

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

TUESDAY, THE ELEVENTH DAY OF MAY
TWO THOUSAND AND TWENTY ONE

:PRESENT:
THE HON'BLE THE CHIEF JUSTICE HIMA KOHLI
AND
THE HON'BLE SRI JUSTICE B.VIJAYSEN REDDY

WP(PIL) NOS: 56 AND 58 OF 2020

WP(PIL). No. 56 of 2020

Between:

Mr. R. Sameer Ahmed, Advocate, 1st Floor, 10-3-311/2/A/3/A, Castle Hills Road No.1, Behind NMDC, Masab Tank, Hyderabad 500 057

...Petitioner

AND

1. State of Telangana, Rep. by its Chief Secretary, Secretariat, Hyderabad.
2. State of Telangana, Represented by its Principal Secretary, Medical and Health Department, Secretariat, Hyderabad.
3. State of Telangana, Represented by its Principal Secretary, Municipal Administration and Urban Development, Secretariat, Hyderabad.
4. The Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund Road, Hyderabad.
5. State of Telangana, Represented by its Principal Secretary, Home Department, Secretariat, Hyderabad
6. The Director General of Police, State of Telangana, Lakdikapool, Hyderabad.
7. The Commissioner of Police, Cyberabad Commissionerate at Hyderabad.
8. The Commissioner of Police, Hyderabad city, Basheerbagh, Hyderabad.
9. State of Telangana, Represented by its Principal Secretary, Revenue Department, Secretariat, Hyderabad.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Letter dated 27.03.2020 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 remarks from the Respondents herein relating to and in connection with "protecting the lives of the Doctors and their assisting staff in putting their life at risk by not providing complete Personal Protection Equipment i.e., N-95 Respirator Mask, Face shield, goggles, Corvell/ Gowns, Shoe covers, Head covers etc., while testing reasonable suspects and patients of Epidemic/Pandemic COVID-19", since the Government of Telangana has directed the Medical Practitioners/ Civil Assistant Surgeons serving in all Primary Health Centres (including Urban Primary Health Centres) to physically visit the residence of each suspect, examine and conduct counseling to reasonable suspects and the vulnerable family members having the recent history of traveling from abroad and that the said Officers are directed to continue the same activity on daily basis till the completion of 14 days of incubation period, as the State is duty bound to protect the lives of the Doctors and their assisting staff who are putting their life at risk without being provided complete Personal Protection Equipment i.e., N-95 Respirator Mask, Face shield, goggles, Corvell/Gowns, Shoe covers, Head covers etc., which amounts to sheer infringement of their Right to life enshrined under Article 21 of the Constitution of India

This petition coming on for hearing, upon perusing the Letter dated 27.03.2020 sent by the petitioner herein through email and earlier order dated 18.03.2021, 06.04.2021, 08.04.2021, 19.4.2021, 23.04.2021, 27.04.2021, 29.04.2021, 30.04.2021 & 05.05.2021 made herein and upon hearing the arguments of Advocate General on behalf of Respondent Nos. 1 to 3 and 5 to 9 and of Sri N. Ashok Kumar, Standing Counsel for Respondent No. 4,

WP(PIL) NO: 58 OF 2020

Between:

Sri. P. Thirumala Rao, Advocate Enrolment No. (AP/423/2000) Advocate Code - 8365

...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.

...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 an appropriate Writ, Order or Orders more particularly, one in the nature of a Writ of Mandamus to call for remarks from the Respondents herein relating to and in connection with Government imposing charges For COVID-2019 test on patients in this lockdown circumstances by private laboratories upto Rs.4,500/- is grossly arbitrary and discriminatory which would Frustrate and defeat the very purpose and objective of the Government and the Governments (both Central and State) ought to assure and undertake the Full responsibility of providing to the citizens, the treatment For COVID-19 CORONA VIRUS Free of cost at private medical laboratories and private medical establishments and to call for a status report on the diagnostic tests undertaken and treatment of COVID-19 patients and especially on the hygiene conditions in Hospitals which are treating COVID-19 patients, from the concerned authorities and to direct the Union of India and the State of Telangana to provide for diagnosis and treatment to patients suffering from CORONA VIRUS, Free of cost at private medical laboratories and private medical establishments

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and earlier order dated 18.03.2021, 06.04.2021, 08.04.2021, 19.04.2021, 23.04.2021, 27.04.2021, 29.04.2021, 30.04.2021 & 05.05.2021 made herein and upon hearing the arguments of Sri P. Thirumala Rao, petitioner Party in person and of Sri Namavarapu Rajeshwar Rao, Assistant Solicitor General on behalf of Respondent No. 1 & 2 and of Advocate General on behalf of Respondent Nos. 3 to 5

Common Order:

