

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

TUESDAY, THE TWENTY SIXTH DAY OF MAY
TWO THOUSAND AND TWENTY
PRESENT

**THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE B VIJAYSEN REDDY**

WP(PIL) NOS: 59, 78, 82, 91 AND 92 OF 2020

WP(PIL) No. 59 OF 2020 Between:

1. Prof. P.L. Vishweshwar Rao, Occ. Convenor, Telangana Democratic Forum and Vice President of Telangana Jana Samithi, R/o. H.No. 33-23/1, Officers Colony, Rama Krishnapuram, Secunderabad – 500056.
2. Dr. Cheruku Sudhakar, MBBS, S/o. Usha Goud, Occ. Doctor, H.No.14-70, V.T. Colony, Nakrekal, Nalgonda District, Telangana State - 508211

...Petitioners

AND

1. Union of India, Ministry of Health and Family Welfare, Maulana Azad Road, Nirman Bhavan, New Delhi - 110011.
2. The State of Telangana, Rep by Chief Secretary, Telangana Secretariat, B. R. K.R. Bhavan, Hyderabad.
3. The State of Telangana, Rep by its Principal Secretary to the Medical and Health Department, Telangana Secretariat, B. R. K.R. Bhavan, Hyderabad.
4. The State of Telangana, Rep by its Principal Secretary to the Finance Department, Telangana Secretariat, B.R.K.R. Bhavan, Hyderabad.
5. The State of Telangana, Rep by its Principal Secretary to the Civil Supplies Department, Telangana Secretariat, B. R. K.R. Bhavan, Hyderabad.
6. The State of Telangana, Rep by its Principal Secretary to the Labour Department Telangana Secretariat, B. R. K.R. Bhavan, Hyderabad.
7. The Commissioner and Director, Medical and Health Department, Koti, Hyderabad, Telangana.
8. The Commissioner, Civil Supplies Department, Civil Supplies Bhavan, H.No.6-3-655/1/A, 3rd Floor, Punjagutta Road, Somajiguda, Hyderabad, Telangana.
9. The Labour Commissioner, State of Telangana, T. Anjaiah Bhavan, RTC X Road, Hyderabad.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus in declaring the inaction of the respondents in providing proper quarantine to the passengers, who came from Abroad to Telangana from 1st February, 2020 to 25th March, 2020 for 14 days and non-providing Medical Personal Protective Equipment (PPE), N-95 Masks to the Doctors, Para-Medical Staff, who are working in the Medical field in prevention of Spread of Covid-19 in the State of Telangana and also in non-import-non manufacture the Medical Equipment like Diagnosis kits of COVID-19, Ventilations, Personal Protective Equipment (PPE), N-95 Masks, Sanitizers etc., in protection of right to life of Public at large, and non-supplying the daily essential goods at reasonable prices like food-grains, vegetables, medicines etc., in door delivery to the public at large and non-providing daily essential food-grains, vegetables, fruits, Masks, medicines, shelter and minimum expenses etc., to the lakhs of Un-organized labour, beggars, Inter-State Migrant Labors, Orphans, Street Children, Destitutes, Nomadic Tribes, Semi -Nomadic Tribes and Hostel Students, who are non-registered in the white card scheme and living in the State of Telangana in the lock down period as illegal, arbitrary, discriminatory, unreasonable, unfair, unjust, unlawful, unconstitutional, whimsical, perverse, mockery and against an Article 14, 19, 21 of Constitution of India and against to the Provisions of the Epidemic Diseases Act, 1897 and The Inter State

Migrant Workmen Act, 1979 and other Labor Laws and against to the Catena of Judgments of an Apex Court and this Honble Court and Consequently, direct the respondents to quarantine the all passengers, who came from Abroad to Telangana by All ways (Airway, Railway and Road Transport) from 1st February, 2020 to 25th March, 2020 for 14 days and direct the respondents to either manufacture or import the large Scale Diagnosis Kits of COVID-19, N-95 Masks, kits of Personal Protective Equipment (PPE) and Ventilators to protect the lives of Doctors, Para-medical staff and Public at Large of Telangana, who are working in the field of prevention of Spread of Covid-19 and direct the respondents to provide daily minimum needs, like food grains, vegetables, fruits, shelter, N-95 Masks, sanitizers and Minimum Expenses to the lakhs of unorganized labor, beggars, Inter-State Migrant Labour, Orphans, Street Children, Destitutes, Nomadic Tribes, Semi-Nomadic Tribes, Hostel Students, who are non-registered in the white card scheme and living in the State of Telangana and to direct the respondents to supply in door delivery daily need essential goods at reasonable prices like food-grains, vegetables, fruits, N-95 Masks, sanitizers, etc., and also direct the respondents to Diagnosis of COVID-19 to the people at home in lock down period till no COVID-19 Positive get into the record in the State of Telangana

This petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Prabhakar Chikkudu, Counsel for the petitioner and of Sri Namavarapu Rajeshwar Rao, Assistant Solicitor General on behalf of Respondent No. 1 and Sri B.S. Prasad, Advocate General on behalf of Respondent Nos. 2 to 7 and 9, and of Sri A. Jagan, Advocate for the respondent No. 8,

WP(PIL). No. 78 of 2020

Between:

1. Prof. P.L. Vishweshwar Rao, S/o. Late Ponna Laxmana Rao
2. A. Rajendrababu, S/o. Late Nagappa

Petitioners

AND

1. The State of Telangana, Rep. by its Chief Secretary, Telangana Secretariat, B. R. K. Bhavan, Hyderabad.
2. The State of Telangana, Rep. by its Special Chief Secretary, Medical and health Department, B. R. K. Bhavan, Hyderabad.
3. The State of Telangana, Rep. by its Principal Secretary to the Medical and Health Department, Telangana Secretariat, B. R. K. Bhavan, Hyderabad.
4. The Commissioner and Director, Medical and Health Department, Koti, Hyderabad, Telangana.

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus in declaring the action of the respondents in issuing an impugned proceedings Lr. No. 82/Peshi/DME/2020, Dated 20.04.2020, not to collect samples from the dead bodies for further Covid-19 testing in the State of Telangana and not notified the Covid-19 100 Bedded hospitals erstwhile District Head Quarters Or 50 Bedded Hospitals in the Present District Head Quarters other than the Area of Greater Hyderabad Municipal Corporation in protection of the right to life of Urban, Sub-urban and Rural public at large by providing trained staff, medical equipment and medicines as illegal, arbitrary, discriminatory, unreasonable, unfair, unjust, unlawful, unconstitutional, whimsical, perverse, mockery, in human, bad in law, ulterior motive and against to an Article 14, 19, 21 of Constitution of India and against to the Provisions of the Epidemic Diseases Act, 1897 and against to the Disaster Management Act, 2005 and other Acts and against to the Caterina of Judgments of an Apex Court and this Honourable Court.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents to notify the Covid-19 100 Bedded Hospitals in the Head Quarters of erstwhile Districts or Covid-19 50 Bedded Hospitals in the present District head Quarters other than the Area of Greater Hyderabad Municipal Corporation (GHMC) by providing sufficient trained staff and medical

equipment and also medicines in protection of the right to life of the public at large forthwith, pending disposal of WP(PIL) 78 of 2020, on the file of the High Court.

IA NO: 2 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents to take the samples by Para Medical Staff from the Dead bodies for conduct test of Covid-19 in the State of Telangana, pending disposal of WP(PIL) 78 of 2020, on the file of the High Court.

IA NO: 3 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to suspend an impugned proceedings issued by the 4th respondent in Lr. No.82/Peshi/DME/2020, Dated 20.04.2020, forthwith, pending disposal of WP(PIL) 78 of 2020, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Prabhakar Chikkudu Advocate for the Petitioners and of Advocate General for the respondents

WP(PIL). No. 82 of 2020

Between:

Dr. K.P. Rajender Kumar, Retd. District Medical and Health Officer, Jogulamba, Gadwal District, Flat No.403, Durga Harmony, H.No.6.3.552/ 1, Erramanzil Colony, Hyderabad 500 082

Petitioner

AND

1. Union of India, rep. by its Secretary Department of Medical and Health, Central Secretariat, New Delhi.
2. Indian Council of Medical Research, (ICMR) COVID-2019. New Delhi.
3. State of Telangana, Rep. by its Chief Secretary, Secretariat, Hyderabad.
4. State of Telangana, Represented by its Principal Secretary, Medical and Health Department, Secretariat, Hyderabad.
5. The Director of Medical and Health, Government of Telangana, Koti, Hyderabad.
6. Director of Public Health and Family Welfare, Government of Telangana, Hyderabad.

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the letter dated 28.04.2020 sent by the petitioner herein through email, the High Court may be pleased to issue an appropriate Writ, Order or Orders more particularly, one in the nature of a Writ of Mandamus to call for records and remarks from the Respondents herein relating to and in connection with issuance of letter bearing No. Spl/COVID/DPHGW/2020 dated 20/04/2020 by the office of the Director of Public Health and Family Welfare, Government of Telangana directing not to take samples and conduct COVID-19 tests on the dead bodies and if that is so cause of the death will not be revealed and there is every likelihood of spreading the virus upon (1) Health Service Providers, i.e. front line workers i.e., Doctors, Nurses, ANMs, Asha Workers, (2) Family Members and Close Contacts and (3) Funeral Service Providers and also people who came into contact with the deceased, damage the purpose of precautionary measures taken by the Government to safeguard the lives of the public at large, (Recently in Kurnool, samples of deceased Dr. Ismail Hussain, who was a Doctor, and his six family members were found to be COVID-19 positive).

and

Consequently to direct the Respondents herein to take samples of the dead bodies and conduct COVID-19 tests as there is every likelihood of spreading the virus upon (1) Health Service Providers, Doctors, Nurses, ANM, Asha Workers, (2) Family Members and Close Contacts and (3) Funeral Service Providers and also people who came into contact with the deceased as a precautionary measure to safeguard the lives of the public at large.

