

Court No. - 68

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, Rishu Mishra, S.P.S. Chauhan

Counsel for Respondent :- C.S.C., Purnendu Kumar Singh

Hon'ble Siddhartha Varma, J.

Hon'ble Ajit Kumar, J.

1. Compliance affidavit filed by the Nagar Nigam, Prayagraj be taken on record. The affidavits filed by the District Magistrate and the Senior Superintendent of Police, Prayagraj may also be taken on record.

2. Today, Sri Bhanu Chandra Goswami, District Magistrate and Sri Abhishek Dixit, Senior Superintendent of Police, Prayagraj were present through Video Conferencing. We also heard Sri Manish Goyal, learned Additional Advocate General assisted by Ms. Akansha Sharma, Advocate. Learned counsel who appeared for the Nagar Nigam Sri S.D. Kautilya was also heard along with the above counsel. We also heard learned Additional Solicitor General of India Sri S.P. Singh regarding the installation of the Covid-19 testing machine which is to arrive at Prayagraj because of which the testing would increase manifolds and also with regard to the installation of the Truenat machine in the Nazareth Hospital.

3. Sri Arvind Kumar, who appeared in PIL No.593 of 2020 ventilated his grievance vis-a-vis the district of Agra. He submitted on the basis of a

news item published in a daily "Hindustan" that very little testing was being done intentionally in Agra to show that the number of affected persons were lessening. He also submitted that the number of deaths in Agra was much more than was being reported.

4. Sri Apoorv Dev, learned Advocate, who appeared in PIL No.814 of 2020, was also heard. It has been submitted by him that he has supplied copies of his Letter Petition to the learned Additional Advocate General and the learned Additional Solicitor General of India.

5. In reply to the application of Sri Ram Kaushik and Ms. Priyanka Midda, Advocates, the District Magistrate and the Senior Superintendent of Police, Prayagraj who appeared through Video Conferencing, submitted their explanation. In view of the explanation given by them, we are not as of now initiating the contempt proceedings. They will remain pending. They have stated that Prayagraj being one of the seven districts where the State Government was intensively keeping a watch and because of which various steps were being taken, it would be possible to curb the Covid-19 infection to a great extent by the next date fixed. They further submitted that as per the Government Circulars dated 06.08.2020 and 17.08.2020, they would definitely see that social distancing is maintained and that people in the city wear masks. We do hope and trust that their efforts to control the Covid-19 infection by the next date fixed, would bear

results. When the officers, who were present today, informed us of the efforts they were making, we did feel that we are today living because of their efforts. However, this much is certain that any lapse on their parts at this juncture might result in the greatest of catastrophes. They have to, in the present times, see that social distancing is maintained and that people compulsorily wear masks.

6. On a pointed query being made to the District Magistrate as to whether he had ever issued any orders to ensure strict compliance of the Government guidelines/directives issued on 6.8.2020 and 17.8.2020, the District Magistrate though stated that he had issued the directives but could not show anything to us. However, he has assured that he would verify from the records as to when the directives were issued and on what dates Section 144 of the Cr.P.C. was enforced in the district as per the directives of the State Government dated 6.8.2020 and 17.8.2020. We are conscious of the fact that the State machinery and the District machinery are doing their job day and night making all efforts to curb the spread of the Covid-19 infection, however we are of the view that a lot still is required to be done and any shortcoming or laxity at this stage or in the near future might result in a disaster.

7. In view of the above, we do hope and trust that the Police and the District Administration all over the State would leave no stone unturned to see that the Government guidelines /directives issued

from time to time, specially those issued on 6.8.2020 and 17.8.2020, are complied with in letter and spirit and, therefore, as of now while keeping the contempt application pending, we are deferring the contempt matter today.

8. When certain queries were made to the learned Additional Advocate General Sri Manish Goyal regarding the condition of the Level-3 hospital then he submitted his reply with the assistance of the Chief Medical Officer, Prayagraj and the Principal of the SRN College. He has given certain data which is very important and it requires to be mentioned in our order. He submitted that Wards Nos.7 and 8 in the Swaroop Rani Nehru Hospital (SRN) (Level-3) were being used for Intensive Care Unit (ICU) for Corona patients and both the wards were having $20 + 20 = 40$ beds. He also informed that for 40 beds in the ICU, there were 4 Doctors always present in the Hospital. In this manner, there were 12 Doctors deputed for the ICU wards in a day. He explained that the 12 Doctors had distributed their duties in such a manner that 4 Doctors attended the 40 patients in the ICU for a complete period of 8 hours.

