumar,Katyayini,Pradeep Kumar Srinette,R.K. Shahi,Rahul Sahai,Rajeev Kumar Singh,Rishu Mishra,S.P.S. Chauhan,Sarveshwari Prasad,Satyaveer Singh,Shailendra Garg,Siddharth Shukla,Sunita Sharma,Suo Moto,Sushil Kumar Mishra,Swetashwa Agarwal,Uttar Kumar Goswami,Vibhu Rai

Counsel for Respondent :- C.S.C.,Arun Kumar,Ashish Mishra,Dhiraj Singh,Hari Nath Tripathi,Purnendu Kumar Singh,Satyavrat Sahai,Sunil Dutt Kautilya,Suresh Chandra Dwivedi,Tahir Husain,Vishakha Pande

Hon'ble Siddhartha Varma,J.

Hon'ble Ajit Kumar,J.

1. We have heard learned counsel appearing for the respective parties, the President Allahabad High Court Bar Association, Sri Amrendra Nath Singh, learned Advocate Commissioners, Sri Raghav Dwivedi and Sri Rohit Pandey, learned Advocate who have all appeared through video conferencing.

2. The recent spike of COVID-19 infection has hit every corner of various districts of State. The surge has absolutely paralysed public life and all the medical aid systems have reached to a stage of complete saturation. We have been informed that Covid hospitals are over-flooded with Covid patients and there is both manpower shortage and available facilities in hospitals. The situation is so alarming that if it is not handled carefully and cautiously we may lead to stage of complete collapse of public health system.

3. Sri Raghav Dwivedi, learned Advocate has pleaded in his application that Covid hospitals are not admitting patients and thus covid infected people who could be saved from the pandemic have been left to the mercy of Nature.

4. Sri Amrendra Nath Singh, President of Bar Association has urged that High Court should be closed for at-least two weeks so that litigants and lawyers may not rush to the Court and the spread of infection is contained. Looking to the current situation, he has submitted that courts below may be directed to not to pursue non bailable warrants that may have been issued in various cases until 30th April, 2021. He has further submitted that while window for filing of cases in the High Court may remain open but there should be no physical hearing of cases

and even online hearing of cases should be done where issues regarding demolition, eviction and recovery are involved. He has also emphasized the need for complete lock-down looking to the current situation.

5. Sri Rohit Pandey, learned Advocate has informed us that in the mass Covid testing that had taken three days ago in his residential colony/ area no nasopharyngeal swab was taken and swab was taken from under the tongue which means an ultimate RTPCR to be negative. This itself amounts to fraud and playing with public lives. Showing lesser number of Covid patients in this way, in our considered opinion, neither can help the medical department nor, those sitting in administration to deal with pandemic. This can only defraud people to face ugly surge of pandemic only in near future.

6. There is yet another complaint that testing samples are kept in waiting for more than 12 hours. The issue is why the samples are not being sent at certain intervals. Pandemic has hit the state since 2020 and it does not lie in the month of either the Government or the district administrations and Nodal officers of the Districts dealing with Covid, to say that there is shortage of manpower.

7. There are complaints that RTPCR are not updated in time i.e. 24 hours and this has resulted in people remaining unaware of their covid infection status leading to fare chances of further spread of infection.

8. We have been informed that there is acute shortage of Remdesivir, an injectable anti viral medicine which is in great demand for covid patients.

9. The above discussions lead us to conclude that following issues needed emergent attention so that we may save condition from worsening further and reaching to a point of collapse:

i Public movement restrictions and stoppage of public activities.

ii Streamlining health infrastructure

iii Extra ordinary steps to provide basic health needs.

iv To save and create infrastructure for non Covid patients.

v Boosting up immunization programme.

(i) Night curfew or Corona curfew is a very small step. It can curb. only night parties and large religion congregation in the coming month of Ramzan and Navratri. What we need to

ensure is that there is no unnecessary public movement even during day timings. We know that when river acquires velocity no band can stop it and yet efforts are made to restrict it. We need to restrict public movement at least for a week or 10 days to break the chain. If life survives one would regain wealth and improve his economy. After all every development is for people and if there are no men there will be no use of any development activity. We understand that complete lock-down for weeks together may not be feasible but looking to the current surge of pandemic, we direct the government to look into the viability of complete lock-down in those districts where spread has increased alarmingly, for at least two weeks or three weeks and at least immediately all public gatherings must be restricted to 50 persons.

The district administrations are directed to religiously comply with the guidelines issued by State Government on 11.04.2021.

