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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 560 OF 2020

IN THE MATTER OF:-

GURSIMRAN SINGH NARULA PETITIONER
VERSUS
UNION OF INDIA AND OTHERS RESPONDENT(S)

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1, UNION
OF INDIA

I, Rajender Kumar , S/o Shri Yad Ram
years, at present working as a Under Secretary in the
Ministry of Health and Family Welfare, New Delhi
Government of India, being well conversant with the facts
and circumstances of the case, do hereby solemnly affirm
and state as follows:-

1. That I am the authorised officer of the Union of India
in the abovementioned matter and I am well acquainted
with the facts and circumstances of this case. I have been

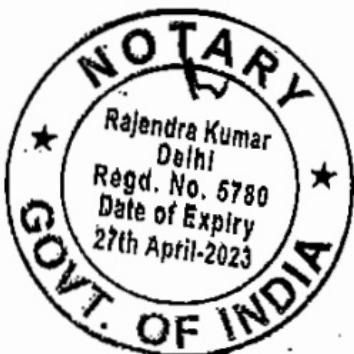


duly authorised to swear and affirm the present affidavit being filed on behalf of Ministry of Health and Family Welfare. Save as expressly admitted herein and save what are matters of record, each and every contention made in the said petition shall be deemed to have been specifically denied.

2. That the present affidavit is being filed by the deponent in respectful compliance of this Hon'ble court's order dated 10.08.2020, whereby, this Hon'ble court was pleased to issue notice to Respondent Nos. 1 to 3. A copy of the said order is annexed herewith and placed at **Annexure-A (Page No. 12)**.

3. It is submitted that in the captioned petition the petitioner has prayed for the following reliefs:-

- "i. *Issue a writ in the nature of Mandamus or any other appropriate writ, direction or order a forthwith ban on the usage, installation, production, advertisement of disinfection tunnels involving spraying or fumigation of chemical disinfectants for the purposes disinfecting human beings and/or*



- ii. *Issue a writ in the nature of Mandamus or any other appropriate writ, direction or order a forthwith ban on the usage, installation, production, advertisement of disinfection tunnels involving spraying or fumigation of organic disinfectants for the purposes disinfecting human beings and/or*
- iii. *Issue a writ in the nature of Mandamus or any other appropriate writ, direction or order a forthwith ban on the usage, installation, production, advertisement of disinfection tunnels exposing human beings to ultraviolet rays for the purposes disinfecting them and/or*
- iv. *To pass such other orders and further orders as may be deemed necessary on the facts and in the circumstances of the case."*

4. In this regard, I respectfully state and submit that National Centre for Disease Control, Directorate General of Health Services, Ministry of Health and Family Welfare issued 'National Guidelines for Infection Prevention and Control in Healthcare Facilities' in January, 2020, wherein, protocols to be followed for cleaning and sanitation enumerated that disinfectant fogging is not recommended

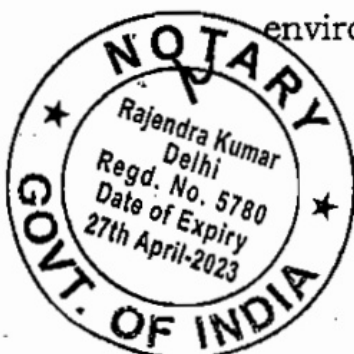
for routine patient care areas. It was also prescribed that fumigating and fogging have no role in the operation theatre



because fumigation with formalin is hazardous to persons and can also harm sensitive equipments.

5. It is stated that these practical guidelines for infection control in healthcare facilities also contains policy and procedure for cleaning, sanitation and disinfection of the external environment in the healthcare facilities. A copy of the relevant extracts of the said guidelines are annexed herewith and placed at **Annexure-B (Page Nos. 13 to 18)**.