The petition coming on for hearing, upon perusing the Petition and the letter dated 28.04.2020 sent by the petitioner herein through email, and upon hearing the arguments of Dr. K.P. Rajender Kumar as party in person and Sri Namavarapu Rajeshwar Rao, Assistant Solicitor General, for the Respondent No. 1 & 2 and Advocate General for the respondents No. 3 to 6.

WP(PIL). No. 91 OF 2020

Between:

Varun Sankineni, S/o Sankineni Venkateshwar Rao

Petitioner

AND

1. The Union of India, Rep. by its Under Secretary, Medical and Health Department, (COVID -19) Central Secretariat, Sastry Bhavan, New Delhi
2. The Indian Council of Medical Research, (ICMR), Rep. by its Director General, (COVID -19), Health Research Department, Ansari Nagar, New Delhi 110 029
3. The State of Telangana, Rep. by its Chief Secretary, (GAD) Dept., Secretariat, Saifabad, Hyderabad.
4. The State of Telangana, Rep., by its Special Chief Secretary, Medical and Health Department, (COVID -19), Secretariat, Saifabad, Hyderabad
5. The State of Telangana, Rep., by its Prl, Secretary, Medical and Health Department, (COVID -19), Secretariat, Hyderabad.
6. The Commissioner and Directorate of Medical and Health Department, (COVID-19) Koti, Hyderabad.
7. The District Medical and Health Office, Rep., by District Medical and Health Officer (FAC), Suryapet Collectorate, Suryapet, Suryapet dist., erstwhile Nalgonda District
8. The Superintendent of (COVID -19), Gandhi Hospital, Secunderabad,

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of Mandamus, a)declaring that the action of the Respondents in failing to conduct/provide for adequate testing of COVID-19 for the citizens of the State of Telangana and more particularly the residents of Suryapet district of erstwhile Nalgonda district as a constitutional failure of the State duty, violating the citizens fundamental rights including the rights guaranteed under Article 14 and 21 of the Constitution of India and resultantly direct the Respondents. b)To review the testing criteria to include collecting samples and conducting tests of all asymptomatic persons, in the areas affected with the outbreak in the State of Telangana and more particularly the district of Suryapet c) To incorporate Rapid Antibodies Blood Test method in order to exponentially increase the population tested and efficiently identify the areas affects and people carrying the virus who may or may not show any symptoms. d)Consequently speed up the process testing through door to door step sample collection in order to ensure widespread accessibility of the testing facilities, (This will not only increase the number of people tested per million but also ensure the safe collection of samples and proper maintenance of the chain of custody). e)To start Door to Door sample collections and testings of any person showing any signs/symptoms of COVID-19 in Suryapet District, so that testing and quarantine can be done at home instead of travelling to hospitals, therefore minimizing the pressure on the already overburdened hospitals. f)To prepare and make available online data (through a dedicated web-portal), of the areas covered by door to door testing and sample collection and total no. of tests conducted, segregated into two categories i.e., symptomatic and asymptomatic, containing necessary details such as areas covered, total no. persons tested, whether the persons found positive was symptomatic or asymptomatic or with any travel history, etc. g)To direct the Respondents herein to release the test results of the samples collected within a reasonable time-frame and make available the said results on any dedicated web-portal or in the media and award costs to the petitioner herein

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to appoint a court monitored expert committee for identifying the extent of testing and for suggesting the localities /zones/municipal/ gram panchayath areas in the State of Telangana and more particularly in the Suryapet district erstwhile Nalgonda district in which steps for rapid testing ought to be

undertaken by the Respondents forthwith, pending disposal of WP(PIL) 91 of 2020, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Smt Gorantla Sri Ranga Pujitha Advocate for the Petitioner and Sri Namavarapu Rajeshwar Rao, Assistant Solicitor General for the respondent No. 1 & 2 and Sri B.S. Prasad, Advocate General for the respondent No. 3 to 8.

WP(PIL). No. 92 OF 2020

Between:

Naresh Reddy Chinnolla, S/o. Damodar Reddy

Petitioner

AND

1. Union of India, Ministry of Health and Family Welfare, Rep. by its Secretary, Nirman Bhavan, New Delhi-110011.
2. The State of Telangana, Rep by its Chief Secretary Secretariat, Hyderabad
3. The State of Telangana, Rep by its Principal Secretary of Medical and Health Department, Secretariat, Hyderabad.
4. The State of Telangana, Rep by its Principal Secretary of Home Department, Secretariat, Hyderabad.
5. The District Collector, Nirmal District
6. The Superintendent of Police, Nirmal District
7. The District Health Officer, Nirmal District

