

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**  
**(PUBLIC INTEREST LITIGATION)**  
**WRIT PETITION (CIVIL) NO..... OF 2020**

**IN THE MATTER OF:-**

SACHIN JAIN

.....PETITIONER

-VERSUS-

UNION OF INDIA

.....RESPONDENT

With

**I.A no.....of 2020**

Application for exemption from filing attested copy of affidavit

Along with

**I.A no.....of 2020**

Application for Urgent hearing

**PAPER- BOOK**

(FOR INDEX KINDLY SEE INSIDE)

**Filed By: Petitioner In Person**

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## PROFORMA FOR FIRST LISTING

### SECTION-(PIL-W)

W)

The case pertains to (Please tick/check the correct box)

- Central Act: (Title): **Constitution of India,1950**
- Section: **Article 14, 21 and 32 of the Constitution of India**
- Central Rule : **N/A**
- Rule no: **N/A**
- State Act: (Title): **N/A**
- Section: **N/A**
- State Rule:(Title) **N/A**
- Rule No.(s): **N/A**
- Impugned Interim order: (Date) **N/A**
- Impugned Final Order: **N/A**
- Court: **N/A**
- Name of the Judges: **N/A**
- Tribunal/Authority: **N/A**

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1. Nature of matter: **Civil**

2. (a) Petitioner: **Sachin Jain**

(b) e-mail id: **sachinjain@lawyer.com**

(c) Mobile Phone Number: **98185-44445**

- 3 (a) Respondent: **Union of India**  
(b) e-mail id: **N/A**  
(c) Mobile Phone Number: **N/A**
4. (a) Main Category Classification: **08-Letter Petition & PIL matters**  
(b) Sub classification: **0812-Others**
5. Not to be listed before: **N/A**
6. Similar Pending matter: **No similar matter is disposed of**
7. **Criminal Matter:** **N/A**  
(a) Whether accused /convict has surrendered: **N/A**  
(b) FIR No: **N/A** Date: **N/A**  
(c) Police station: **N/A**  
(d) Sentence awarded: **N/A**  
(e) Sentence Undergone: **N/A**
8. **Land Acquisition Matters:** **N/A**  
(a) Date of section 4 Notification: **N/A**  
(b) Date of section 6 Notification: **N/A**  
(c) Date of section 17 notification: **N/A**
9. **Tax matters:** state the tax effect: **N/A**

A-2

10. **Special Category:** (first petitioner/appellant only) N/A

11. **Vehicle Number**

(in case of Motor accident claims matter) : N/A

Filed by:

Kurukshetra

Drawn By: Petitioner

Dated: 11.04.2020

Filed by:

*Sachin Jain*

(SACHIN JAIN)

PETITIONER-IN -PERSON

Delhi Bar Council  
Enrl No. D/925/2002

## SYNOPSIS & LIST OF DATES

The Petitioner herein seeks to invoke the extra-ordinary writ jurisdiction of this Hon'ble Court under Article 32 of the Constitution of India, seeking nationwide COST RELATED REGULATIONS for treatment of Covid-19 patients at Private/Corporate Hospitals. The issue requires an urgent consideration of this Hon'ble court as many private hospitals are commercially exploiting the patients suffering from Covid-19, to make a fortune out of their miseries in the hour of national crisis.

A shocking and unfortunate news article has recently surfaced in "The Times of India" on 3rd April 2020 edition, under the headline "**Insurers question high cost of Covid-19 treatment in Pvt hosps**", The news report refers to a statement made by a surgeon that a Covid-19 patient was billed for Rs 12,00,000 (Rupees Twelve Lakhs) for obtaining treatment in a private hospital. The news article also refers to a statement made by a reputed insurance company confirming that it has till date (i.e till 2nd April) settled 41 claims of Covid-19, the highest one amounting to Rs. 6.5 lakhs. Another well-known insurance company (as per the report) states to have been receiving an average claim size of Rs. 5-6 lakhs for treatment of Covid-19 at private hospitals. The size of the claims is a matter of grave concern even for the insurance industry which states that even with "**no surgical interventions**", the billing by the private hospitals are highly inflated and unreasonable.



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As per the same news report, the insurers have been objecting to the artificially inflated bills being raised by the private hospitals. In fact, one of the industry sources has been quoted to have expressed concern that " one cannot pass off usage of 300 gloves or one PPE suit for one patient in a day".

Faced with this predicament, the insurance companies have even started rejecting the claims of Covid-19 patients by upto 50%.

It is submitted that if such inflated billing by the private hospitals can become a cause of concern for the insurance industry, what will be the plight of a common man who neither has a fat wallet nor an insurance cover to reimburse, in case, he requires hospitalization in a private hospital. It is a matter of grave concern that a large section of people in India still do not possess any insurance cover and are also not benefitted under any government health scheme. It therefore requires an urgent intervention of this Hon'ble Court to determine as to what would be the fate of these citizens in case the pandemic grows and the public healthcare sector reaches a saturation level.