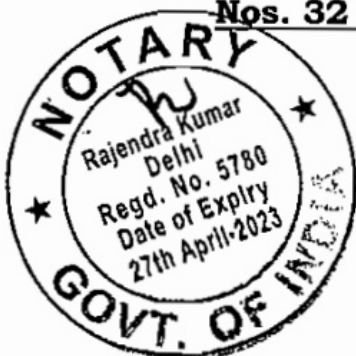
6. It is submitted that the answering respondent vide advisory dated 29.03.2020 issued guidelines on disinfection of common public places of areas reporting COVID-19 infection and the resultant guidance regarding the environmental cleaning / decontamination of common public places including the use of disinfectant for environmental cleaning. It may be noted that even in the said guidelines also fogging / fumigating of the external environment was never emphasized / advised by the



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answering respondent therein. A copy of the said guidelines dated 29.03.2020 is annexed herewith and placed at **Annexure-C (Page Nos. 19 to 24).**

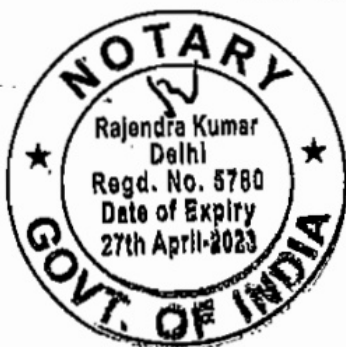
7. It is submitted that the thereafter, the answering respondent issued guidelines dated 18.05.2020 on preventive measures to contain spread of COVID-19 in workplace settings and Standard Operating Procedure ('SOP') dated 04.06.2020 on the preventive and response measures necessary to be observed to contain spread of COVID-19 in office settings. These guidelines / SOP, *inter-alia*, delineated adopting frequent hand washing with soap practice (for at least 40-60 seconds) even when hands are not visibly dirty and also recommended use of alcohol-based hand sanitizers (for at least 20 seconds), wherever feasible. The copies of the said guidelines and SOP dated 18.05.2020 and 04.06.2020 are annexed herewith and placed at **Annexure-D (Page Nos. 25 to 31)** and **Annexure-E (Page Nos. 32 to 38).**



8. I respectfully state and submit that from a perusal of the aforesaid guidelines, it is evident that the answering respondent nowhere issued any advisory/guidelines/SOPs for usage, installation, production, advertisement of disinfection tunnels involving spraying or fumigation of chemical/organic disinfectants for the purposes disinfecting human beings in the workplace/office/public places/external environments.

9. In addition to the above, the answering respondent respectfully submits that taking cognizance of the media reports where it was reported that persons from public were being sprayed/fogged with chemicals and/or exposed to such chemicals through walk in tunnels, the answering respondent convened a meeting of its technical advisory body "Joint Monitoring Group" ('JMG') on 08.04.2020 in the Ministry of Health and Family Welfare, Government of India.

It is stated that the said meeting was chaired by Directorate



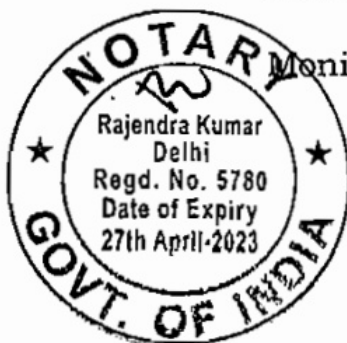
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General of Health Services and was well represented by eminent experts from World Health Organization, National Centre for Disease Control, Indian Council of Medical Research, All India Institute of Medical Sciences, Experts from Central Government Hospitals (Dr RML hospital and Safdarjung Hospital), representative of Director General, Air Force Medical Services, Drug Controller General, etc. in the said meeting the Committee as aforementioned recommended as under:

- (i) Spraying of disinfectants on humans is not recommended under any circumstances. Spraying any chemical disinfectant is physically and psychologically harmful.
- (ii) Further, chemicals are harmful to human skin and mucous membrane of respiratory tract, if inhaled.
- (iii) External spraying of any chemical disinfectant does not kill a virus that has already entered the body of a person, who has earlier been exposed to the virus.

