

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3427/2000
(C.H.Sharma Vs.State of Maharashtra and others.)
with
PUBLIC INTEREST LITIGATION NO.10/2020
(Subhash Jainarayan Zanwar Vs. Union of India and others)

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Shri Ram Heda, Advocate for petitioner in PIL No.10/2020
Shri Anup Gilda, Advocate Amicus Curiae,
Shri U.Aurangabadkar, ASGI for respondent no.1.
Shri D.P.Thakre, Addl.Government Pleader for R.Nos.2,3 4 and 6.
Shri S.M.Puranik, Advocate for respondent no.5.
Shri P.D.Sharma, Advocate for intervenor.
Shri Tushar Mandlekar and R.Malviya, Advocate for intervenor

CORAM : A.S.CHANDURKAR, J.
DATE : April 08, 2020.

Heard.

2. At the outset it may be noted that today's proceedings were conducted through video-conferencing. With the assistance of all learned counsel and in view of appropriate arrangements made by the Registry, the proceedings could be conducted smoothly.

3. Pursuant to the order dated 23.03.2020 affidavit has been filed by the respondent no.4-District Collector. In the said affidavit, it has been stated that with regard to the matter of setting up of separate isolation wards in jails across Vidarbha Region, the Superintendent, Nagpur Central Prison has on 03.04.2020 informed the Office of the Collector that a separate quarantine barrack has been prepared and fifteen isolation wards are reserved in Nagpur Central Prison. It is further stated that various steps have been taken at public undertakings in the matter of containment of Coronavirus by ensuring thermostat checking of staff members and deployment of medical teams in that regard. As regards

migrant workers stranded at various places in the district, directions have been issued to ensure that food is provided through 'Shivbhojan Thali Yojna' at various centres in the State. The rate of that Thali has been reduced to Rs.5/- for a period of further three months to facilitate provision of meals to workers, migrants and homeless persons. Forty one shelter homes have been created in Nagpur District (Rural) Area with a capacity to accommodate 4990 migrant workers. Out of the aforesaid in twelve shelter homes about 475 migrant workers have been accommodated. It has also been stated that the District Administration has isolated about thirty people in the district who had reported about their travel history and visit to Nijamuddin Markaz.

4. On behalf of the Nagpur Municipal Corporation, the Additional Health Officer has filed affidavit in which it has been stated that the Municipal Corporation has been conducting surveys to identify COVID-19 patients in ten zones in the City of Nagpur. 24 x 7 emergency control room has been made functional and steps have been taken to ensure that medical help is made available to all. 19 Shelter homes have been created with a capacity to hold 1691 persons. At present 980 persons are staying in these homes. In addition, further 172 shelter homes have also been made available to accommodate 6806 persons and presently 5556 persons are staying in these shelters.

On behalf of Indian Council of Medical Research (ICMR) counter affidavit has been filed by the Director, National Institute of Research in Reproductive Health. Along with the said affidavit list of private laboratories that can undertake tests for COVID-19 has been annexed. It has been stated that approval has been granted by the Indian Council of Medical Research to 51 private laboratories. Other private laboratories interested in applying for testing facility can do so by filing requisite proforma.

5. Shri Anup Gilda, learned Amicus Curiae submits that insofar as setting up of VRDL facility at Akola and Government Medical College at

Nagpur is concerned, the Indian Council of Medical Research could be directed to consider granting approval to these facilities as the same would enable necessary tests being carried out at these places. It is also submitted that similar testing facility could be made available at MAFSU. As regards availability of Prevention and Protective Equipment (PPE) or Hazmate Kit is concerned, he submits that the same be directed to be supplied to the doctors, nursing staff and sanitation workers at MLA Hostel as well as at private Medical Colleges where such patients are being treated. He has also referred to Advisory dated 04.04.2020 issued by the Indian Council of Medical Research (ICMR) with regard to conduct of rapid anti-body based blood test. He submits that this test could be directed to be conducted since the result of such test is available within a period of 30 minutes and the same would facilitate early action.

Shri Ram Heda, learned counsel for the petitioner in P.I.L.No.10/2020 referred to the affidavit dated 04.04.2020 filed on behalf of the District Collector and submitted that the District Administration ought to be directed to take further steps for identifying persons who have reported about their travel history in the light of the provisions of the Epidemic Act, 1879 as well as the Disaster Management Act, 2005. He also suggests that wearing of protective masks be made mandatory for the members of public whenever they are required to come on the streets during the period of lockdown.