The Petitioner submits that given the resource constraints of Public health sector, it becomes apparent that government/public health sector alone may not be able to manage the fallout, and hence, extensive participation of the private health care sector would be

required particularly in dealing with moderate and severe cases of Covid-19 that would require hospitalization. It therefore, becomes expedient for the state to promptly combat the commercial exploitation by the private hospitals and bring in place adequate regulations on the tariff structure for regulating the private hospitals for the treatment of Covid-19 patients, to make them affordable and accessible with a view to preserve the human life which is of paramount consideration.

The Hon'ble court while strongly condemning the exploitive and commercial tendencies of most of the private hospitals, observed in ***Moolchand Kharaiti Ram Trust, ((2018) 8 SCC 321 )***

"71. It is unfortunate that most of the hospitals are being run on a commercial basis and various ills have sunk in the noble medical profession. Right from wrong reporting, uncalled for investigation inclusive of invasive one, even as to heart and other parts of the body, which are wholly unnecessary, are performed, it is time for soul-searching for such big hospitals in and around Delhi, Gurgaon, etc. and other places. They must ponder what they are doing. Is it not a criminal act? Simply by the fact that action is not taken does not absolve the responsibility. Time has come to fix accountability and to set right the evils which have rotten the system. The medical profession had never been intended to be an exploitative device to earn money at the cost of patients who require Godly approach and helping hand of doctors..."

Reiterating the need to fix the social responsibility on the private hospitals, the Hon'ble Apex court observed

" 89. The hospitals now-a-days have five-star facilities. The entire concept has been changed to make commercial gains. They are becoming unaffordable. The charges are phenomenally high, and at times unrealistic to the service provided. The dark side of such hospitals can be illuminated only by sharing obligation

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towards economically weaker sections of the society. It would be almost inhuman to deny proper treatment to the poor owing to economic condition ...".

After giving precedence to the preservation of human life over any other factor, this Hon'ble court casted a special obligation upon the healthcare sector including the private one to first save the life. As held by this Hon'ble court in **"Parmanand Katara v. Union of India, (1989) 4 SCC 286 at page 293:**

"7. There can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man.."

While referring to the power of the state to impose responsibilities on the private health care, the following observations were made by this Hon'ble court in **Union of India v. Moolchand Kharaiti Ram Trust, (2018) 8 SCC 321 at page 363**

"68. In our opinion, the State can also impose such obligation when the government land is held by such hospitals and ***it is the constitutional obligation imposed upon such hospitals.*** Under Article 47, State has to make constant endeavour to raise the level of nutrition and the standard of living and to improve public health. It is also one of the fundamental duties enshrined in Article 51-A(h) to develop the scientific temper, humanism and the spirit of inquiry and reform. It would be inhuman to deny a person who is not having sufficient means or no means, the life-saving treatment, simply on the ground that he is not having enough money. Due to financial reasons, if treatment is refused, it would be against the very basic tenets of the medical profession and the concept of charity in whatever form we envisage the same, besides being unconstitutional would be violative of basic human rights..."

It is submitted that a good number of the private corporate hospitals have been enjoying numerous benefits from the State in

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the name of running charitable or non-profit health care institutions. Starting from the allotment of land at highly concessional rates, there are more than enough subsidies and exemptions which these hospitals are enjoying at the cost of the state exchequer.

A Division Bench of the Hon'ble High court of Delhi in *Social Jurist Vs. UOI 2007 SCC OnLine Del 473*, while condemning the conduct of various hospitals in Delhi for not adhering to their social commitments despite taking numerous benefits from the government authorities, dealt with the concessional allotment of land to over 20 major hospitals in Delhi, and the consequent failure on their part to honor their commitment of providing " free treatment to the poor". It is trite to mention that while seeking the land from the government at highly concessional rates , these hospitals had made laudable claims to provide free services to the poor even to the extent of 70% of their patient capacity.

While accepting the report of Justice Qureshi committee in this regard, the Ld. Division Bench reduced the obligation of the free patient treatment to the indigent/poor persons of Delhi to 25% OPD and 10% IPD patients completely free of charges in all respects. The Ld judgment was affirmed by this Hon'ble Court vide order dated 1.9.2011 in SLP (c) No. 18599 of 2007. The petitioner submits that despite the reduced obligations, the benefit of the free treatment hardly reaches the poor and the needy.

However, without going into any factual controversy, the Petitioner seeks to submit that at least, for the present i.e., when the nation is fighting a battle against the pandemic, all such private hospitals which are running on public land (allotted at concessional rates) or are running under the category of "charitable institutions" should be called upon to provide the hospitalization and treatment to the Covid-19 patients pro bono publico/ non-profit basis.

The tariffs of other private hospitals should also be regulated by the respondent on fixed cost basis (at least for the present) to preserve the human life.

11.03.2020

The World Health Organization declared Covid-19 as a pandemic on 11th March, 2020.

21.03.2020

Ministry of Health & Family Welfare, Government of India, issued an order in exercise of powers conferred under clause (i) and (l) of sub-section 2 of section 10 of Disaster Management Act 2005, thereby notifying the guidelines inter-alia capping the maximum cost for testing Covid-19 at Rs.4500/- at private laboratories.

24.03.2020

National Disaster Management Authority  
Government of India in exercise of the  
powers under section 6 (2)(i) of the Disaster  
Management Act, 2005 (hereinafter referred  
to as 'the Act') has issued order dated  
24.3.2020 directing Ministries/Departments  
of Government of India, State Governments  
and State Authorities to take measures for  
ensuring social distancing so as to prevent the  
spread of COVID-19 in the Country.

