

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

TUESDAY, THE FIRST DAY OF JUNE
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, 11.05.2021 & 17.05.2021 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,

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 Tetangana, 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, 11.05.2021 & 17.05.2021 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. An affidavit has been filed by the Director of Public Health and Family Welfare.
2. Status Reports have been filed by the Director General of Police, State of Telangana and Director General of Prisons, State of Telangana.
3. Reports have been filed by the Commissioner of Labour and Commissioner, GHMC.
4. An affidavit has been filed by the Special Secretary, Women Development and Child Welfare Department.

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.
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4. State of Telangana, Represented by its Principal Secretary, Medical and Health Department, Secretariat, Hyderabad.
5. The Director of Medical and Health, Government of Tetangana, Koti, Hyderabad.

...Respondents

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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, 11.05.2021 & 17.05.2021 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. An affidavit has been filed by the Director of Public Health and Family Welfare.
2. Status Reports have been filed by the Director General of Police, State of Telangana and Director General of Prisons, State of Telangana.
3. Reports have been filed by the Commissioner of Labour and Commissioner, GHMC.
4. An affidavit has been filed by the Special Secretary, Women Development and Child Welfare Department.

5. Learned Advocate General states that though this court had directed the Director of Public Health and Family Welfare to remain virtually present in the hearing today, due to an urgency at Khammam, he had to rush there to attend to some COVID-19 related issues.

6. We have perused the aforesaid affidavits/Status Reports/Reports and find that the affidavit filed by the Director of Public Health and Family Welfare is woefully lacking on many aspects. There were several issues that this court had highlighted in paragraph 39 of the order passed on 17.05.2021 which had remained unanswered. Even now, upon perusing the latest affidavit, we find that several issues highlighted by this court have remained unanswered or been answered ambiguously, particularly those concerning with failure on the part of the State Government in issuing a fresh Government Order by 22.05.2021, revising the charges for routine ward, oxygen beds, ICU beds, ventilator beds, ambulance charges etc., in private hospitals/Nursing Homes. The latest affidavit does not state as to whether a revised Government Order has been issued to cap the prices for conducting diagnosis and investigation for treatment of COVID-19 infection during the second wave.

7. The other issues that remain unanswered include those summarized in the order dated 17.05.2021, i.e., issue No. (2) of the order dated 23.04.2021, issues No. (3) and (5) of the order dated 27.04.2021, issues No. (1), (3), (4) and (5) of the order dated 05.05.2021. Besides, the above, other issues raised in the previous order dated 17.05.2021, particularly those mentioned in paragraphs 24, 26, 36 and 40 have not been dealt with. All the necessary information shall be made available on the next date.

8. Further, having regard to the data furnished by the Director of Public Health and Family Welfare at Annexure 12 regarding allocation of Amphotericin B injections by the Central Government to the State of Telangana, which reflects that

not a single vial of the allocated injections have been received from 26.05.2021 onwards, learned Assistant Solicitor General of India is directed to explain the reasons therefor and ensure that the allocated vials of the captioned injection are duly received by the State of Telangana at the earliest, since the same are vital for treating patients suffering from Mucormycosis (black fungus).

9. As learned Advocate General has expressed the difficulty of the Director of Public Health and Family Welfare to appear virtually in the hearing today, in the interest of justice, list on 02.06.2021.

10. In the meantime, such of the issues as referred to above and those raised in paragraph 39 of the order passed on 17.05.2021 and have remained unanswered in the affidavit dated 31.05.2021, shall be intimated by the Director of Public Health and Family Welfare tomorrow.