9. Further, the learned Additional Advocate General upon taking instructions from the Chief Medical Officer and the Principal of the SRN College informed that 30 beds each were there in the wards No.9 and 10 while in the ward nos.15 and 16 there were 48 beds each and, therefore, the total number of beds present in the isolation wards were

30 + 30 + 48 + 48=156 beds. In addition to the ICU and isolation wards, there was a High Dependency Unit (HDU) housed in Ward no.14 which had 48 beds. Learned Additional Advocate General Sri Goyal also informed about the sizes of the wards and submitted that Wards No.7, 8, 9 and 10, measured 26.50 metres X 6.7 metres whereas the Ward No.14 i.e. the HDU ward was of a bigger size measuring 26.50 metres X 16.5 metres. Wards No.15 and 16 were also of the bigger size, measuring 26.50 metres X 16.50 metres. Even though, the learned Additional Advocate General was of the view that there were sufficient Doctors for the number of beds and patients, we find that just 4 Doctors at a given point of time for the 40 ICU patients was on the lesser side. Learned Additional Advocate General informed that Doctors were being called from outside as and when they were required. Under such circumstances, on the next date, let a complete information be provided as to when Doctors were being called and also as to whether they actually reported for duty. Details with regard to Doctors with specializations who came when they were called be also provided. Mr. Goyal may, on the next date, also inform us about the inflow of funds to the level-3 hospital dealing with the Covid-19 patients. He may also inform us as to in what manner Doctors and Nurses attend to patients when there is an emergency at night. There is an information that a particular patient one Mrs. Chunni Devi Kesarwani while going to the toilet died on the way and even after she fell down, no Nurse or Doctor attended on her. By the next date, this

matter may also be investigated at the highest level and a report be submitted. The Hospital Authorities to also disclose the total number of deaths date wise in the wards treating Covid-19 patients and to disclose whether they died due to Covid-19 infection or any other disease.

10. From what the learned Additional Advocate General has informed about the infrastructure at the Swaroop Rani Nehru Hospital (SRN), we are of the considered opinion that the medical force that has been deployed there to meet the need of the patients is highly insufficient. Considering the widespread impact of Covid-19 infection and the fact that the SRN hospital is a level-3 hospital, there should be not less than 3 Nurses and a Doctor on every 15 patients. This should be for the isolation wards. The Doctor patient ratio for the ICU wards should be even better. We expect that the Hospital Administration and the Government will ensure that more medical force is deployed to meet the requirement. Regarding the Level-2 hospitals, Mr. Goyal has assured that he would provide all the details to us by the next date fixed. Mr. Goyal will also file the necessary documents regarding deployment of medical force consisting of Doctors and Nurses in both Level-2 and Level-3 Hospitals, by the next date fixed.

11. With regard to the non-availability of a very essential drug namely, Ivermectin, Mr. Goyal has assured us that he would see that it is made available in all the hospitals and the drug stores.

12. Various counsel who appeared today through Video Conferencing have also raised grievances regarding the non-availability of reports in proper time and have also suggested that reports be made available publicly on the click of a button. They have submitted that if a link is generated on the official website by the State Government where the data is stored then people, who have been allotted ID numbers at the time of testing, can immediately get their reports through the link.

13. We have carefully examined the compliance affidavit submitted by the Chief Medical Officer, Prayagraj and have found that though initially there was some delay in the delivery of the Covid-19 tests reports, since August, 2020 reports are now being delivered between 36 and 48 hours. So far as the providing of links and reports through the ID of the person who has been tested is concerned, learned Additional Advocate General suggested that he would make the providing of links through the Government portals possible within the shortest time possible. Learned Additional Advocate General also submitted that through digital signatures, certificates of "Covid-19" showing that the tested person was negative would also be provided. This he stated would help those who were to travel outside their districts.