Ministry of Home affairs, Government of  
India, through Chairman, National Executive  
Committee, in exercise of powers conferred  
by section 10(2)(1) of the Disaster  
Management Act issued guidelines to all the  
secretaries of ministries of Union  
Government, State Government and Union  
Territories for implementation of various  
measures across the country to contain Covid-  
19 while ensuring the maintenance of  
essential services and supplies , including  
health infrastructure. Vide these guidelines,  
all the hospitals and health related  
establishments , both in public and private  
sector were included in essential services

which were to remain functional during the lockdown.

03.04.2020

National Daily Newspaper, "The Times of India", published a news report referring to various instances of exorbitant and inflated bills raised by the private hospitals from the individual patients for the treatment of Covid-19.

07.04.2020

The Government of NCT of Delhi convened a meeting with the representatives of the eight (8) major private hospitals in Delhi declaring Covid-19 hospitals in the private sector which may give treatment for Covid-19 on **payment basis**.

08.04.2020

This Hon'ble court in a major relief to the public at large, in Writ Petition (C) Diary No. 10816/2020 directed to conduct free of cost testing of Covid-19 in Government as well as Private laboratories.

09.04.2020

Another report of the Times of India, showing how the insurance companies are churning /rejecting claims by 50% as the private

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hospitals are raising exorbitant bills for the treatment of the Covid-19 patients.

10.04.2020

THE PRESENT WRIT PETITION



IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
(UNDER ARTICLE 32 OF THE CONSTITUTION OF  
INDIA)  
(PUBLIC INTEREST LITIGATION)  
WRIT PETITION (CIVIL) NO..... OF 2020

MEMO OF PARTIES

SACHIN JAIN  
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Supreme Court of India,  
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.....PETITIONER

VERSUS

UNION OF INDIA  
THROUGH MINISTRY OF HEALTH  
& FAMILY WELFARE  
NIRMAN BHAWAN, NEW DELHI  
-110001

....RESPONDENT

WRIT PETITION UNDER ARTICLE 32 OF THE  
CONSTITUTION OF INDIA SEEKING TO ISSUE A WRIT OF  
MANDAMUS OR SUCH OTHER APPROPRIATE WRIT,  
ORDER OR DIRECTION, DIRECTING RESPONDENT TO  
REGULATE THE COST OF TREATMENT OF COVID-19 AT  
PRIVATE/ CORPORATE HOSPITALS

TO

THE HON'BLE CHIEF JUSTICE OF INDIA &  
HIS COMPANION JUSTICES OF THE  
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE  
PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH

1) The Petitioner herein is a practicing advocate , having a practice of around 18 years at bar . The Petitioner after going through the contents of the news report published in the Times of India on 3rd April 2020 and on 9th April 2020, relating to the highly inflated bills raised by private hospital on the pandemic patients during the hours of national calamity, considered it as his solemn duty, for the welfare of the citizenry, to approach this Hon'ble court to seek appropriate remedy for all those Covid patients who are being subjected to grave financial exploitation by the private hospitals.

2) The petitioner submits that given the urgency of the matter, various States and UTs are not impleaded as parties to the present petition . In the humble submission of the Petitioner, the Union of India, is competent under the Disaster Management Act, 2005 to give the necessary directions to the States/UT and to implement the orders of this Hon'ble Court on the issues raised in the present petition.

3) The Petitioner submits that he has no personal interest, or any oblique motive in filing of the instant petition.

There is no civil, criminal, revenue or any litigation involving the petitioner, which has or could have a legal nexus with the issue involved in the present petition made in the Public Interest.

That the instant writ petition is based on information/documents which are in the public domain.

The petitioner has means to pay the cost, if any.

The Petitioner has not made any representation to the respondent in this regard because of the extreme urgency involved in the matter.

4) FACTS IN BRIEF LEADING TO THE FILING OF THE PRESENT WRIT PETITION

I) The World Health Organization declared Covid-19 as a pandemic on 11th March, 2020.

II) A large number of people in India are getting infected by this contagion and the said number is cumulatively increasing with each passing day.

III). The Ministry of Health & Family Welfare, Government of India, in exercise of its powers conferred under clause (i) and (l) of sub-section 2 of section 10 of Disaster Management Act 2005, vide order No. F. No. Z.28015/23/2020-EMR dated 21.03.2020 , notified the guidelines inter-alia capping the maximum cost that can be charged by private laboratories for testing Covid-19 . A true copy of order dated 21.03.2020 is annexed as **Annexure P-1 (Page no. 24.. to ..27.....)**.

IV). The Ministry of Home affairs, Government of India , issued a GO No. 40-3/2020-DM-I(A) along with guidelines on 24.03.2020 to all the secretaries of ministries of Union Government, State Government and Union Territories for implementation of various measures across the country for containment of Covid-19 while ensuring maintenance of essential services and supplies , including health infrastructure. Vide these guidelines, which were issued in exercise of powers conferred by section 10 of the Disaster Management Act, all the hospitals and health related establishments , both in public and private sector were declared as part of essential

services which were to remain functional during the lockdown. A true copy of order and the guidelines dated 24.03.2020 is annexed as **Annexure P-2 (Page no. 28 to 34...)**.

