

IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P. (C) NO. _____ OF 2020

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

Public interest litigation

AND

IN THE MATTER OF:

Writ petition under Article 226 of the Constitution of India;

AND

IN THE MATTER OF:

Impugned failure of respondents to ensure the proper implementation of provisions notified by them for protection of Corona Warriors from the infection of COVID-19.

AND

IN THE MATTER OF:

In the matter of impugned failure of respondents to ensure the direction of Hon'ble supreme court in

AND

IN THE MATTER OF:

Impugned action on the part of the respondent Secretary Health for risking the lives of millions of resident doctors by not ensuring the availability/distribution of Standardised PPE kits, N-95 masks or Triple Layer Masks, face shields, sterile medical/nitrile gloves, starch apparels, shoe covers, head covers overall gowns to all frontline health care workers/professionals actively attending to treating patients in Govt. or private Hospitals of Delhi, also to protect the life of them along with the maximum service benefits or rewards including the medical benefits to them and their families.

AND

IN THE MATTER OF:

Violation of Fundamental Rights of millions of residents by ignoring the health of thousands of frontline health care professionals/workers and their families actively attending to treating patients in Govt. or private Hospitals of Delhi as guaranteed to them under Articles 14, 15, 16, 19(1) A, 21, 22 of the Constitution of India thereby leading to a situation of acute shortage of healthcare workers from bad to worst.

AND

IN THE MATTER OF:

Violation of Sections 39, 52, 53, 55, 56, 57, 61, 65, 66, 79 of Disaster Management Act, 2005 read with Delhi Epidemic Diseases, COVID-19 Regulations, 2020 under Epidemic Diseases Act, 1897

AND

IN THE MATTER OF:

- (1) Constitution of India,
- (2) Disaster Management Act, 2005
- (3) Delhi Epidemic Diseases, COVID-19 Regulations, 2020 under Epidemic Diseases Act, 1897

AND

IN THE MATTER OF:

JUSTICE FOR ALL

Through its Secretary Adv Shikha Sharma Bagga
Having its Registered Office at
G-10/7, Sector-15, Rohini
Delhi-110089

Email: secy.justiceforall@gmail.com

..... Petitioner

Versus

- 1) Government of NCT of Delhi
Through Secretary (Health)
9th level, A-Wing,
Delhi Secretariat,
New Delhi-110002
Email: pshealth@nic.in

2) Union of India
Through Secretary (Health & Family Welfare)
Near Udyog Bhavan Metro Station,
Maulana Azad Rd
New Delhi-110011
Email: *secyhfw@nic.in*

3) National centre for Disease Control
Through the Director
Nirman Bhawan,
New Delhi
Email: *dghs@nic.in*

...Respondents

To

**THE HON'BLE CHIEF JUSTICE OF THE HIGH COURT OF
DELHI AT NEW DELHI AND HIS COMPANION JUSTICES
OF THE SAID HIGH COURT**

The humble petition of the petitioner above named

MOST RESPECTFULLY SHOWETH:

1. The petitioner submits that it has no personal interest in the litigation and that the petition is not guided by self-gain or for gain of any other person/institution/body and that there is no motive other than of public interest in filing the present writ petition.
2. The petitioner submits that it is very much involved in the matter of implementation of Right of Children to Free and Compulsory Education Act, right of the residents to health, rights of the working class and other matters relating to social welfare and has been frequently interacting with the education, health and other authorities of Govt. of NCTD of Delhi as well as of various Municipal Corporations of Delhi and the source of averments made in the present writ petition is its personal knowledge and information collected from various newspaper reports and on the basis of verbal

inputs from the Healthcare workers/Professionals who are directly facing the difficulties being the frontline warriors.

