

HIGH COURT OF TRIPURA

AGARTALA

W.P. (C) (PIL) No.09/2020

For Court on own motion : Mr. Somik Deb, Amicus Curiae.

For Respondent(s) : Mr. A.K. Bhowmik, Advocate General. Mr. D. Bhattacharjee, GA.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI HON'BLE MR. JUSTICE S. TALAPATRA

ORDER

06/10/2020.

(Akil Kureshi, CJ).

In this writ petition, in the nature of public interest instituted suo

motu by the High Court, we are examining the situation of the spread of coronavirus in the State and related issues. Detailed orders were passed on 11.09.2020, 18.09.2020 and 28.09.2020. The State Government has filed affidavits providing answers and producing documents and materials in response to the queries raised by the High Court in such orders. Today, we had a detailed discussion on various issues emerging from such pleadings on record. We have heard learned counsel Mr. Somik Deb, appearing as an Amicus Curiae and learned Advocate General, Mr. A.K. Bhowmik representing the State Government.

Few areas which require further examination and response from the Government broadly are as under:

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1. (i) Going by unanimous opinion of all medical experts repeatedly and emphatically stated in different literature and on various platforms, wearing of a mask in congested public places is the best remedial measure for keeping the person safe from the possibility of getting infected by the virus which in turn would reduce the spread of the virus. Until either vaccine is found or a medicine to cure the diseases found, it is believed that wearing the mask in public place, that too, congested places, is the best precaution that a person can take. This has also been emphasized by a Central

Expert Committee which visited the State and made its recommendations on the various aspects. We have in the previous order impressed upon the Government to continue with the drive for enforcement of this directive of every person wearing a mask when in public place. We can only request the Government to ensure that this requirement is fulfilled to the possible extent, at least, in congested places like markets and other public places.

2. (ii) The Experts Committee has submitted its report which contains number of recommendations. A few shortcomings in the health administration have been pointed out and matching recommendations for better management have been made. In our earlier order dated 28.09.2020, we had requested the

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Government to produce action taken report on such recommendations. Along with the last affidavit dated 04.10.2020, such action taken report is annexed. We have perused the action taken report and discussed a few issues arising from the said report with the learned Advocate General. Quite a few recommendations made by the Central Committee in its final report have yet to be complied with or if complied with, do not form part of this action taken report. In particular, the Central Committee had pointed out that certain important equipments such as ventilators and X-ray and CT chest machines were either not installed or not in working condition. Learned Advocate General has stated orally that most of these defects have been removed. In the next action taken report, the precise status shall be clearly stated. Further, the Central Committee had made recommendations with respect to a dedicated donning and doffing area for PPE Kits etc. It had also noticed certain defects in waste disposal management and made corresponding recommendations. We request the Government these recommendations be implemented early as possible, if not already done.

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3. (iii) The record suggests that in the initial phase of dealing with coronavirus, the Government had a bitter experience in the procurement of medical equipments such as PPE Kit, masks etc. Internal committees were constituted. The reports of the committees have been annexed along with the last affidavit. These reports suggest prima facie, not only excess charges demanded by the agency for supply of the materials, in some cases, even the material supplied is found to be defective. Our query to the Government, therefore, would be what has been done about such

defective material. Learned Advocate General stated that the same is not being utilized for the purpose of dealing with corona virus treating staff and patients. In the next affidavit, exact details, in this regard shall be stated.

4. (iv) As per our previous suggestion, the State Government has started supplying the data of the number of tests carried out in last 24 hours in the news bulletin, which the Government regularly publishes for public consumption. The Government had provided the data of number of tests carried out, the persons found positive and the positivity rate for the recent past. Further figures are available in public domain through the office and news bulletins. Comparison of these figures

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would show that over a period of time, the tests conducted everyday have come down substantially. In the period between 10.09.2020 to 25.09.2020, the sample tested per day ranged between 3,500 to 4,500 or in some cases more. Whereas, in the period after 25.09.2020, the numbers have dwindled and hover around 2,000 per day. For example on 15.9.2020, tests carried out were 4316, on 16.9.2020 4916, on 17.9.2020 3041, on 18.9.2020 4045, on 19.9.2020 4350. In comparison, as per government bulletin of 3rd October, number of tests conducted in past 24 hours were 1997, of 4th October, 2173 and of 5th October, 1299. Learned Advocate General explained that this was mainly on account of a policy decision taken by the Government to discontinue testing every passenger arriving in Agartala by Air or by other routes since the positivity rate amongst such passengers was found to be very low and comparative cost and effort was much higher. With this policy change, we can have no disagreement. It is primarily for the Government duly aided by the experts in the field to form its own policy in such highly specialized matters. However, the positivity rate of the recent past is quite high and mostly it seems to be above 10% of the samples tested. When compared with over all positivity rate from the

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beginning of around 6.75%, this rate is higher. Therefore, if the total number of positive cases detected per day in the recent past is correlated with the reduced testing, the people of the State should not get a false idea that there is a dramatic improvement in the coronavirus spread and that the life should go back to normal. This would be a serious mistake with serious consequences. It was in this context that in our order dated 28.09.2020, we had requested the Government to consider diverting its

excess capability of testing to other strategic locations. The affidavit states that it is under consideration. We are sure, the Government shall bear in mind the observations made herein above and take the decision best in the interest of the people of the State in consultation with the experts in the field.

On the next date of hearing, further affidavit shall be filed covering all the aspects highlighted above. In particular, the Government shall file a further action taken report on the recommendations made by the Central Committee in its reports.

List the matter on 13.10.2020.

(S. TALAPATRA), J (AKIL KURESHI), CJ