Respondents

Petition filed under Article 226 of Constitution of India praying that in the circumstances stated in the petition and affidavit filed herein the High Court may be pleased to issue Writ Order, Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in not conducting Covid tests on primary contacts as well as secondary contacts positive patients especially in the Red Zone areas in the state of Telangana and not strictly implementing the regulations that are prescribed in G.O.Ms.No. 45 dated 22-03-2020 as illegal, arbitrary and unconstitutional and consequently direct the Respondents to

- i) Increase the Covid-19 testing capacity by testing primary as well as secondary contacts within all zones and particularly conduct tests for all person(s) within a prescribed radius in the Red Zones as identified by the Government,
- ii) Conduct random testing especially in Red Zones and Orange Zones to tackle the asymptomatic cases,
- iii) Strictly implement measures as prescribed under G.O.Ms.No.45 dated 22.03.2020 by increasing patrolling and surveillance within districts to completely Curb any movement among inter-districts and if required seek assistance from the Government of India for further deployment of forces,
- iv) Formulate and Implement an effective policy dealing with current situation of migrant workers

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to forthwith direct the Respondents to conduct covid-19 test primary as well as secondary contacts within all zones and particularly to conduct tests for all person(s) within a prescribed radius in the Red Zones as identified by the Government and strictly implement measures as prescribed under G.O.Ms.No. 45 dated 22.03.2020 such as adequate police forces and central forces and forthwith direct the respondents to take adequate measures that the migrant workers reach their destination/Home towns, pending disposal of WP(PIL) 92 of 2020, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Naresh Reddy Chinnolla as (Party In Person) and Sri B.S. Prasad, Advocate General for the respondents, the Court made the following.

COMMON ORDER:

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY**

WRIT PETITION (PIL) Nos. 59, 78, 82, 91 & 92 OF 2020

COMMON ORDER:

Five PILs have been filed before this Court, namely W.P. (PIL) No. 59 of 2020, W.P.(PIL) No. 78 of 2020, W.P.(PIL) No. 82 of 2020, W.P.(PIL) No. 91 of 2020 and W.P.(PIL) No. 92 of 2020. The common denominator amongst all these PILs is the concern of the petitioners that the testing of Covid-19 patients in Telangana State is not being carried out as vigorously as it should be. Moreover, by Letter dated 20.04.2020, issued by the Director of Public Health and Family Welfare, Government of Telangana, instructions have been issued to the hospitals, and to the medical staff not to collect any samples from the dead bodies to see the presence of coronavirus.

It is common knowledge that in March, 2020, the World Health Organization ('WHO') had declared Coronavirus ('Covid-19') as a pandemic as large number of countries across the world were caught up in its grip. Even today, the entire nation is trying to fight with the menace of Covid-19. Since March 24, 2020, the entire nation is under lockdown. Various States, including the State of Telangana, have extended the lockdown from time to time till May 31, 2020.

While the State of Maharashtra seems to have the largest number of cases, the other States are not far behind. Each State is required to take concrete steps to not just detect the cases of Coronavirus, but most importantly, to prevent its spread among the population, which in India lives in congested conditions.

In order to contain, and to see the progress of Covid-19, in its very first guidelines issued by the Indian Council of Medical Research (ICMR), which are undated, in para 1.4, the ICMR had clearly dealt with *“the public health significance of cause of death data”*. It had claimed that *“robust cause of death information in a population is useful for understanding disease burden estimations, and explains trends in the health of populations. It is useful for evaluation and planning of health services and programmes. Good cause of mortality statistics also aids in identifying research questions of public health significance.”* While noting the fact that the WHO had declared Covid-19 as a global pandemic on 11.03.2020, the ICMR stated that *“during such situations, mortality surveillance becomes a very important public health tool to assess the impact of the viral infection”*. (Emphasis added). It further went on to state that *“COVID-19 is a new disease and is a pandemic affecting all communities and countries. It’s clinical presentation ranges from mild to severe, and fatality depends on the severity of the illness, associated co-morbid conditions and age of patients. Patterns of disease and patterns of death can come from only standardized recording of clinical disease history and cause of death, and therefore epidemiological surveillance of disease and death are important. Robust data is needed from every district and state in India to measure the public health impact of COVID-19 and to plan for timely health interventions and protect communities. At the same time, other health conditions affecting populations need to be also monitored so that the health system is prepared for responding to the needs of the population”*. (Emphasis added). In this guideline, it gave a specific and clear direction for completing

the medical certification of cause of death in Covid-19. It even informs the medical staff to avoid certain abbreviations, and to avoid the use of vague terms so that the cause of death would be known in real terms.

While upgrading these guidelines, but certainly not in superseding the earlier guidelines, the ICMR in its latest guidelines, dated 18.05.2020, has further prescribed that *“asymptomatic direct and high-risk contacts of a confirmed case to be tested once between five days and ten days of coming into contact i.e. coming into contact of a confirmed case. Moreover, all symptomatic ILI among returnees and migrants within seven days of illness must be tested”*. Despite the guidelines issued by the ICMR, which the State is legally bound to follow, and despite the first guidelines issued by the ICMR, surprisingly, by Letter dated 20.04.2020, the Director of Public Health and Family Welfare, Government of Telangana has directed that *“samples from the dead bodies should not collected”*. Obviously, the Letter flies in the face of the guidelines issued by ICMR.