3. The petitioner submits that the present PIL is in the interest of protecting the lives of General Public of City, by securing the lives of thousands of frontline health care professionals/workers actively attending and treating COVID-19 and non COVID 19 patients in Govt. or private Hospitals of Delhi, whose nos. of getting infected themselves from COVID-19 is getting higher day by day, as they are extremely under stress and has been neglected by the authorities in Delhi, which being the third largest infected state in India, who are incapable of accessing the courts themselves during this pandemic.
4. The petitioner submits that the Union of India, Government of NCT of Delhi & National Centre for Disease Control are likely to be affected by the Orders sought in the writ petition and which have been impleaded as Respondent. The petitioner says that to its knowledge, no other persons/bodies/institutions are likely to be affected by the order sought in the writ petition.
5. JUSTICE FOR ALL, the petitioner herein, is an organization of lawyers and social activists dedicated to the cause of common man and particularly to the rights of the children relating to education and health. Ms. Shikha Sharma Bagga, Advocate is the Hony. Secretary of the petitioner/organization and is authorized and competent to file and prosecute the present writ petition on behalf of the petitioner. The petitioner is an organization having Registered Office at G-10/7,

Sector-15, Rohini, and Delhi-110089. It is submitted that Mrs. Sweta Jha is the president of the petitioner/organization. The petitioner submits that it has the means to pay costs, if any, imposed by this Hon'ble Court and submits its undertaking to this Hon'ble Court in that regard.

A true copy of registration certificate and resolution dated 25.04.2019 is annexed hereto as **ANNEXURE-A (Colly)**.

6. The Petitioner through the present writ Petition filed in the public interest highlighting the impugned failure of the sovereign to ensure the protection of fundamental right of general public by ignoring the health of thousands of frontline health care professionals/workers and their families actively attending to treating patients in Govt. or private Hospitals of Delhi as guaranteed to them under Articles 14, 15, 16, 19(1) A, 21, 22 of the Constitution of India thereby leading to a situation of acute shortage of healthcare workers from bad to worst read with Sections 39, 52, 53, 55, 56, 57, 61, 65, 66, 79 of Disaster Management Act, 2005 read with Delhi Epidemic Diseases, COVID-19 Regulations, 2020 under Epidemic Diseases Act, 1897. The petitioner through the present writ petition also challenges the impugned failure of respondents for their failure to provide adequate fund/guidelines or to check misappropriation of funds by the Hospital Superintendents/Manufacturers/Vendors for the purchase of standardized PPEs which is mandatory and primary need for the Health care workers under Disaster Management Act.

7. It is submitted by the petitioner that the whole world including India has been facing the threat of COVID-19 and Delhi is at present third largest infected state in the country, whereas Disaster Management Act, 2005 and Delhi Epidemic Diseases, COVID-19 Regulations 2020 under Epidemic Disease Act, 1897 has been in force in NCT of Delhi at present and it is mandatory to comply with the provisions of the same for the prevention and contamination of COVID-19 whereas not only the frontline health care workers/Professionals as well as their families are under mental, physical, social and financial stress whereas has been further neglected by the authorities during the period of lockdown, situation leading to breakdown of complete health care system. It is submitted that already our country has been facing the acute shortage of health care professionals/workers whereas the demand of them during this pandemic has been multiplied many times and we are not in a position to lose a single life of any of our Healthcare professional/worker at present as the whole nation is only dependent on them at present to come out of the trauma every single person has been facing, thereby it is extremely essential and duty of the sovereign under the doctrine of *parens patrie* to protect in the public interest the lives of general public of the city by protecting the precious lives of the frontline health care workers/Professionals as well as their families and to reduce their mental, physical and social stress.
8. The petitioner submits that the India is facing largest medical emergency during this COVID 19 pandemic and also the country wide Lock Dawn but the health and petitioner is well aware with the difficulties may be faced by the government agencies to regulate the

things but the life and health of frontline corona warriors are most important for the country specially at this time of pandemic. The news report from entire world is showing which kind of problems is faced worldwide when the frontline medical staffs are being infected. The petitioner is also well aware with the non availability of adequate resources in India which is a developing country and the pandemic erupted suddenly in entire world and it is very difficult to arrange resources from abroad but this is time when the resources should be utilized in most judicious way and the importance of medical professionals and workers should be considered by the country and appropriate security and appreciations should be provided to them as well as it is duty of the nation to facilitate them from most of the facilities the nation can provide to them.

9. The petitioner submits that the medical professionals and medical workers are frontline warriors against corona and they are entitled for maximum incentives from the national and this fact is acknowledged worldwide. In the case of any infection to them sufficient medical facilities must be availed for them so that they should work without fear and help the nation against the fight against COVID 19. The present petition in the public interest is not adversarial litigation but it is intended to point of the deficiency in the system which may help the government to protect these corona warriors. The government may be trying their best to protect the medical professionals and workers but still there is some gap in the policy and its implementation despite the direction from Hon'ble Supreme Court and the petitioner through the present petition highlighting those deficiencies.