V). The national daily newspaper " The Times of India", published a news report on 3rd of April, 2020 referring to various instances of the exorbitant and inflated bills raised by the private hospitals from individual patients for the treatment of Covid-19. The news report referred to the statement made by a surgeon that a Covid-19 patient was billed Rs 12,00,000 (Rupees Twelve Lakhs) for a treatment in a private hospital A true copy of the news report is being annexed as **Annexure P-3.(Page No. 35 to 37...)**.

VI). The Government of NCT of Delhi convened a meeting with the representatives of eight (8) major private hospitals in Delhi declaring Covid-19 hospitals in the private sector which would be giving treatment to the Covid-19 patients. As per the minutes of the meeting dated 7.4.2020, the government while declaring the private hospitals as dedicated hospitals has permitted these hospitals to treat the patients on payment basis. The said decision has been taken by the government without defining or restricting the amount of money that these hospitals can charge from an individual patient. A true copy of minutes of meeting dated 07.04.2020 is annexed as **Annexure P-4 .(Page No. 38 to 39...)**.

VI). This Hon'ble court , in Writ Petition (C) Diary No. 10816/2020 while making the testing of the Covid-19 cost free, reiterated the social responsibility of the private sector in the hour of crisis . A true copy of the order dated 8.04.2020 is annexed as **Annexure P-5** (Page No. 40 to 43.....).

VIII). Another report was published in "The Times of India" regarding the objections that are being raised by Insurance industry apropos to raising of the the highly inflated bills by the private hospital for treatment of the Covid-19 patients. As per the report, the insurance companies are curtailing/rejecting such claims by 50% on the ground of unreasonableness . A true copy of the news report is being annexed as **Annexure P-6**. (Page No. 44.....).

9. The following questions of law of general public importance arise for consideration by this Hon'ble Court

i) Whether the Union of India, in exercise of its powers under section 6 and 10 of the Disaster Management Act 2005, can regulate the cost of treatment of Covid-19 in private health sector, across all the states and UTs, on actual costs basis?

ii) Whether the capping of the cost of treatment of Covid-19 in private health sector can be cried foul of rights under Article 19(1)(g) of the Constitution of India ?

iii) Whether commercialization of essential health services by private health sector , during the hour of national calamity , would attract criminal liability ?

10. The Petitioner therefore makes the present petition on the various grounds hereinafter mentioned.

### **GROUNDS**

- A. BECAUSE the Union of India in exercise of powers under section 6 and 10 of the Disaster Management Act 2005, has in the recent past vide order and guidelines dated 21.03.2020 , (annexed with this petition), has also regulated the cost of test of Covid-19 in private health sector, and made it applicable to all the states and UTs. On the same analogy, in the humble submission of the petitioner, the respondent can also regulate the cost of treatment of Covid-19 in private health sector to combat the pandemic .
- B. Because this Hon'ble court while dealing with the issue of imposition of certain conditions of free treatment on the private hospitals, held such obligations to be within the purview of Article 19(6) of the Constitution, when the private hospitals are deriving benefits out of the state (*Union of India v. Moolchand Kharaiti Ram Trust, (2018) 8 SCC 321*)

In *Assn. of Medical Superspeciality Aspirants & Residents v. Union of India*, (2019) 8 SCC 607 this Hon'ble court while dealing with an individual's right to carry profession under Article 19(1)(g) of the Constitution, held:

" 31. The next question that arises is whether there is a conflict between the rights of the community and the rights of the appellants. As stated earlier, the right that is claimed by the appellants is to make an individual choice to carry on their profession which might be hindered by the decision of the Government. On the other hand, the basic idea behind the Government's decision is larger public interest. The judgment of this Court in *Ratanbhai Sayeed* [*Ratanbhai Sayeed v. Shirdi Nagar Panchayat*, (2016) 4 SCC 631] relied upon by the High Court is to the effect that private interest has to take a back seat when pitted against public interest. In *'X' v. Hospital 'Z'* [*'X' v. Hospital 'Z'*, (1998) 8 SCC 296] , Saghir Ahmad, J. speaking for this Court, held that: (*'X' case* [*'X' v. Hospital 'Z'*, (1998) 8 SCC 296] , SCC pp. 309-10, para 44)

"44. ... Moreover, where there is a clash of two Fundamental Rights, as in the instant case, namely, the appellant's right to privacy as part of right to life and Ms Y's right to lead a healthy life which is her Fundamental Right under Article 21, the right which would advance the public morality or public interest, would alone be enforced through the process of court, for the reason that moral considerations cannot be kept at bay and the Judges are not expected to sit as mute structures of clay in the hall known as the courtroom, but have to be sensitive, 'in the sense that they must keep their fingers firmly upon the pulse of the accepted morality of the day'." (emphasis supplied)

- C. BECAUSE the right to life enshrined in Article 21 of the Constitution of India includes the protection of health, and access to basic health care, and the government has a constitutional obligation to serve the fundamental rights of the citizenry by providing easy access to the health facilities.