1. On the last date of hearing, this court had issued a series of directions to both, the Central Government and the State Government for COVID-19 related compliances and had listed the matter for 13.05.2021. However, the special hearing in this matter had to be advanced for today in view of the video clippings flashing in the media as also photographs appearing in the press showing the huge crowds jostling for space in the old city of Hyderabad, including the stretch from Afzulgunj to Charminar and the Nampally area. It was noticed that nobody was wearing masks, there was complete non-adherence to the norms of social distancing and inappropriate COVID

behaviour was being indulged in. This morning, this court has also taken a serious note of the news published in several newspapers reporting that the State of Telangana has sealed its borders for ambulances transporting critical COVID patients from neighbouring States to Hyderabad which, on the face of it, is in gross violation of the right of the citizens of this country, as enshrined in Articles 15, 19(1)(d) and 21 of the Constitution of India, to move from one State to the other without any fetters and to access medical facilities.

2. When the matter was taken up in the morning, Mr. Anjani Kumar, Commissioner of Police, Hyderabad, Mr. Mahesh Muralidhar Bhagwat, Commissioner of Police, Rachakonda, Mr. V.C.Sajjanar, Commissioner of Police, Cyberabad and Mr. Lokesh Kumar, Commissioner, Greater Hyderabad Municipal Corporation were present along with the learned Advocate General; so was Mr. Surya Karan Reddy, learned Additional Solicitor General of India appearing for the Central Government.

3. Learned Advocate General had informed this court that a meeting of the Cabinet of the State Government was scheduled in the afternoon, to review the situation and take a decision on the further steps required to be taken to flatten the curve of COVID-19 infection in the State. At that stage, we had pointed out that if one was to go by the data that was being uploaded on the web portal of the State Government which paints a rosy picture of how the number of the positive cases which were 7,432 as on 23.04.2021 had reduced to 4,976 as on 09.05.2021 and had asked that, if the said data is to be believed, then the State may have to justify turning turtle and the stand that was sought to be taken on the earlier dates of hearing that there was no need or occasion to impose any lockdown, muchless a weekend lockdown or expand the night curfew hours imposed in the State. However, at the request of

learned Advocate General, we had duly accommodated him and had directed that the court would reassemble in the post-lunch session.

4. In the post-lunch session, learned Advocate General has informed this court that the State has finally decided to issue a Government Order, declaring a lockdown with effect from tomorrow i.e., from 12.05.2021, upto 6.00 am on 22.05.2021, with a daily relaxation granted between 6.00 am to 10.00 am. It is stated that a procedure is being evolved for issuing emergency passes for essential activities/services and for ensuring that those who are due for their second dose of the COVID-19 vaccination, would be able to reach hospitals and Public Health Centres during the lockdown period. Learned Advocate General requests that the State may be permitted to file a Status Report on the remaining issues that had been highlighted by this court on the last date of hearing.

5. The knee jerk decision taken by the State a few minutes ago to declare a lockdown from tomorrow itself, is bound to come as an unpleasant surprise to several people, particularly to the migrant workers who may have to leave for their native places in a hurry due to lack of livelihood. It is therefore deemed appropriate to direct the State to contact the Railway Department at the earliest with a request to run emergency trains, including Shramik trains to transport the migrant workers back to their native places. The State shall also ensure that till they leave the State, adequate arrangements are made for the migrant workers by opening community halls and setting up community kitchens in and around Railway Stations and Interstate Bus Terminals, wherever required. Help-Desks shall also be established by the Police and the civic authorities at the earliest, to assist the migrant workers and help in their smooth and unhindered movement to their native places.

6. We may note that a plan of action for strict implementation of the COVID-19 guidelines by the Commissioners of Police of Hyderabad, Rachakonda and Cyberabad Commissionarates has been placed before us. But, in the light of the latest decision of the State to impose a lockdown from tomorrow itself, till the early hours of 22.05.2021, while taking on record the said plan of action and directing the concerned Commissioners of Police and the civic authorities to ensure that COVID-19 appropriate behaviour is strictly adhered to during the relaxed hours of the lockdown, particularly on the day of the festivities of Eid-ul-fitr on 14.05.2021 as of now, no further orders are required to be passed in this regard, except for directing the three Commissioners of Police to have the celebrations videographed at prominent places in their jurisdiction and submit the same in a pendrive along with an affidavit well before the next date of hearing.

7. Coming next to sealing of the borders for ambulances transporting critical COVID-19 patients from neighbouring States looking for treatment in the State of Telangana, more particularly, the city of Hyderabad, in the morning hours, this court had called upon the learned Advocate General to state as to at whose directions was such an order issued to the Telangana Police.

8. In the post-lunch session, learned Advocate General states that he has not been able to obtain clear instructions as to at whose direction had the Telangana Police sealed the borders. He however seeks to explain that the borders had to be sealed due to a large number of people from the neighbouring States crossing over to the State of Telangana for medical treatment, without showing any proof that they had got a confirmed admission in any hospital and that Health Officers have had to be deployed on

the borders to verify the medical status of the patients being transported in ambulances.