14. We have also heard Sri S.D. Kautilya who appeared for the Nagar Nigam, Prayagraj. He admitted that in the present times, when the Covid-19 pandemic was at its full strength, the Nagar Nigam at

Prayagraj had no Doctor appointed by the State Authorities. This is abominable. Since encroachments are a great source for the spread of Covid-19 infection, therefore, this Court had directed the Nagar Nigam to remove encroachments vis-a-vis vegetable markets and kiosks selling pan and tea where people gathered. It was also directed that the Nagar Nigam may remove such encroachment which it thought was encroaching on its land. Learned counsel for the Nagar Nigam also informed that as per the schedule provided to this Court by the Nagar Nigam, encroachments on its land had been removed. However, on information provided by various counsel who have assisted in this PIL, we find that removal of encroachments by the Nagar Nigam was extremely half hearted and only on paper. Under such circumstances, we appoint two Advocate Commissioners, namely, Sri Chandan Sharma and Sri Ram Kaushik, Advocates of this Court who would inspect such places which the Nagar Nigam has submitted have been made encroachment free. For this purpose, the Nagar Nigam shall provide all the assistance to the Advocate Commissioners. They shall be provided with transport, security, measuring tapes and so on and so forth. Technical assistance for measuring the land freed of encroachment would also be provided. Further, both the learned counsel would be paid Rs.10,000/- each for every report they submit. It may be clarified that a separate report shall be submitted zone wise. These monetary responsibilities would be borne by the Legal Cell Authority of our Court. If the Nagar Nigam

and the Advocate Commissioner require any help of the Police, PDA and/ or the District Administration then the same would be provided to them.

15. Further, we would like a report from the State Government by the next date as to why no Health Department is functioning in the Nagar Nigam. Doctors in the Health Department are very essential because, whenever there is a pandemic of the kind we are having, the Doctor in the Nagar Nigam alone can assess the magnitude of the problem. The Doctor of the Nagar Nigam also sees to the standard of cleanliness of the city. He sees whether drains were being cleaned and thereafter being treated with DDT as bleaching powder. The Doctor also sees to the method in which fogging was being done for the removal/eradication of mosquitoes. We have been informed that fogging for the removal of mosquitoes was being done by the Nagar Nigam only in VIP/Posh areas. On the next date, the Nagar Nigam to also provide the details of the fogging date wise for the past one month. They would report as to in which areas of the city fogging was done.

16. Mr. Goyal has also assured us that in the seven districts mentioned in our earlier order dated 17.8.2020, both the Police and District Administration will be geared up to ensure that every person outside his house wears a mask and maintains physical/ social distancing of 2 yards. Police patrolling will also be enhanced and the

police force will be made more vigilant by exercising routine vigil in and around commercial establishments and places where there was a possibility of crowding.

17. Sri Abhishek Dixit, Senior Superintendent of Police, Prayagraj has assured that Police pickets would be set up at various vantage points. He assured that the vigil in and around commercial complexes would be raised so that people do wear masks while coming to these places and also maintain social/physical distancing.

18. The two Advocate Commissioners shall submit their joint reports by the next date fixed on following points:

(a) Whether the Nagar Nigam had actually carried out its extensive exercise of freeing public land from encroachments as per their claims.

(b) Whether these places remained vacant after the encroachment was removed and no further encroachment took place.

(c) Proper sanitization and sprinkling of DDT powder, fogging etc. was regularly being done in every nook and corner of the city on a regular basis, routinely.

(d) Whether the Nagar Nigam has made arrangements of creating sufficient vending zones to ensure that unauthorized people whose shops are removed do get a place for continuing their business in the regular vending zones.

(e) Whether the Nagar Nigam has placed sufficient dustbins for the disposal of used gloves and masks by the residents of the city.

19. Under such circumstances, we grant the Authorities a week's time to do the needful. The District Administrations of all the districts of U.P. should vigorously enforce social distancing and the wearing of masks as per the Circulars of the Government dated 6.8.2020 and 17.8.2020.

20. Put up this petition on 25.08.2020 at 02:00 PM.

21. When the case is listed next, the names of Sri Apoorv Dev, Sri Prashant Kumar Singh and Sri Shashank Singh, Advocates be shown in the cause list as counsel for the petitioners appearing in PIL No.814 of 2020.

22. On the next date, the officials who were present today need not appear.

23. The Registrar General of this Court to ensure that a copy of this order is made available to all the District Magistrates, the Senior Superintendent of Police/Superintendent of Police of all the districts of U.P., the Vice Chairman, Prayagraj Development Authority and the Municipal Commissioner of the Nagar Nigam, Prayagraj forthwith. Advocate Commissioners, namely, Sri Chandan Sharma, Advocate and Sri Ram Kaushik, Advocate be also supplied copies of this order forthwith.

Order Date :- 18.8.2020

Siddhant

(Ajit Kumar,J.)

(Siddhartha Varma,J.)