10. The petitioner submits that He has been interacted with doctors working for COVID patients at the Ambedkar Hospital Rohini and Jagjivan Ram Hospital Jahangirpuri and found that several guidelines and directions from Hon'ble supreme court is not being implemented. The petitioner submits that the doctors due to CCS Rules applicable to them and as per recent guidelines of Delhi government is not in position to approach this Hon'ble court but agreed to provide appropriate feedback to the members of petitioner organization specially the secretary of the organizations about the acute problems they are facing specially the junior doctors deputed in the frontline. The problem about social distancing is also rampant in the hospital and directions of Hon'ble supreme court is blatantly violated in practice there.

11. The petitioner submitted that the newspaper reports in the last few days has highlighted the exponential rate of infection from COVID-19 among the Doctors, hospital staff including their families who are our soldiers in this war like situation. The petitioner submitted that as per the inputs from the newspaper and media reports and from the verbal input of the frontline workers, the following are the issues highlighted which needs urgent attention of this Hon'ble Court:

11.1 Purchase of substandard/torn PPEs without specifications and standards from the local manufacturers without any certification of quality as per the guidelines issued by MoHW for the rational use of PPE for the frontline workers by the hospital administration.

A true copy of letter from Ministry of Health and Family welfare Govt of INDIA is annexed hereto as ANNEXURE-B.

11.2 The order dated 02.04.2020 is read in isolation by the Hospital authorities and the minimum requirement of protective equipments are not provided as the communication dated 02.04.2020 by the Central government.

A true copy of order dated 02.04.2020 annexed hereto as ANNEXURE-C.

11.3 There is no arrangement to ensure the basic social distancing prescribed by the respondents to be abided by the attendants of the COVID and Non COVID Patients.

A true copy of Pictures taken at the waiting area of Dr Ambedkar Hospital Rohini annexed hereto as ANNEXURE-D.

11.4 No guidelines and S.O.P. for the compliance of the order passed by Hon'ble Supreme Court in the matter of Jerryl Banait Vs Union of India vide order dated 08.04.2020 in W.P.(C) no. 10795/2020.

11.5 No screening of patients and staff at the prominent points of entry in hospitals so that infected persons should be segregated.

- 11.6 No arrangements for maintaining social distancing in hospitals by the persons visiting the hospitals whether non covid patients or attendants of the patients
- 11.7 lack of guidelines of Golden Hour treatment of CORONA SUSPECTS (In-patients and out patients) which needs the same priority as CORONA POSITIVE patients as there is gap of 24-72 hrs in taking samples and getting the report.
- 11.8 As per the advisories during the lockdown, those healthcare professionals who don't know driving or were dependent on drivers/cabs/public transport to commute to their workplace are facing additional stress of self-driving or no road side assistance like tyre puncture or vehicle breakdown.
- 11.9 In some cases, the husband and wife are on the duty together and has been forced to leave their children and senior citizens at their homes with no extra facilities to take care of them who are simultaneously facing the same risk during the lockdown.
- 11.10 No medical benefits for the treatment of infected Healthcare professionals/workers or paramedical staff in any private Hospital including the Apollo hospital who has been enjoying the govt. land and 33% Govt share has been inhumane in demanding 5 lakhs to be deposited in advance from the govt. healthcare professionals for admission and treatment for 14 days, which is absolutely unethical

and unexpected from the so called philanthropic Institutions at the time of pandemic.

11.11 No feedback from the affected frontline workers for the effective compliance of the guidelines and various orders of the experts as well as of the Hon'ble Supreme Court or to rectify the lacunas in the system.

11.12 Dearness Allowance of the frontline Healthcare professional/workers and paramedical staff who have been sharing disproportionate risk from COVID-19, has been freezed by the central govt. who are combating with COVID-19 and has been facing high risk at the time when cost of living has been high despite of the undertaking of the Learned SG in Hon'ble Supreme Court in the matter of Jerryl Banait Vs Union of India vide order dated 08.04.2020 in W.P.(C) no. 10795/2020 to not to deduct any part of salary of the healthcare professionals.

A true copy of order dated 23.04.2010 of Ministry of Finance for freezing of DA to the Govt employees with no relation to the Frontline Healthcare Professional/workers and the order dated 08.04.2020 in W.P.(C) no. 10795/2020 of Hon'ble Supreme Court has been annexed as **ANNEXURE-E & F** respectively.