Large number of press reports indicate that even the Union Health Ministry has found fault with the Telangana State for under-testing its population. In the WIRE, dated 07.05.2020, the headline reads – “Now, Telangana Government Accused of Underreporting COVID-19 Cases”. In another newspaper report, the headline reads “Among States with lowest testing, Telangana could be ‘sitting on a crisis’”. According to this news report, as on May 14, 2020, the State had conducted just 22,842 tests. According to Times of India, dated May 25, 2020, the menace of migrant workers pouring into the State of Telangana from the State

of Maharashtra is a grave cause of worry and concern as returnees are testing positive for Covid-19.

The petitioner in W.P.(PIL) No. 91 of 2020 has also submitted certain data. It may be apposite to quote from the same: as on 08.05.2020, Tamil Nadu State has tested 2674 persons per million; Andhra Pradesh has tested 2860 per million; Delhi has tested 3630 per million. Yet, the State of Telangana has tested merely 518 per million. According to the petitioner in W.P.(PIL) No. 92 of 2020, there is hardly any testing being done in the Nirmal District. According to another petitioner, there is hardly any testing being done in Suryapet District.

In the order dated 18.05.2020, this Court had directed Mr. B.S. Prasad, the learned Advocate General, to file a detailed report with regard to the extent of testing carried out by the State among its population. He was further directed to inform this Court whether any testing has been done in Suryapet District after 22.04.2020 or not? And if the testing has been carried out, the extent thereof. He was further directed to inform this Court with regard to the extent of testing in each District of the State. He was further directed to inform with regard to the availability of the testing labs throughout the State, and also to inform this Court whether the State is contemplating the use of mobile testing labs as has been done in the State of Kerala or not?

In compliance of the said order, a common counter-affidavit has been filed by Dr. G. Srinivasa Rao, the Director of Public Health and Family Welfare, Telangana. The same shall be taken on record.

Today, this Court also had the benefit of interacting with Dr. G. Srinivasa Rao.

A bare perusal of the affidavit filed by Dr. Rao clearly reveals that the questions raised by this Court in its order dated 18.05.2020 have not been answered at all. Therefore, the order dated 18.05.2020 is yet to be complied with by the State in toto.

Even otherwise, the affidavit filed by Dr. Rao is not only vague but, at places, is contradictory and at other places very cleverly drafted. On the whole, the affidavit is self-laudatory. But, there are large number of chinks in the armour of the State.

The affidavit begins with the efforts made by the State in March, 2020. According to the affidavit, *"as of 22.03.2020, 75,785 international passengers were screened at the airport. Out of them, 25,937 international passengers were identified, and were kept in home quarantine. If any case were found to be symptomatic, the person was taken by way of precaution to Gandhi Hospital, where he/she was kept in isolation ward and tested for covid-19. Those who were found to be positive, were shifted to separate wards for further isolation. Surveillance was carried out on daily basis"*. Unfortunately, the affidavit does not reveal as to how many persons were found to be positive carriers? How many were sent to Gandhi Hospital? How many were kept in separate wards? How many were put on surveillance on daily basis? And, indeed, how many went home after completing the quarantine period?

Interestingly, in Para 6, Dr. Rao claims that the lockdown had been continued and extended from time to time till 31.05.2020. However, he has forgotten the fact that as on 17.05.2020, after a press conference held by the Hon'ble Chief

Minister, in majority of the areas, lockdown has been lifted. For, according to the latest guidelines issued by the Government, auto-rickshaws and taxis are permitted to ply. Even buses are being permitted to ply, and trains have started to move across the State carrying the migrant workers. As of May 25, 2020, even flights have started taking off from the Hyderabad International Airport. Thus, there is a large movement of population throughout the State. Even shops are being permitted to open up on alternative days. People are permitted to go out for shopping between 7:00 a.m. to 7:00 p.m. vide G.O.Ms. No. 64, dated 07.05.2020. Curfew is enforced only between 7:00 p.m. to 7:00 a.m. Therefore, to claim that the lockdown in its "*absolute term*" is being observed till May 31, 2020 may not be, and certainly is not, a correct statement of fact.