(ii) Urgent medical help is the need of the hour. One would be lamenting only, if even after suffering for long one year from this pandemic, still infrastructure is not sufficient to meet the requirement of population. While we insist for emergent purchases of bipap machines and high flow cannula masks to meet the demand of patients who may even be lying in the corridors of Covid hospitals/ centres, we direct the Government to acquire open places in the city areas of districts that are worst hit in the state, to set up temporary level 1 hospital in a make shift structure. Arrange man power on contract basis immediately to serve all those who are admitted to temporary level 1 Covid hospitals/ centres. We also direct for immediate purchase and supply of bipap machine and high flow cannula mask in ambulance to all the district hospitals and level 2 and level 3 hospitals of the districts like Prayagraj, Lucknow, Varanasi, Kanpur, Gorakhpur, where covid infection has got widely spread.

(iii) Basic health needs includes the triple 'TTT' programme i.e. Testing, Tracking and Treatment. For this we have to ensure that people are tested before hand. At every center the District administration must ensure large-scale testing and all clinical samples that are collected must be sent to the laboratory at every six hourly interval so that RTPCR comes within 18 to 24 hours to start with medication. The containment zones must be updated every day to be notified and Rapid Force team be made vigilant and must be put to task. Proper sanitation of containment zones at every 48 hourly rest must be a rule. Certain medicines that may be useful in arresting spread of COVID-19 may be notified to be used by people themselves.

Testing team and work force involved in the process must be properly trained to take nasopharyngeal and oropharyngeal swab only and to take care of clinical samples in its storage and transportation to laboratory for testing. Government must ensure that all testing laboratories are properly functioning.

We have been informed that a new Covid testing machine (COVAS) is not functioning for want of testing kit. We direct the State Government to provide/arrange testing kit available for COBAS machine at Moti Lal Nehru College, Allahabad within twenty four hours.

(iv) Immunization programme must be vigorously carried out through vaccination of large number of people. Central Government and Indian Council for Medical Research must rethink for extending the benefit of vaccination to students pursuing higher education and those appearing in Board examination of high school and intermediate looking to the large scale infection in population of younger generation. If the Board and other examination conducting bodies are going for offline examination then government must explore viability to extend benefit of vaccination to such students as well.

(v) We must not forget that people suffer from various other diseases and so they may need not only urgent medical help but incentive care admission as well.

In the above regard we take the example of Prayagraj where 140 bed ICU for Covid patients have been created but this has been possible by converting various ICUs into Covid ICUs and so the government must increase ICU beds well equipped with ventilators in Swaroop Rani Nehru Hospital and such other hospitals of the other districts. Looking to the election code of conduct presently prevailing, the Government must take pragmatic view to the demand of Hospitals for increasing the number of ICU beds by permitting purchases at the rate previously done matching with Government approved hospital's rates like that of Sanjay Gandhi Post Graduate Institute of Medical Science in the past, instead of going for long drawn process of public tender.

10. We must give priority to public health over elections and Government is expected to streamline every department of public health and public care in the light of the observations made hereinabove .

11. Last but not the least , public awareness programme regarding spread of COVID-19 must go on. District and Police administration must follow our last order dated 06.04.2021 in

its letter and spirit. We make it clear that if we are apprised on the next date fixed of any one moving on roads without mask, we shall take it as an act of contempt on the part of police and will certainly haul up the SSP, Prayagraj and other concerned districts for the same.

12. We also direct both the Central as well as State Government to ensure production of remdesivir, an injectable anti viral medicine by pharmaceuticals making them available easily the necessary ingredients and its supply in open market. We further direct the district administration of every districts in State to take stern action against those who are hoarding it and black marketing it.

13. The Chief Medical Officer Dr. Prabhakar Rai also appeared in person on our request before the Court to render his assistance regarding plan to check surge of pandemic in the District of Prayagraj. He apprised us of various steps taken to contain the pandemic. He showed us deep green facts behind the pandemic. He told us how people despite being made aware of the pandemic did not follow the guidelines. He submitted that people's cooperation is the only answer to the pandemic. He also showed us the plan afloat in the city by District and public health administration. We do not find any reason to doubt in what he submitted but we must observe that a lot is needed to be done in raising more effective infrastructure to meet the current challenge posed by Covid-19.

14. We also request the High Court to consider request of Bar Association for its closer for at least two weeks as suggested by the President of the High Court Bar Association. The High Court should remain open only for online hearing in limited number of benches for urgent matters only looking to the present scenario. Regarding request made by the President of High Court Bar Association for stay over all pending non bailable warrants and extension of interim orders, we are of the view that since there is already pending PIL Writ Petition No. 564 of 2020, applications should be moved in that very PIL for appropriate directions.

15. The State shall file affidavit of an officer not below the rank of Secretary in this Court by the next date fixed detailing out the measures taken in the light of the observations made hereinabove.

16. Put up this matter again on 19th April, 2021. The District Magistrate and Chief Medical Officer, Prayagraj shall appear through video conferencing on the next date fixed.

17. Let a copy of this order be sent to the Chief Secretary Government of U.P., District Magistrate, S.S.P. Prayagraj, Lucknow, Varanasi, Kanpur and Gorakhpur Within 24 hours for immediate necessary action at his end.

Order Date :- 13.4.2021

Sanjeev