11.13 Other Countries and states have been announcing monetary and non-monetary incentives for the frontline health workers on the basis of the no. of hours of their duty for their remarkable work of saving

other lives by risking themselves and their families which could boost the reinforcement and mobilization of healthcare workers at the time of shortage and when a huge no. of them have been testing positive on hourly basis. The Indonesian government announced incentives of up to Rp 15 million for medical doctors and nurses, in addition to a compensation of Rp 300 million in case of death due to coronavirus. In Malaysia, the government announced a special monthly critical allowance of 400 Malaysian ringgit from February 2020 till the end of outbreak for medical staff fighting Covid-19. In China, children of frontline health staff in Hubei province will be awarded with extra points in school and higher education admissions, whereas no such monetary or non-monetary incentive has been announced yet for the Healthcare workers of Delhi.

A true copy of few newspaper reports and the latest list of report dated 26.04.2020 of infected Health care staff of Baba Saheb Ambedkar Hospital has been Annexed hereto as **ANNEXURE-G & H**.

12. The petitioner submits that hospitals in City has been a major source of infection for COVID-19 with various healthcare workers/professionals and even the patients visiting the Hospitals in the city are testing positive, leading towards a grave situation of collapse of the healthcare system which has already facing extreme shortage of healthcare workers. The petitioner being aggrieved and concerned with the impugned failure of the respondents in resolving the subdued issue of escalating deficit of Frontline Healthcare workers/professionals at the time of pandemic when the entire globe is only dependent on them for their survival for combating the COVID-

19 because of increasing daily incidences of their being testing positive and moving to Hospitals or quarantine centers for their treatment thereby making the situation graver, has approached this Hon'ble Court seeking interference and for the following directions to the respondents in the interest of justice for saving the lives of millions of residents of city:

12.1 Immediate framing of SOPs or guidelines by the respondents for the compliance of the order passed by Hon'ble Supreme Court in the matter of Jerryl Banait Vs Union of India vide order dated 08.04.2020 in W.P.(C) no. 10795/2020.

12.2 To device a mechanism for the earliest certification of BIS/ISO to the manufacturers/vendors supplying the PPEs, duly approved and certified by the team of Doctors including a Senior and a Junior, the actual users, on duty as Frontline workers in accordance with the quality as per the guidelines issued by MoHW for the rational use of PPE for the frontline workers by the hospital administration. All items to be supplied need to be accompanied with certificate of analysis from national/ international organizations/labs indicating conformity to standards All items: Expiry 5 years * Due to scarcity of coveralls, and risk versus benefit, that as an emergency temporary measure in larger public interest, in present given circumstances, the fabric that cleared/passed 'Synthetic Blood Penetration Resistance Test' (ISO 16603) and the garment that passed 'Resistance to penetration by biologically contaminated solid particles (ISO 22612:2005) may be considered as the benchmark specification to manufacture Coveralls." The Coveralls should be taped at the seams to prevent

fluid/droplets/aerosol entry. The test for these two standards (ISO 16603 and ISO 22612:2005), which can be performed in Indian laboratories are as per WHO Disease Commodity Package (Version 4.0)

12.3 Any person found selling or purchasing the substandard/uncertified protective Kits by disobeying the aforesaid specifications of MoHW and WHO shall be prosecuted and punished with imprisonment or fine or both under section 188 of the Indian Penal Code (45 of 1860) as per section 3 of the Epidemic Disease Act, 1897.

12.4 Online mechanism to monitor the basic measures of social distancing, strict screening at the gates of hospital, distribution status of PPEs to every frontline healthcare worker/professional must be adopted to prevent the carelessness/negligence of any of the staff or taking first hand report/feedback from the last line up workers directly, for the actual negligence/lacunas in the system could be reported, in confidential manner, so that the affected frontline junior staff should not be further victimized by the management.

12.5 To device a flawless mechanism of sort out the online redressal of grievances or appeal of any frontline Health worker by the Hospital management or the state on priority.