Curiously, despite the fact that by the order dated 18.05.2020, this Court had asked with regard to the extent of testing carried out by the State in the population, the affidavit is absolutely silent. According to Dr. Rao, based on the occurrence of 'positive' cases, 206 clusters have been identified in the State, and containment operations are done. Currently, there are four clusters in operation in GHMC area. However, the State of Telangana is not limited only to the GHMC area. But interestingly, the information with regard to the containment zones of the State is conspicuously missing in the affidavit. About two weeks ago, the districts in the State were divided into three different zones, namely Red, Orange and Green. According to the data available, two weeks ago, it was common knowledge that only six districts were declared as "Green zone", and whereas eight districts were

declared as "Red zone", leaving remaining one to be declared as "Orange zone". The counter-affidavit filed by Dr. Rao is absolutely silent with regard to the current and the present status of each district. Thus, it is unknown as to how many districts continue to be in the "Red zone", in the "Orange zone", and in the "Green zone"? Therefore, the data as to how many "Red zones" have been converted into "Orange zones", and how many "Orange zones" have been converted into the "Green zone" is absolutely unclear.

Curiously, Dr. Rao claims that there is total preparedness plan which envisages that at any peak point, there would be a requirement of treating 60,000 patients, out of which 12,000 persons will need to be hospitalized including 3,000 patients which may require treatment in ICU. Yet, according to this very data, the total number of beds available in the ICU, as of today, is 1616. It is, rather, surprising that if the vision is to treat 3,000 patients in ICU, the State claims that it is prepared to face the peak season with only 1616 beds. Similarly, while the State claims that it envisages the hospitalization of 12,000 persons, it equally, claims that there are only 3537 beds which are classified as *"proposed oxygen beds which are expected to be ready by June 04, 2020"*. Thus, obviously, the State plans to have four adults on every bed. To say the least, if this is the level of "preparedness" of the State, it is a frightening scenario for the people of the State.

Instead of giving the number of PPE Kits, N-95 Masks, Surgeon/3-ply Masks, Sanitizers, Examination Gloves and Surgical Gloves, which are available with all the hospitals dealing with Covid-19 patients, Dr. Rao has merely informed this Court about the number of such equipments available "in stock". What

is relevant to know is not how much equipment is available "in stock", but how much of these items are available with the medical staff, in each hospital, which are dealing with Covid-19 patients. What is essential is to ensure that these equipments are readily available to the medical staff who are the frontline warriors trying to tackle the pandemic.

Although at Para 18 of the affidavit, the latest guidelines issued by ICMR dated 18.05.2020 have been quoted, but nowhere in the affidavit it is shown as to how and what extent the said guidelines have been implemented by the State from 18.05.2020 till 25.05.2020. Thus, there is no data to establish the fact that the guidelines are, in fact, being implemented in both letter and spirit.

Of course, the learned Advocate General has vehemently argued that according to the recent guidelines, dated 18.05.2020, there is no indication that the samples from the dead bodies need to be taken by the hospitals. However, the learned Advocate General seems to have forgotten the fact that the guidelines of 18.05.2020 nowhere indicate that the previous guidelines dealing with "*Recording of Covid-19 Related Deaths in India*", quoted above, have either been superseded, or are meant to be ignored. Therefore, logically, both the guidelines will be applicable co-jointly. Hence, the learned Advocate General is unjustified in his stand that the Letter issued on 20.04.2020 is legally valid. As noted above, the said Letter violates the very first guidelines issued by ICMR, which have been quoted above. Thus, it is, rather, surprising that suddenly the state has stopped taking samples from the dead bodies.

Even in his affidavit, at Para 20, Dr. Rao has asserted that Covid-19 testing protocol does not envisage a testing of a dead patient. But the fact remains that "*the guidelines for Recording of Covid-19 Related Deaths in India*" over emphasize the need to record the cause of death. For, such recording "*explains trends in the health of populations*" and "*is useful for evaluation and planning of health services and programmes*". In fact, the "*mortality surveillance*" becomes "*a very important public health tool*". By issuing the circular dated 20.04.2020, obviously, the State has overlooked the significance of the "*very important*" public health tool.

Moreover, if the dead bodies are not tested, a grave possibility does exist that an asymptomatic person may die due to other medical reasons, such as cardiac arrest. And yet, the dead body may continue to carry the coronavirus within itself. If the dead body of such a person were to be handed over to the family, without taking a sample and testing it for presence of the virus, a distinct possibility does exist that the family members may become infected with coronavirus. Hence, it is imperative that every dead body, being released from the hospitals, necessarily has to be tested in order to eliminate the possibility that the dead body, even of an asymptomatic person, is not a carrier of coronavirus.

Dr. Rao, in Para 21, states that "*the migrants coming to the State are screened at the state borders. The asymptomatic migrants are put in home quarantine. ...As on 22.05.2020, 118 migrants have been found to be positive for COVID-19*". However, the affidavit is absolutely silent as to the total number of migrants who have been screened at the State borders so far. It is silent as to the period for

which the asymptomatic patients have been home quarantined. It is silent about the 118 migrants, who were found 'positive' for Covid-19 with regard to their quarantine and treatment and cure. According to the press report, thousands of migrants are pouring in from the neighbouring State of Maharashtra, which is the hotspot of the coronavirus in the Union. There is no data given by the State as to how many migrants are coming, or have come, from the State of Maharashtra, or from the other neighbouring States. This information is essential as Telangana shares its borders with six different States of the Union. Therefore, it is imperative to know as to how many of these migrants are being tested? There is no data as to whether the migrants, who are coming into the State, by trains, whether such migrants are being tested at their destination or not? There is no data as to whether the migrants found to be 'positive' of Covid-19 are being kept in institutional quarantine facilities or not? Or whether they are being sent home and are directed to be kept in home quarantine. There is no information whether those who are traveling with Covid-19 positive person whether such companions have been tested or not? According to guidelines of 18.05.2020, those who are accompanying the Covid-19 positive cases, amongst the migrants, they also need to be tested between the fifth day and the tenth day of coming into contact with the Covid-19 positive patient. But the affidavit is absolutely silent whether such testing is being carried out in the State or not?