- D. BECAUSE the public health care sector alone does not have the capacity and capability to deal with the pandemic which is rising exponentially in India, and is expected to rise furthermore in the coming days. Hence, it is requisite on the part of the government to make the private health care sector accessible to the needy to uphold the fundamental rights as guaranteed under Article 14 and Article 21 of the Constitution.
- E. It is pertinent to mention that patients of Covid-19 can be broadly divided into three categories: mild, moderate and severe. While none of these categories involve any surgical intervention, the mild one require only the quarantine facility and do not require the hospitalisation, the moderate patients require hospitalisation with negligible expenditure on medication similar to the respiratory ailments of that category. Only the severe cases require ICU admission, and only a very sick patient would require a ventilator support. Not only severe category patients but also moderate (and may be mild) are being charged unreasonably high tariff which is way beyond the reach of a common man. Today, the major part of the bills which are being indiscriminately raised by the private hospitals in these cases pertain to the room rent and PPE kits used by the hospital staff. The inflation of bills is nothing but a commercial exploitation of the national disaster, ruthlessly carried on by these hospitals.
- F. While public hospitals are handling extensive number of cases relating to the pandemic, the respondent by now would have a sufficient data with respect to the actual cost of treatment involved. The respondent

can make use of this data to devise tariffs that can be charged by private hospitals from the Covid-19 patients.

- G. BECAUSE the preservation of human life is of paramount importance, and that the private health sector also owe a duty to act in public interest as observed by this Hon'ble court in *Union of India v. Moolchand Kharaiti Ram Trust*(2018) 8 SCC 321
- H. BECAUSE it is not only unethical but also inhuman for the private/corporate hospitals to encash on the miseries of the common man when the entire nation is undergoing an unprecedented health care emergency, and hence, it is essential to put a cap on the medical cost, as the same would bridge the gap between life and death for many.
- I. BECAUSE the medical profession owes a constitutional duty to treat the have-nots, and a person cannot be refused a treatment merely on the ground that he is not in a position to afford the fee payable for such a treatment. It is submitted that the Hon'ble Supreme Court in *Union of India v. Moolchand Kharaiti Ram Trust (2018) 8 SCC 321* observed that when the government land had been obtained for charitable purpose of running the hospital, the government is within its right to impose an obligation to provide treatment to the needy.
- J. BECAUSE the regulation 1.1.2 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002,

relating to the standards of professional conduct and etiquette and code of ethics for registered medical practitioners' states that:

*"1.1.2. The prime object of the medical profession is to render service to humanity; reward or financial gain is a subordinate consideration. Whosoever chooses his profession assumes the obligation to conduct himself in accordance with its ideals..."*

Regulation 1.8 further states that the physician engaged in the practice of medicine must disclose his fee in advance and he has to give priority to the medical interests of the patients and not to the personal financial interests.

**"1.8. Payment of professional services.**—The physician, engaged in the practice of medicine shall give priority to the interests of patients. The personal financial interests of a physician should not conflict with the medical interests of patients. A physician should announce his fees before rendering service and not after the operation or treatment is underway. Remuneration received for such services should be in the form and amount specifically announced to the patient at the time the service is rendered. It is unethical to enter into a contract of "no cure no payment". Physician rendering service on behalf of the State shall refrain from anticipating or accepting any consideration."

The Petitioner submits that the respondent should devise a fixed rate for the treatment of the Covid-19 patients falling under different categories and the cost of the treatment should be known to the patients beforehand

- K. Because when the country is going through a national crisis of unknown proportions, and when even the Hon'ble Members of Parliament, judges, corporate, have taken a pay deduction, the

private hospitals can surely strengthen the health care infrastructure by providing affordable treatment to the needy.

- L. BECAUSE the individual interest must bend in comity to the public interest even if it comes at some cost. It is submitted that in a country like India where only a small fraction of GDP i.e., around 1.28% is dedicated to the health sector, the private health sector has always remained a front runner when it comes to laudable claims about quality and advanced health services. It becomes imperative for the state to now rope in the private healthcare sector to discharge their duties as a health care provider.
- M. BECAUSE every doctor whether at a government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession (*Parmanand Katara v. Union of India, (1989) 4 SCC 286*).
- N. BECAUSE no patient suffering with Covid-19 should be denied the treatment merely on the ground that he cannot afford the steep tariffs charged by the private sector. Denial of treatment would mean not only that he would himself succumb to the disease but he may also in this interregnum, till he is attended to, by an overburdened public hospital, may infect many others.

- O. Because in *Ram Jawaya Kapur v. State of Punjab* AIR 1955 SC 549, the Constitution bench of this Court while referring to Article 73 and Article 162 of the Constitution, observed that it is open to the State to issue executive orders even if there is no legislation in support thereof provided the State could legislate on the subject in respect of which action is taken. There can be executive orders in the absence of legislation in the field.
- P. BECAUSE the health care services are essential services , most imminently required in the present hour of national calamity. The conduct of the private hospitals in advancing their commercial interest is therefore clearly prejudicial to the maintenance of the supplies and the services , essential to the community. The delinquents are therefore liable to be prosecuted by the respondent, under the provisions of Essential Services Maintenance Act as well as Disaster Management Act, 2005.
11. That no other similar petition has been filed by the petitioner before this Hon'ble court or any other court or authority.