- 12.6 To issue guidelines to take the precautions measures for the COVID SUSPECTS (In-patients & Out-patients) at par with the COVID POSITIVES to reduce the risk for further infection.
- 12.7 To ensure a mechanism for pick and drop Cab service for all the frontline healthcare staff free of cost by Ola/Uber with the proper regular screening and sanitization of the cab and driver before every pick and drop, who have been paid Rs 5000 each by the Delhi Govt for their help in distress.
- 12.8 To restrain assigning duty of being in frontline worker/professional to both husband and wife at same time so that the other can take care of the minor children or elderly parents at the time when there is no domestic help during lockdown.
- 12.9 To ensure free of cost treatment of COVID positive frontline healthcare professionals/workers and their dependents in Private Hospitals like Apollo which have been running on DDA land or other land owing agencies.
- 12.10 Not to deduct any part of the salary of any Healthcare worker/professional for this period in compliance to the statement recorded by the Id. SG before the Hon'ble Supreme Court in the matter of Jerryl Banait Vs Union of India vide order dated 08.04.2020 in W.P.(C) no. 10795/2020.

12.11 To announce monetary or nonmonetary incentives for the Healthcare professionals/workers and their families to motivate other to join as Frontline warriors to compensate/fill up the huge gap of deficit of frontline healthcare workers because of increasing daily incidences of their being testing positive and moving to Hospitals or quarantine centers for their treatment.

12.12 Direction to respondent no. 3 for auditing or assessment of the implementation of guidelines and SOPs for all the Hospitals dedicated for COVID-19 patients with the feedback from the confidential information from the last line up affected Frontline Health workers/professionals.

13. The petitioner submits that they did not file any similar petition before this Hon'ble court or the Hon'ble supreme court for seeking the similar relief.

14. The petitioner submits that they do not have any alternate effective remedy to agitate the cause of security of health of millions of residents of city other than this Hon'ble court and during this pandemic all the residents could not be in the position to directly approach this Hon'ble court.

15. The petitioner submits that all cause of actions is under the territorial jurisdiction of this Hon'ble court.

PRAYER

It is respectfully prayed from this Hon'ble court to be pleased to pass-

- i) an appropriate writ order or direction to respondents to ensure the lives of residents of city by avertingly adopting suggestions in para 12 of the writ petition forthwith.
- ii) an appropriate writ order or direction to effect the monitoring of steps taken and to be taken by government to ensure strict compliance of directions issued by Hon'ble supreme court in W.P.(c) Diary No. 10795 of 2020.
- iii) To pass any other order or further order this Hon'ble court deems fit on the basis of above mentioned facts and circumstances of the case.
- iv) Allow the present writ petition with cost.

K.B.J. & Co.
G-10/7, SECTOR-15, ROHINI
NEW DELHI-110085
PH- 9999191196, 8826456565
EMAIL- advocate@kbjandco.com

NEW DELHI
DATE: 28.04.2020

IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P. (C) NO. OF 2019

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF
JUSTICE FOR ALL

----- PETITIONER

VERSUS

SECRETARY (HEALTH) GOVERNMENT
OF NCT OF DELHI AND ORS.
RESPONDENTS

AFFIDAVIT

do hereby solemnly affirm and

declare as under:-

1. That I am the Secretary of the petitioner Organisation, having registered office at G-10/7, Sector-15, Rohini, and Delhi-110089 and vide resolution dated 25.04.2020 I have been authorized to file the present writ petition as a Public Interest Litigation on behalf of the petitioner.
2. I have filed the present petition as a Public interest Litigation.
3. I have gone through the Delhi High Court (Public Interest Litigation) Rules, 2010 and do hereby affirm that the present public interest Litigation is in conformity thereof.
4. Petitioner have no personal interest in the litigation and neither myself nor anybody in whom the petitioner is interested would in any manner benefit from the relief sought in the present litigation save as a member of the general public. This petition is not guided by self-gain or gain of any person, institution, body and there is no motive other than of public interest in filing this petition.
5. I have done whatsoever inquiry/investigation which was in my power to do, to collect all data/material which was available and which was relevant for this court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material/information which may

have enabled this court to form an opinion whether to entertain this petition or not and/or whether to grant any relief or not.

6. I have gone read the contents of the present writ petition drafted by my counsel and found the contents of the annexed writ petition true and correct as I have instructed and the same can be taken part and parcel of this affidavit.

Deponent

VERIFICATION

Verified today on this 28th day of April 2020 that the facts as stated in the above affidavit are correct and true to my knowledge and nothing material has been concealed therefrom.

Deponent