Although in Para 22 dealing with Nirmal District, Dr. Rao claims that 601 migrant workers were put under home quarantine and are being screened on a daily basis, it is unclear as to 601

migrants workers, out of how many were tested and whether these 601 migrant workers are safely being kept in home quarantine or not?

According to Para 25 of the counter affidavit, as on 22.05.2020, 658 samples were tested in Nirmal. Further, *"between 22.04.2020 and 22.05.2020, forty-nine samples are tested, of which twenty-four samples are of primary contacts of positive cases, eight are of health care workers, twelve are of persons in containment zones with ILI symptoms, five are from migrants who have developed ILI symptoms. Of these forty-nine samples, and are found to be negative"*. This statement is, rather, vague if not contradictory. It is unclear whether the statement implies that out of the forty-nine samples tested, all the samples were found to be negative or not?

Interestingly, in Para 23 a rather vague statement has been made and it reads, *"The health care workers in the district are conducting survey on daily basis visiting the homes of inter-state migrant persons and enquiring about any development of Influenza Like Illness and Severe Acute Respiratory Illnesses. The persons identified with these illnesses are referred to the isolation ward at the Government District hospital. The Oropharyngeal and Nasopharyngeal samples are collected at the Government District Hospital and are sent to laboratories for COVID-19 testing upon taking advise from the State Liaisoning Officer for Laboratories who decides which laboratory should take samples from districts"*. Although a claim is made that the health care workers are conducting survey on daily basis, visiting the homes of inter-state

migrant persons, but the data as to how many inter-state migrant workers' homes have been tested so far is conspicuously missing.

In Para 26, it is claimed that in Suryapet District, after 22.04.2020, only thirty-five samples are tested. It is, rather, surprising that after 22.04.2020, when migrants have started entering the State, in the last four days, only thirty-five samples have been taken within the population of Suryapet District.

Considering the facts mentioned above, and in order to protect the people at large, this Courts sets aside the letter bearing No.Spl/COVID/DPHGW/2020, dated 20.04.2020 issued by the Director of Public Health and Family Welfare, Government of Telangana. This Court directs that the dead bodies being released from the hospitals should be tested to see whether those dead bodies are carriers of coronavirus or not? This direction is being given keeping in mind the distinct possibility that asymptomatic patient, who may have died, may be a carrier of coronavirus. In case, such a body is permitted to be handed over without testing, for the presence of coronavirus, the persons handling the body, namely the family, the friends, the neighbours, the persons who participates in the cremation/burial may equally be exposed to the danger of contracting coronavirus. Therefore, this Court directs that dead bodies being released by the hospital, by way of abundant caution, will have to be tested for the presence of the coronavirus. The direction being issued for testing of the dead bodies for the presence of coronavirus is, in fact, in tune with the first guidelines issued by the ICMR, quoted above.

Secondly, the Government is directed to carry out "random testing" and "community testing" in the districts declared as 'Red

Zone', 'Orange Zone' and 'containment area'. Having carried out such tests, the Government is directed to inform this Court about the number and the place where such tests were carried out.

Thirdly, the Government is directed to submit a complete report with regard to the number of persons tested from May 01, 2020 till May 25, 2020 including the "asymptomatic direct and high-risk contacts of a confirmed case". This Court would like to know the number of those persons, who are, or were, in contact with a confirmed case whether such persons were tested once between fifth day and tenth day of coming into contact as prescribed by guidelines dated 18.05.2020 or not? The Government is also directed to inform this Court with regard to the number of migrant workers, who have entered the State so far, and whether they have been tested while entering the State or not? The Government should also inform this Court as to the testing mechanism, or methods being used at the railway stations where the trains are bringing the migrant workers from all across the country. The number of migrant workers tested, the number of migrant workers found to be 'positive' should be revealed. Moreover, in accordance with the latest ICMR guidelines, dated 18.05.2020, this Court should be informed whether the symptomatic ILI among returnees and migrants have been tested within seven days of illness or not? If they have been tested, then the number of persons so tested should be revealed. The State should also inform this Court the number of migrant workers who have been quarantined, both institutionally, or at home, and whether those who are being quarantined at home are being placed under medical surveillance or not? Furthermore, the State should

also inform if the families of these migrant workers, and the neighbours of these migrant workers, found to be positive, are also being medically examined or not, in order to see the possibility of spread of coronavirus at the village level or not?