#### PRAYER

It is therefore prayed that this Hon'ble court may most graciously be pleased to :

i) Issue a Writ in the nature of Mandamus or such other appropriate writ, order or direction, directing the respondent to regulate the cost of treatment of Covid-19 at private/corporate hospitals across the country, to a minimum possible ;

ii) Issue a writ in the nature of Mandamus or such other appropriate writ, order or direction to the respondent to mandate the private hospitals which have been running on public land (allotted at concessional rates) or running under the category of " charitable institutions" to treat Covid-19 patients either pro bono publico or on no-profit basis ;

iii) Issue a writ in the nature of Mandamus or such other appropriate writ, order or direction to the respondent to bear the cost of expenditure on treatment of Covid-19 at private hospitals , for the poor and vulnerable , who neither have the means nor have any insurance cover nor have coverage under government health schemes like Ayushman Bharat; and/including for those of them who though have the coverage but their cost of treatment surpasses the reimbursement ;

iv) Issue an appropriate writ, order or direction to the respondent to combat the commercialization of healthcare by private health sector (atleast for the present) and to identify the individuals/hospitals involved in black-marketing of the essential health services, at the

hour of national calamity and to take effective steps for their prosecution;

iv) Pass such other order(s) as deem appropriate in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

Kurukshetra

Drawn By: Petitioner

Dated:11.04.2020

Filed by:

*Sachin Jain*

(SACHIN JAIN)

PETITIONER-IN -PERSON

Delhi Bar Council  
Enrl No. D/925/2002

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO..... OF 2020**

**IN THE MATTER OF:-**

SACHIN JAIN

.....PETITIONER

-VERSUS-

UNION O F INDIA

.....RESPONDENT

**AFFIDAVIT**

I, Sachin Jain son of Sh. Sulek Chand Jain, advocate (Enrl No. D/925/2002) 28, lawyers Chamber, R.K Garg Block, Supreme Court of India, New Delhi-110001, Currently at House no. 547, Sector-13, Urban Estate Kurukshetra-136118, Haryana do hereby solemnly affirm and declare as under:

1. That I am the Petitioner in the matter aforementioned and am conversant with the facts and circumstances of the case and competent to swear this affidavit.

2. That the contents of accompanying synopsis and list of dates (page no....**B-J**.....) , and petition ( page no....**1-15**.....), application for urgent hearing, application for exemption from filling attested copy of affidavit are all true and correct to the best of my knowledge and belief.

3. That the annexures are true copies of respective originals

*Sachin Jain*  
Deponent

VERIFICATION



Verified that the contents of above affidavit and true and correct to the best of my knowledge and belief and nothing has been concealed there from.

Verified at Kurukshetra on this 11th day of April 2020.



Deponent

## APPENDIX

## CONSTITUTION OF INDIA

Article 14: . The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 21. No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 32. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed. (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part. (3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2). (4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

## DISASTER MANAGEMENT ACT 2005

**SECTION 6. Powers and functions of National Authority.—(1)**

Subject to the provisions of this Act, the National Authority shall have the responsibility for laying down the policies, plans and guidelines for disaster management for ensuring timely and effective response to disaster.

(2) Without prejudice to generality of the provisions contained in sub-section (1), the National Authority may —

- (a) lay down policies on disaster management;
- (b) approve the National Plan;
- (c) approve plans prepared by the Ministries or Departments of the Government of India in accordance with the National Plan;
- (d) lay down guidelines to be followed by the State Authorities in drawing up the State Plan;
- (e) lay down guidelines to be followed by the different Ministries or Departments of the Government of India for the purpose of integrating the measures for prevention of disaster or the mitigation of its effects in their development plans and projects;
- (f) coordinate the enforcement and implementation of the policy and plan for disaster management;

- (g) recommend provision of funds for the purpose of mitigation;
- (h) provide such support to other countries affected by major disasters as may be determined by the Central Government;
- (i) take such other measures for the prevention of disaster, or the mitigation, or preparedness and capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary;
- (j) lay down broad policies and guidelines for the functioning of the National Institute of Disaster Management.

(3) The Chairperson of the National Authority shall, in the case of emergency, have power to exercise all or any of the powers of the National Authority but exercise of such powers shall be subject to ex post facto ratification by the National Authority. 7. Constitution of advisory committee.

**SECTION 10. Powers and functions of National Executive Committee.**—(1) The National Executive Committee shall assist the National Authority in the discharge of its functions and have the responsibility for implementing the policies and plans of the National Authority and ensure the compliance of directions issued by the Central Government for the purpose of disaster management in the country.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the National Executive Committee may—

(a) act as the coordinating and monitoring body for disaster management;

(b) prepare the National Plan to be approved by the National Authority;

(c) coordinate and monitor the implementation of the National Policy;

(d) lay down guidelines for preparing disaster management plans by different Ministries or Departments of the Government of India and the State Authorities;

(e) provide necessary technical assistance to the State Governments and the State Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the National Authority;

(f) monitor the implementation of the National Plan and the plans prepared by the Ministries or Departments of the Government of India;

(g) monitor the implementation of the guidelines laid down by the National Authority for integrating of measures for prevention of disasters and mitigation by the Ministries or Departments in their development plans and projects;