9. We are aghast to hear that such an explanation being offered by the State when not too long ago, on 23.04.2021, on this court enquiring as to whether it proposes to impose any kind of restrictions on the borders with the neighbouring States, inflicted with the infection, an affidavit had been filed by the State alluding to the order dated 23.03.2021 issued by the Central Government that permitted free inter-state and intra-state movement of persons. It was submitted that the State did not propose to seal the borders or even take up any kind of testing at the borders including Interstate Terminals and Railway Stations for detecting persons suffering from COVID-19 infection.

10. Now the State has turned turtle and is blatantly violating the fundamental right of the citizens enshrined in Articles 15, 19(1)(d) and 21 of the Constitution of India that secures a citizen from any sort of discrimination by the State, permits free movement through out the territory of India and safeguards the right to medical treatment which is yet another facet of the right to life. It is neither understood nor appreciated how the State could impose such arbitrary conditions and that too in respect of critically ill patients who are being transported in ambulances looking for medical treatment in the State, particularly Hyderabad, due to shortage of beds, lifesaving equipment, drugs etc., in their own State.

11. Even if the State Government was contemplating imposition of restrictions, it was incumbent on it to have issued a Circular/Advisory informing the public at large well in advance that it was proposing to curtail movement at the borders of the neighbouring States for legal and valid reasons, instead of springing a nasty surprise on them. If such an Advisory

would have been issued, it would be the decision of the concerned persons to take a calibrated decision as to whether they still wanted to transport a critical patient into the State of Telangana, keeping in mind the scarcity of beds and/or inadequate medical facilities sought to be portrayed. It is therefore directed that Telangana Police shall not prevent or impede any ambulance carrying a COVID-19 patient into the State of Telangana, looking for treatment.

12. The deficit in the supply of allocated O₂ by the Central Government to the State, remains unanswered. Central Government shall file an affidavit explaining how the deficit in the allocated supply of O₂ has been made good for the State and if not, then the same shall be made good in the next two days.

13. Further, keeping in mind the fact that the third wave of the COVID-19 infection has been predicted, both the State and the Central Government shall file Status Reports explaining their plan of action and the manner in which they propose to implement the order dated 30.04.2021 passed by the Supreme Court in *Suo Motu Writ Petition (Civil) No.3 of 2021* to ensure augmentation of the supply of medical oxygen to this State. The State Government is directed to file a copy of the Government Order indicating the schedule of prices fixed for treatment of COVID-19 patients admitted in Government and private hospitals, the aspect relating to capping of prices for engaging ambulances, for conducting investigation of the infection through blood tests, CT Scans etc and for purchase of essential items including life saving drugs/injections, PPE kits, masks etc. The State shall also explain as to why the provisions of the Essential Commodities Act, 1955 and the Drugs and Cosmetics Act, 1940 have not been invoked so far for regulating the price of life saving drugs etc.

14. List on 17.05.2021 for further orders.

//TRUE COPY//

SD/- R. KARTHIKEYAN
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The Chief Secretary, State of Telangana, Secretariat, Hyderabad.
2. The Principal Secretary, Medical and Health Department, State of Telangana, Secretariat, Hyderabad.
3. The Principal Secretary, Municipal Administration and Urban Development, State of Telangana, Secretariat, Hyderabad.
4. The Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund Road, Hyderabad.
5. The Principal Secretary, Home Department, State of Telangana, Secretariat, Hyderabad
6. The Director General of Police, State of Telangana, Lakdikapool, Hyderabad.
7. The Commissioner of Police, Cyberabad Commissionerate at Hyderabad.
8. The Commissioner of Police, Hyderabad city, Basheerbagh, Hyderabad.
9. The Commissioner of Police Rachakonda Commissionerate, Hyderabad
10. The Principal Secretary, Revenue Department, State of Telangana, Secretariat, Hyderabad.
11. The Director General of Prisons, State of Telangana, Hyderabad (Addressees 1 to 11 by SPL. MESSENGER)
12. The Secretary Department or Medical and Health, Union of India, Central Secretariat, New Delhi. (BY RPAD)
13. Indian Council of Medical Research (ICMR), COVID-2019, New Delhi.(BY RPAD)
14. The Director of Public Health & Family Welfare, Government of Telangana, Koti, Hyderabad.(By SPL. Messenger)
15. One CC to Sri P. Thirumala Rao, Party in person, (OPUC)
16. Two CCs to the Advocate General, High Court for the State of Telangana (OUT) (By **Special Messenger**)
17. Two CCs to the Mr.N.Rajeshwar Rao, Assistant Solicitor General, High Court for the State of Telangana, at Hyderabad (OUT)
18. Two spare copies

HIGH COURT

HCJ
&
BVR,J

DATED: 11.05.2021

NOTE: LIST ON 17.05.2021

ORDER

WP(PIL) NOS: 56 and 58 OF 2020

DIRECTION

