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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3031/2020 and CM 12106/2020

RAKESH MALHOTRA Petitioner
Through: Petitioner in person.
versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF INDIA
AND ORS. ... Respondents
Through: Mr.Satyakam, ASC for R1 and R2.
Mr.Anurag Ahluwalia, CGSC with
Mr.Abhigyan Siddhant, Advocate
for R3.
Ms.Shefali Jaiswal, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

11.06.2020

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HEARD THROUGH VIDEO CONFERENCING

1. Pursuant to the order dated 9th June, 2020, a Status Report has been electronically forwarded this morning by Mr.Satyakam, learned counsel for GNCTD, placing on record the number of public sector and private sector labs that are permitted to undertake tests for COVID-19 suspected patients.

2. As per the said Status Repoert, there are 17 labs in the public sector and their current combined capacity for undertaking COVID-19 tests is 2,900 per day. In the private sector, 23 labs have been permitted to conduct the test and their combined capacity of testing is 5,700 per day. Para 3 of the affidavit gives the details of the public sector labs and para 7 gives the details of the private sector labs.

3. Mr. Malhotra, the petitioner who appears in person, states that it appears that the list of the private sector laboratories mentioned in the Status Report, are incorrect as the Delhi Government has disallowed about 6 laboratories from undertaking the COVID-19 tests which includes Sir Ganga Ram Hospital, though its name features at Sl. No.5 of the tabulated statement placed in para 7 of the Status Report. The said submission is, however, disputed by Mr.Satyakam, learned ASC, who states that the details furnished in the Status Report have been collated only last night and they are factually correct.

4. To satisfy ourselves on this critical aspect, it is deemed appropriate to issue notice to all the 23 private laboratories mentioned in para 7, who are stated to be undertaking tests relating to COVID-19, for them to file affidavits clarifying *inter alia* as to whether they have been permitted to undertake tests for suspected COVID-19 patients by adopting the RT-PCR test or the CB-NAAT test. They shall also point out the difficulties, if any, faced by them on account of any bureaucratic red tapism.

5. Mr.Malhotra shall electronically serve a copy of this order alongwith the copy of the paper book, the pending application and the affidavit filed by Govt. of NCT of Delhi to the 23 private labs in question to enable them to file their affidavits on or before 15th June, 2020. Advance copies of the said affidavits shall be e-mailed to Mr.Satyakam, learned counsel for the Govt. of NCT of Delhi and the petitioner and counsel for the applicant. Govt. of NCT of Delhi will be at liberty to reply to the said affidavits within two days.

6. Mr.Satyakam, learned ASC also draws our attention to the order dated 8th June, 2020, passed by DB-1 in WP(C) No.3252/ 2020, taken up by the court as a *suo moto* petition and states that the court has already directed the private and public hospitals to upload the data of the real time vacancy of beds for giving admission to COVID-19 patients. He, therefore, states that this issue raised by

the applicant herein, has been adequately addressed. Having perused the order dated 8th June, 2020, we do not propose to examine the said aspect any longer.

7. The petitioner states that there has been a phenomenal spike in the number of cases of COVID-19 in Delhi. Even as per the Delhi Government, it is expected that the cases will rise to 50,000 by 15th June, 2020 and to 5,50,000 by 30th July, 2020. He states that it is therefore imperative to ramp up the number of test undertaken to detect the infection.

8. It appears that Delhi is fast heading towards becoming the Corona Capital of the country, an epithet the city can well do without. We are of the opinion that it is the need of the hour that all the private hospitals in Delhi, who are equipped with a lab to undertake COVID-19 test, be permitted to do the testing, without any further loss of time. This is all the more imperative as the Delhi Government has directed all the private hospitals in Delhi to reserve 20% beds for admitting COVID-19 patients.

9. We are also informed that the non-COVID patients, who are approaching private hospitals for admission to undergo emergent surgeries and other such procedures, are not attended to till they undergo a COVID-19 test, for which they have to go elsewhere. It is most unfortunate that non-COVID-19 patients are being made to wait to undergo test for COVID-19 at labs other than those which are situated within the premises of the hospitals, that are equipped and authorised to conduct the said test.

10. In view of the aforesaid situation brought to our attention, it is directed that all the private hospitals in Delhi that have been called upon to reserve 20% beds for admitting COVID-19 patients, are equipped with labs to conduct the COVID-19 test and have the sanction of the ICMR to do so, should proceed to conduct tests on symptomatic/asymptomatic persons, who seek admission in the hospital for undergoing surgeries/procedures of other nature as well.

11. It is considered necessary to implead ICMR as a party in the present proceedings, so that the details of the private hospitals authorised by it to undertake the COVID-19 tests can be furnished to the Court by the next date. The ICMR while filing its Status Report shall also indicate the number of applications submitted by accredited labs in Delhi, seeking permission to conduct COVID-19 test and the status of the said applications. The petitioner shall email a copy of this order, the paper book and the Status Report filed by the Govt. of NCT of Delhi to the ICMR and the nominated counsel at the earliest, for perusal and compliance.

12. List on 18th June, 2020.

The order be uploaded on the website of the High Court of Delhi today itself.

HIMA KOHLI, J.

SUBRAMONIUM PRASAD, J.

JUNE 11, 2020

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