

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2020

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO.6722/2020 (GM-RES-PIL)

BETWEEN :

A - FOCUS (ADVOCATES - FOCUS)
ADVOCATES' FORUM FOR
CONSTRUCTIVE SOCIAL WORK
A GROUP OF ADVOCATES OF DHARWAD
C/O HIGH COURT BAR ASSOCIATION
DHARWAD BENCH, DHARWAD

REP BY ITS PRESIDENT
SHRI SANGAPPA
S/O HUCHAPPA MITTALKOD
AGE: 67 YEARS
OCC: RETD DISTRICT JUDGE AND ADVOCATE,
KARNATAKA HIGH COURT
DHARWAD BENCH
R/AT MIG 2/78, KHB COLONY,
DODDANAYAKAN KOPPA
DHARWAD-580008

...PETITIONER

(BY SRI G S KANNUR, SENIOR COUNSEL FOR
SRI NARAYAN G RASALKAR, ADVOCATE)

AND :

1 . THE STATE OF KARNATAKA
REP BY ITS CHIEF SECRETARY
TO GOVERNMENT

VIDHANA SOUDHA
DR. B R AMBEDKAR ROAD
BENGALURU-560001

- 2 . UNION OF INDIA
THROUGH THE HOME SECRETARY
CABINET SECRETARIAT
RASHTRAPATI BHAWAN
NEW DELHI-110004
- 3 . THE MINISTRY OF HEALTH AND
FAMILY WELFARE
THROUGH SECRETARY
ROOM NO. 348, A-WING
NIRMAN BHAWAN
NEW DELHI-110011
- 4 . THE DIRECTOR GENERAL
INDIAN COUNCIL FOR MEDICAL RESEARCH
RAMALINGSWAMY BHAVAN
P.O. BOX NO. 4911
ANSWARI NAGAR, NEW DELHI
- 5 . THE SECRETARY
DEPARTMENT OF HEALTH RESEARCHES
MINISTRY OF HEALTH AND FAMILY WELFARE
DHR, 2ND FLOOR
INDIAN RED CROSS BUILDING
INDIAN RED CROSS ROAD
NEW DELHI-110001
- 6 . THE SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
GOVERNMENT OF KARNATAKA
VIKAS SOUDHA, BENGALURU-560001
- 7 . THE SECRETARY
DEPARTMENT OF MEDICAL EDUCATION
GOVERNMENT OF KARNATAKA
VIKAS SOUDHA
BENGALURU-560001
- 8 . THE DIRECTOR
PUBLIC HEALTH AND FAMILY WELFARE
ANAND RAO CIRCLE
BENGALURU

- 9 . THE DEPUTY COMMISSIONER
DHARWAD DISTRICT
DC COMPOUND, DHARWAD
- 10 . DEPUTY DIRECTOR
PUBLIC HEALTH AND FAMILY WELFARE
BELGAVI ROAD
DHARWAD DISTRICT
DHARWAD
- 11 . THE DISTRICT SURGEON
CIVIL HOSPITAL
FORT, DHARWAD 580001

...RESPONDENTS

(BY SRI VIKRAM P HUILGOL, AGA FOR R-1 & 6 TO 11;
SRI M B NARGUND, ASG A/W SRI M N KUMAR, CGC FOR
R-2 TO 5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR STATUS REPORTS OF FUNDING, PERSONNEL, RESEARCH TITLE, DURATION OF FUNDING, RESEARCH ACHIEVED, PAPERS PUBLISHED FROM THE RESEARCH INSTITUTES BEING SUPPORTED BY RESPONDENT NOS.1 TO 8 TO THE EXISTING RESEARCH INSTITUTIONS AND LABS IN THE COUNTRY GENERALLY AND IN PARTICULAR IN STATE OF KARNATAKA AND REVIEW THEIR PROGRESS KEEPING THE PROTOCOL FOR CONFIDENTIALITY OF THOSE RESEARCH CONTENTS IF FOUND FIT AND REVIEW THEIR WORKING AND GIVE SUITABLE GUIDELINES OR DIRECTIONS IN THE CONTEXT OF THE PLEADINGS OF THIS PETITION AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY,
CHIEF JUSTICE MADE THE FOLLOWING:

ORDER

Heard the learned Senior Counsel appearing for the petitioner, the learned AGA appearing for the State Government and the learned ASG who is present for hearing via Video Conferencing.