- (h) monitor, coordinate and give directions regarding the mitigation and preparedness measures to be taken by different Ministries or Departments and agencies of the Government;
- (i) evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;
- (j) plan and coordinate specialised training programme for disaster management for different levels of officers, employees and voluntary rescue workers;
- (k) coordinate response in the event of any threatening disaster situation or disaster;
- (l) lay down guidelines for, or give directions to, the concerned Ministries or Departments of the Government of India, the State Governments and the State Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;
- (m) require any department or agency of the Government to make available to the National Authority or State Authorities such men or material resources as are available with it for the purposes of emergency response, rescue and relief;
- (n) advise, assist and coordinate the activities of the Ministries or Departments of the Government of India, State Authorities, statutory bodies, other governmental or non-

governmental organisations and others engaged in disaster management;

(o) provide necessary technical assistance or give advice to the State Authorities and District Authorities for carrying out their functions under this Act;

(p) promote general education and awareness in relation to disaster management; and

(q) perform such other functions as the National Authority may require it to perform.

Sachin  
True Copy

Annexure P-1

F. No. Z.28015/23/2020-EMR  
Government of India  
Ministry of Health and Family Welfare

Nirman Bhawan, New Delhi  
Dated the 21<sup>st</sup> March, 2020

**ORDER**

The guidelines laid down by Indian Council of Medical Research for COVID-19 testing in private laboratories in India (as annexed) is notified vide Clause (i) and (l) of sub-section 2 of Section 10 of DM Act, 2005, under the power delegated vide order F. NO. 40-2/2020-DM1 (A); dated 11<sup>th</sup> March, 2020 for strict follow up and compliance.

  
Preeti Sudan

Secretary,  
Ministry of Health & Family Welfare  
Government of India



## Guidelines for COVID-19 testing in private laboratories in India

The test to be conducted by a laboratory which has NABL accreditation for real-time PCR assay for RNA virus.

### Whom to test:

Laboratory test should only be offered when prescribed by a qualified physician as per the ICMR guidelines for COVID-19 testing. Since the guidance evolves periodically, the latest revised version should be followed (link below).

([https://icmr.nic.in/sites/default/files/upload\\_documents/2020-03-20\\_covid19\\_test\\_v3.pdf](https://icmr.nic.in/sites/default/files/upload_documents/2020-03-20_covid19_test_v3.pdf)) / [www.mohfw.gov.in](http://www.mohfw.gov.in).

### Sample collection and Testing guidelines:

- Appropriate biosafety and biosecurity precautions should be ensured while collecting respiratory samples (oropharyngeal and nasal swab) from a suspect patient. Alternatively, a COVID-19 specific separate sample collection site may be created.
- Preferably, home collection of samples may be done by all the private laboratories. This will help avoid the contact of people with the suspect case during local travel to reach the laboratory.
- Only real time PCR based assays are recommended. Conventional PCR, in-house real time PCR and antibody/antigen tests are not recommended for COVID19 testing.
- Commercial kits for real time PCR based diagnosis of COVID-19 should be US FDA approved or European CE Certified or both for *in vitro* diagnosis of COVID-19 under emergency use, under intimation to DCGI, MoH&FW. Nucleic acid extraction kits and other reagents should be of standard quality.
- All the laboratory staff involved in COVID-19 testing should be appropriately trained in Good Laboratory Practices and performing real-time PCR.
- All the biomedical waste should be disposed off in accordance with National guidelines ([https://dhr.gov.in/sites/default/files/Bio-medical\\_Waste\\_Management\\_Rules\\_2016.pdf](https://dhr.gov.in/sites/default/files/Bio-medical_Waste_Management_Rules_2016.pdf)).
- The sample should be opened only in Biosafety Cabinet Class II A2. At the time of sample disposal, the Viral Transport Medium (VTM) with swabs should be discarded in a biohazard bag containing 2% Lyzol or 5% freshly prepared hypochlorite solution.

Bag should then be sealed using plastic tag and disposed of in accordance with the National guidelines.

- Government ID to support the current address and contact number of the suspect patient should be collected at the time of sample collection.

#### **Reporting protocols:**

- Before any laboratory (private or public) start their activities, they must ensure immediate/real time reporting of the test results along with the contact details to the ICMR HQ database accessible at <https://cvstatus.icmr.org.in>. Login credentials to each lab for uploading the data will be given by ICMR.
- Each laboratory will be given a registration number by ICMR. The registration number given by ICMR should be prominently exhibited in case any advertisement is made and also in the report.
- The access to specified data and analysis to stakeholders like IDSP, MoHFW will be provided through API for timely initiation of contact tracing and appropriate control measures.
- The request should be send at [aggarwal.n@icmr.gov.in](mailto:aggarwal.n@icmr.gov.in) indicating name, contact details and mobile number of nodal contact for the lab.

#### **Policy for sample storage and destruction:**

- All COVID19 positive samples will need to be transported to ICMR-NIV, Pune under suitable biosafety and biosecurity precautions as laid down by ICMR. The negative samples will be destroyed within one week of collection.
- No sample should be shared with any other organisation for any purpose.