The Government is also directed to inform this Court the classification of the Districts into three zones, the basis of the classification and also as to how many zones have changed their colours from "Red" to "Orange", and from "Orange" to "Green". The Government should also inform this Court the data available for changing the category of a District from "Red" to "Orange", or from "Orange" to "Green".

It is, indeed, trite to state that coronavirus is not a minor disease inflicting the State. Already the virus is strangulating large number of nations where lakhs of people have already died. For example, in the United States, considered to be the most medically advanced country in the world, more than one lakh people have already been buried. Despite the fact that India, as a country, has performed exceedingly well in both containing the spread of coronavirus, and in controlling the number of deaths, but even now, we cannot afford the luxury of resting on our oars. It is common knowledge that only two days ago, WHO has clearly announced that when the lockdown is lifted, the cases of coronavirus will sky-rocket. Thereby, again burdening the medical facilities available for the benefit of the people. Therefore, self-congratulating ourselves, at this juncture, may be too early in the day. Moreover, to ignore the presence of coronavirus by not testing large number of population is inviting the Trojan Horse into our citadel. Therefore, this Court directs the State not only to

continue to test, but to increase the number of tests throughout the State as far as practical, and as far as financially feasible. But simultaneously, the State cannot be permitted to hide behind the fig leaf of "financial constraints" as the life of the people of the State is priceless. This Court certainly expects the Government to rise to the occasion to carry out its constitutional duty and to tackle the menace of Covid-19 to the best of its ability. If the other States can tackle the same menace and quell the onslaught of the virus, there is no reason why the State of Telangana cannot become a stunning example of good governance by leading the country in controlling and eradicating the coronavirus amongst our people.

The learned Advocate General is further directed to submit the report, as mentioned herein above, on or before 02.06.2020.

List these cases on 04.06.2020.

//TRUE COPY//

SD/- K. SAILESHI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Secretary, Ministry of Health and Family Welfare, Union of India, Maulana Azad Road, Nirman Bhavan, New Delhi - 110011.
2. The Chief Secretary, State of Telangana, Telangana Secretariat, B. R. K.R. Bhavan, Hyderabad.
3. The Principal Secretary to the Medical and Health Department, State of Telangana, Telangana Secretariat, B. R. K.R. Bhavan, Hyderabad.
4. The Principal Secretary to the Finance Department, State of Telangana, Telangana Secretariat, B.R.K.R. Bhavan, Hyderabad.
5. The Principal Secretary to the Civil Supplies Department, State of Telangana, Telangana Secretariat, B. R. K.R. Bhavan, Hyderabad.
6. The Principal Secretary to the Labour Department, State of Telangana, Telangana Secretariat, B. R. K.R. Bhavan, Hyderabad.
7. The Commissioner and Director, Medical and Health Department, Koti, Hyderabad, Telangana.

8. The Commissioner, Civil Supplies Department, Civil Supplies Bhavan, H.No.6-3-655/1/A, 3rd Floor, Punjagutta Road, Somajiguda, Hyderabad, Telangana.
9. The Labour Commissioner, State of Telangana, T. Anjaiah Bhavan, RTC X Road, Hyderabad.
10. The Special Chief Secretary, Medical and health Department, State of Telangana, B. R. K. Bhavan, Hyderabad.
11. The Principal Secretary, Home Department, State of Telangana, Secretariat, Hyderabad
12. The Director General, Indian Council of Medical Research, (ICMR) COVID-2019. New Delhi.
13. Director of Public Health and Family Welfare, Government of Telangana, Hyderabad.
14. The District Medical and Health Officer (FAC), District Medical and Health Office, Suryapet Collectorate, Suryapet, Suryapet dist., erstwhile Nalgonda District
15. The Superintendent of (COVID -19), Gandhi Hospital, Secunderabad,
16. The District Collector, Nirmal District
17. The Superintendent of Police, Nirmal District
18. The District Health Officer, Nirmal District
(Addressees 1 to 18 by RPAD)
19. One CC to Sri Prabhakar Chikkudu Advocate [OPUC]
20. One CC to Dr. K.P. Rajender Kumar, Party in person (OPUC)
21. One CC to Smt Gorantla Sri Ranga Pujitha, Advocate (OPUC)
22. One CC to Sri Naresh Reddy Chinnolla, Advocate (OPUC)
23. One CC to Sri A. Jagan, Advocate (OPUC)
24. One CC to Sri Namavarapu Rajeshwar Rao, Assistant Solicitor General (OPUC)
25. Two CCs to the Advocate General, High Court for the State of Telangana (OUT)
26. Two spare copies

HIGH COURT

HCJ
&
BVRJ

DATED: 26/05/2020

NOTE: POST ON 04.06.2020

ORDER

WP(PIL) NOS: 59, 78, 82, 91 AND 92 OF 2020

DIRECTION