10. It is submitted that accordingly on the basis of deliberation, observation and recommendations of the Joint

Monitoring Group, an advisory was issued by Union



Ministry of Health and Family Welfare on 18th April 2020 and a copy thereof is annexed herewith and placed at **Annexure-F (Page No. 39).**

11. It is submitted that thereafter on 09.06.2020 another expert committee meeting, under Chairmanship of Directorate General of Health Services, was held to review use of disinfectant tunnels, use of various chemicals and spraying of disinfectant alongwith the efficacy of such use of spraying/fogging. The committee, in light of the discussions of the JMG and the abovesaid advisory dated 18th April, 2020 issued by the answering respondent, reiterated that spraying of the individuals with the disinfectants (such as tunnels, cabinets, chambers, etc.) is **not recommended** as it would diminish the infected person's ability to spread the virus through droplets or contact. The committee further observed that spraying disinfectants is **not recommended** in both health-care and non-health care settings. It was also observed that in indoor spaces, routine application of



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disinfectants to environmental surfaces by spraying or fogging (also known as fumigation or misting) is not recommended for COVID-19 as the disinfectants may not be effective in removing organic material and may miss surfaces shielded by objects, folded fabrics or surfaces with intricate designs. If disinfectants are to be applied, this should be done with a cloth or wipe that has been soaked in disinfectant. It further went on to observe that spraying or fumigation of outdoor spaces, such as streets or marketplaces, is also not recommended to kill the COVID-19 virus or other pathogens because disinfectant is inactivated by dirt and debris and it is not feasible to manually clean and remove all organic matter from such spaces. Moreover, spraying porous surfaces, such as sidewalks and unpaved walkways, would be even less effective. Even in the absence of organic matter, chemical spraying is unlikely to adequately cover all surfaces for the duration of the required contact time needed to inactivate pathogens. Furthermore, streets and sidewalks are not

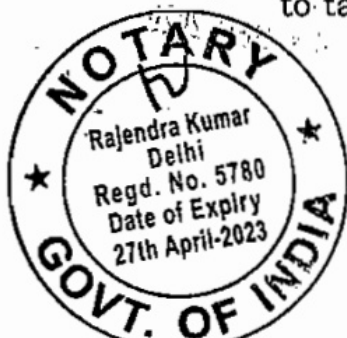


considered to be reservoirs of infection for COVID-19. In addition, spraying disinfectants, even outdoors, can be harmful for human health. A copy of the minutes of the said meeting dated 09.06.2020 is annexed hereto and placed at **Annexure-G (Page Nos. 40 to 41).**

12. It is submitted in particular that the Ministry of Health and Family Welfare has not written any letter or issued any advisory/guidelines/SOPs on the use of Ultra Violet lights for disinfection of humans for COVID-19 management.

13. It is most respectfully submitted that as public health and hospitals are State subject, it is for the States/Union Territories to implement the guidelines issued by the Ministry of Health and Family Welfare and the role of Government of India is limited to providing necessary guidance and financial support.

In view of the submission made hereinabove, it is most respectfully prayed that the Hon'ble Court may be pleased to take this affidavit filed on behalf of the Ministry of Health



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and Family Welfare on record and/or pass such further orders as deemed proper and necessary, in the interest of justice. The answering respondent craves leave to file such further and additional affidavit as may be necessary in the later stage of the present proceedings.

DEPONENT

(राजेन्द्र कुमार)
(RAJENDER KUMAR)

Under Secretary
Ministry of Health & F.W.
Govt. of India
New Delhi

VERIFICATION

Verified at New Delhi on this 04 SEP 2020 day of August 2020 that the contents of the above affidavit are true and correct based on the information derived from the records. No part of the affidavit is false and nothing material has been concealed or suppressed therein.