SD/- L LAKSHMI BABU
ASSISTANT REGISTRAR

2021

//TRUE COPY//

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 Principal Secretary, Civil Supplies Department, State of Telangana, Secretariat, Hyderabad.
8. The Principal Secretary, School Education Department, State of Telangana, Secretariat, Hyderabad.
9. The Principal Secretary, Revenue Department, State of Telangana, Secretariat, Hyderabad.
10. The Principal Secretary, Women Development and Child Welfare, State of Telangana, Secretariat, Hyderabad. (Addresse-1 to 10 by Special Messenger)
11. The Secretary Department of Medical and Health, Union of India, Central Secretariat, New Delhi. (BY RPAD)
12. Indian Council of Medical Research (ICMR), COVID-2019, New Delhi. (BY RPAD)
13. The Director of Public Health & Family Welfare, Government of Telangana, Koti, Hyderabad. (By SPL. Messenger)
14. One CC to Sri P. Thirumala Rao, Party in person, (OPUC)
15. Two CCs to the Advocate General, High Court for the State of Telangana (OUT) (By Special Messenger)
16. Two CCs to the Mr.N.Rajeshwar Rao, Assistant Solicitor General, High Court for the State of Telangana, at Hyderabad (OUT)
17. Two spare copies

HIGH COURT

HCJ
&
BVR,J

DATED: 01.06.2021

NOTE: LIST ON 02.06.2021

ORDER

WP(PIL) NOS: 56 and 58 OF 2020

DIRECTION

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AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF JUNE
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:PRESENT:
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AND
THE HON'BLE SRI JUSTICE B.VIJAYSEN REDDY

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6. The Director General of Police, State of Telangana, Lakdikapool, Hyderabad.
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WP(PIL) NO: 58 OF 2020

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Common Order:

1. Pursuant to the order dated 01.06.2021, Dr. G. Srinivasa Rao, Director of Public Health and Family Welfare has logged into virtual hearing and placed before this court information relating to expansion of infrastructure, manpower, medical equipment, drugs etc., for dealing with any future medical contingency arising from a possible third wave. He has also sought to explain the action of delisting and revocation of licenses of certain private hospitals on grievances received from the public about overcharging and poor services. The current status of the vaccination drive in the State and the efforts to reduce the positivity rate of

the infection, particularly in the 11 districts of the State, have been shared with the court.

2. A request is made by the Director of Public Health for some more time to file an additional affidavit to explain the action taken in respect of the points raised in the order dated 17.05.2021, particularly paragraphs 24, 26, 36, 39 and 40 thereof.
3. Having regard to the fact that serious mental health issues have cropped up as a fallout of the COVID-19 infection, it is directed that a blueprint be prepared and placed on record showing how the State proposes to deal with the said issue.
4. The manner in which the State proposes to strengthen the pediatric medical facilities in anticipation of the expected third wave across the State, shall also be highlighted in the next affidavit to be filed.
5. While filing the affidavit on the future plans to be undertaken by the State to ramp up its medical infrastructure, facilities, manpower and supply of equipment and drugs etc., specific milestones for completion of projects shall be furnished, for this court to assess the preparedness of the State.
6. The State Government shall ensure that a fresh Government Order is issued for capping of charges relating to occupation of beds in private hospitals/Nursing Homes and capping of the prices for PPE kits and other consumables and for conducting diagnostic investigation for the treatment of COVID-19 infection. In the event the Government Order is not placed on record along with the affidavit to be filed before the next date of hearing, Secretary, Medical, Health and Family Welfare shall file his affidavit explaining the inaction and he shall be virtually present to assist the court.

7. Further, the Department of Civil Supplies shall file a Status Report placing on record the steps taken by it to supply grain/rice etc to those who fall below the poverty line. The Department of Education shall also file an affidavit placing on record the steps taken by it in respect of the teachers who have succumbed to the COVID-19 infection on being assigned polling duty during the recent elections conducted in the State. The benefits released to the family members of the said teachers, who were directed to be treated as COVID warriors by this court, shall be placed on record. The benefits released to those teachers who have suffered from COVID-19 infection while discharging polling duties shall also be placed on record.

8. List on 10.06.2021.

//TRUE COPY//

SD/- L LAKSHMI BABU
ASSISTANT REGISTRAR

6/2021

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.
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HIGH COURT ✓

HCJ
&
BVR,J

DATED: 02.06.2021

NOTE: LIST ON 10.06.2021 ✓

ORDER

WP(PIL) NOS: 56 and 58 OF 2020 ✓

DIRECTION