6. Shri P.D.Sharma, learned counsel for the intervener in W.P.No.3427/2000 submits that essential commodities are not being supplied to retail shop owners so as to enable ration card holders to get benefit of the same. Though schemes have been announced for distribution of food-grains, there are difficulties faced for want of essential commodities not being supplied to small shop owners. He has invited attention to newspaper report in Nav-Bharat, Nagpur edition published today to indicate that doctors and other medical staff were discharging duties without preventive and protective equipments.

7. Shri T.D. Mandlekar, learned counsel has presented an intervention application on behalf of Dr. Anoop Marar to highlight importance of rapid anti-body test to identify and screen COVID-19 patients. According to him, presently PCR testing facility is available only at three places in the city which test is time consuming and also costly. As per the Advisory issued by the ICMR anti-body test could be implemented considering its costs effectiveness and lesser time taken to indicate the results. He has also sought to highlight the aspect of home isolation to urge that it would not be necessary to admit all positive tested patients in hospital as home quarantine for fourteen days is also recognized by the ICMR. He therefore submits that such rapid anti-body based blood test be directed to be carried out to enable faster identification of patients. Home isolation would also prevent crowding of isolation centres.

8. Shri U.A. Aurangabadkar, learned A.S.G.I. has referred to the affidavit filed by the Director, National Institute of Research in Reproductive Health reference to which has been made in the foregoing paragraphs. He opposes the application for intervention and seeks time to file a reply to the same.

Shri D.P. Thakre, learned Additional Government Pleader for the respondent no.4 has referred to the affidavit filed on behalf of the District Collector.

9. Insofar as setting up of VRDL facility at Akola, Yavatmal, Chandrapur and G.M.C. Nagpur is concerned, it is informed by the learned Additional Government Pleader that approval in principle has been granted in that regard. It would now be necessary for the ICMR to consider whether the VRDL facility being provided at these places is liable to be approved. The ICMR in view of present situation ought to consider granting approval to these facilities expeditiously.

10. Though steps have been taken to provide PPE or Hazmet kit to Doctors, Nursing Staff and Sanitation workers, it would be necessary for the Office of the District Collector as well as the Nagpur Municipal

Corporation through its Commissioner to ensure that these protective kits are available in sufficient numbers for being made available to the Doctors, Nursing Staff and Sanitation workers wherever necessary and especially at the isolation wards at M.L.A. Hostel and Vanamati.

11. As regards the suggestion made on behalf of the Intervener with regard to efficacy of the rapid anti-body based blood test based on the Advisory issued by the ICMR, it would be necessary for the Ministry of Health and Social Welfare through its Secretary to consider whether the rapid anti-body test could be directed to be conducted especially keeping in view the short time required for indicating the result of such test. Similarly the strategy for use of this test and especially the aspect of home isolation as an alternative to hospital treatment is also a relevant aspect to be taken into consideration. This would enable easing the pressure on hospitals at this crucial time.

12. To enable the ICMR to take an expeditious decision on the grant of approval to the VRDL facilities for testing of COVID-19 at Akola, Yavatmal, Chandrapur and at the Government Medical College, Nagpur it is granted time. Similarly, the Collector, Nagpur as well as the Municipal Commissioner, may consider whether wearing of a mask by members of the public while coming out in public places should be made mandatory. The Secretary, Ministry of Health and Social Welfare may in the meantime consider the Advisory issued by the Indian Council of Medical Research on 04.04.2020 in the context of conducting rapid anti-body based blood test for COVID-19. To enable the aforesaid to be done, time is granted to the respondents till 20.04.2020.

Needless to state that the Court expects the directions issued earlier on 23.03.2020 would be carried out in their true spirit. Similarly, the response of the State Government to the suggestions as recorded in the order dated 30.03.2020 with regard to funds generated by public trusts/charitable institutions and wakfs be also placed on record. Reply be also filed to the application for intervention as moved today.

Stand over 20.04.2020.

Authenticated copy be furnished to the learned counsel for the parties.

JUDGE

Andurkar..