2. This petition in the nature of a public interest litigation is filed by an Organization which is formed by members of the Bar. The first prayer in this petition under Article 226 of the Constitution of India is to call for status reports of funding, personnel, research title, duration of funding, research achieved, papers published from the Research Institutes which are being supported by the first to eighth respondents which are the State Government, Union of India and various Departments of both the Governments. The second prayer is to direct the first, sixth and ninth respondents to consider the representations/Letter Petitions dated 9th April 2020 and 13th April 2020 and to establish, maintain and monitor additional Laboratories at the cost of both the Central Government and the State Government out of their respective contingency funds. A direction is sought to commence serious research in COVID-19 and allied diseases in the additional Laboratories which may be established. The third prayer is to

issue a writ of mandamus to the second to fifth, seventh and eighth respondents to forthwith make a provision in the proposed Research Laboratories for unique, innovative and new parallel system for independent research in human virus and other diseases. The next prayer is to direct the Government to frame a scheme or protocol to engage services of interested persons qualified with Doctorate/Post graduation degrees held in the respective fields relating to the cells and cell biology, biotechnology etc. The further prayer is to direct the State Government to frame a scheme or protocol even to engage the services of retired professors, scientists and interested experts in the field of research to overview and review the research work being done from time to time. The further prayer is to direct the Government to cause conduct of research on the basis of modern scientific method followed in the Allopathic system of medicine, drugs being propagated by non-allopathic systems of medicine like Ayurvedic, Unani, Homeopathy systems of medicine and confirm their truthfulness and rule out the false claims. The next prayer is to seek a writ of mandamus to the Government to form Audit/Review Committee of scientists or reputed persons to overview and review the progress made by the existing

scientists in the existing approved Laboratories, the funds so far utilized by them, the papers published by them, the data collected but not yet analyzed etc.,

3. There is a prayer for interim relief to constitute a Committee of experts at State Level under the supervision and headed by a Sitting Judge or a retired Judge of this Court and consisting of chosen eminent scientists and experts from ISRO, DRDO, Director, Disease Control Institute, Bengaluru etc. There are several other prayers in the nature of interim relief in the aid of final relief.

4. The learned Senior Counsel appearing for the petitioner submitted that the anxiety of the petitioner which is an Organization of the members of the Bar is to ensure that there are large number of Laboratories set up in the State for testing people and to ensure that extensive research is conducted.

5. We have considered the submissions. Firstly, we must record here that most of the issues raised in the petition are in the realm of policy. Secondly, considering the fact that large number of persons are being tested positive for COVID-19 in the nation, both the State Government and the

Central Government are facing a very difficult task. It is obvious that both the Governments are conscious of the fact apart from the measures which are being presently taken to prevent the spread of COVID-19, it is necessary to continue the research activities for finding out long term solutions. We cannot assume that the State Government or the Central Government are not taking any steps to rope in the services of even the retired personnel who are experts in the field. If such experts volunteer to help the Government in the measures taken as well as in the research activities, we are sure that both the Governments will accede to the requests made by the retired persons who are experts in the field.

6. The order of a Court constituting a Committee headed by a Sitting Judge or a retired Judge of this Court to monitor the activities as suggested by the petitioner will be counter productive as it will interfere with the steps which are being regularly taken by both the State Government and the Central Government to deal with the issue of COVID-19.

7. The representations/petitions filed by the petitioner are before the State Government and the Central Government and we are sure that if the representations contain suggestions

which deserve acceptance, both the Governments are bound to do it.

8. As regards setting up of large number of Laboratories to test the people suspected with infection of COVID-19, the issue is being dealt with in the main writ petition (W.P.No.6435/2020) which is being regularly heard by this Court.

9. Subject to what is observed above, we are unable to grant any prayer which is made in this petition and accordingly, the petition is disposed of.

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(Sd/-)
CHIEF JUSTICE

(Sd/-)
JUDGE

bkv