#### **Cost of the test:**

The National Task Force recommends that the maximum cost for testing sample should not exceed Rs 4,500/-. This may include Rs 1,500 as a screening test for suspect cases, and an additional Rs 3,000/- for confirmation test. However, ICMR encourages free or subsidized testing in this hour of National public health emergency.

These guidelines may be amended from time to time.

Failure to comply with any of the above guidelines will result in legal action.

Solomon  
True Copy

No. 40-3/2020-DM-I(A)  
Government of India  
Ministry of Home Affairs

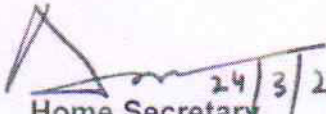
North Block, New Delhi-110001  
Dated 24<sup>th</sup> March, 2020

**ORDER**

Whereas, the National Disaster Management Authority (NDMA), is satisfied that the country is threatened with the spread of COVID-19 epidemic, which has already been declared as a pandemic by the World Health Organisation, and has considered it necessary to take effective measures to prevent its spread across the country and that there is a need for consistency in the application and implementation of various measures across the country while ensuring maintenance of essential services and supplies, including health infrastructure;

Whereas in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, the National Disaster Management Authority (NDMA), has issued an Order no. 1-29/2020-PP (Pt.II) dated 24.03.2020 (Copy enclosed) directing the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities to take effective measures so as to prevent the spread of COVID-19 in the country;

Whereas under directions of the aforesaid Order of NDMA, and in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, hereby issues guidelines, as per the Annexure, to Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions for their strict implementation. This Order shall remain in force, in all parts of the country for a period of 21 days with effect from 25.03.2020.

  
24/3/2020  
Home Secretary

To

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories  
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

**Annexure to Ministry of Home Affairs Order No .40-3/2020-D dated ( )24.03.2020**

**Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities for containment of COVID-19 Epidemic in the Country.**

1. Offices of the Government of India, its Autonomous/ Subordinate Offices and Public Corporations shall remain closed.

*Exceptions:*

Defence, central armed police forces, treasury, public utilities (including petroleum, CNG, LPG, PNG), disaster management, power generation and transmission units, post offices, National Informatics Centre, Early Warning Agencies

2. Offices of the State/ Union Territory Governments, their Autonomous Bodies, Corporations, etc. shall remain closed.

*Exceptions:*

- a. Police, home guards, civil defence, fire and emergency services, disaster management, and prisons.
- b. District administration and Treasury
- c. Electricity, water, sanitation
- d. Municipal bodies—Only staff required for essential services like sanitation, personnel related to water supply etc

*The above offices (Sl. No 1 & 2) should work with minimum number of employees. All other offices may continue to work-from-home only.*

3. Hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector, such as dispensaries, chemist and medical equipment shops, laboratories, clinics, nursing homes, ambulance etc. will continue to remain functional. The transportation for all medical personnel, nurses, para-medical staff, other hospital support services be permitted.

4. Commercial and private establishments shall be closed down.

*Exceptions:*

- a. Shops, including ration shops (under PDS), dealing with food, groceries, fruits and vegetables, dairy and milk booths, meat and fish, animal fodder. However, district authorities may encourage and facilitate home delivery to minimize the movement of individuals outside their homes.
- b. Banks, insurance offices, and ATMs.
- c. Print and electronic media
- d. Telecommunications, internet services, broadcasting and cable services. IT and IT enabled Services only (for essential services) and as far as possible to work from home.
- e. Delivery of all essential goods including food, pharmaceuticals, medical equipment through E-commerce.

- f. Petrol pumps, LPG, Petroleum and gas retail and storage outlets.
- g. Power generation, transmission and distribution units and services.
- h. Capital and debt market services as notified by the Securities and Exchange Board of India
- i. Cold storage and warehousing services.
- j. Private security services

All other establishments may work-from-home only.

5. Industrial Establishments will remain closed.  
Exceptions:
  - a. Manufacturing units of essential commodities.
  - b. Production units, which require continuous process, after obtaining required permission from the State Government
6. All transport services – air, rail, roadways – will remain suspended.  
Exceptions:
  - a. Transportation for essential goods only.
  - b. Fire, law and order and emergency services.
7. Hospitality Services to remain suspended  
Exceptions:
  - a. Hotels, homestays, lodges and motels, which are accommodating tourists and persons stranded due to lockdown, medical and emergency staff, air and sea crew.
  - b. Establishments used/ earmarked for quarantine facilities.
8. All educational, training, research, coaching institutions etc. shall remain closed.
9. All places of worship shall be closed for public. No religious congregations will be permitted, without any exception.
10. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions / gatherings shall be barred.
11. In case of funerals, congregation of not more than twenty persons will be permitted.
12. All persons who have arrived into India after 15.02.2020, and all such persons who have been directed by health care personnel to remain under strict home/ institutional quarantine for a period as decided by local Health Authorities, failing which they will be liable to legal action under Sec. 188 of the IPC.
13. Wherever exceptions to above containment measures have been allowed, the organisations/employers must ensure necessary precautions against COVID-19

virus, as well as social distance measures, as advised by the Health Department from time to time.

14. In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such incident commander. The Incident Commander will issue passes for enabling essential movements as explained.
15. All enforcing authorities to note that these strict restrictions fundamentally relate to movement of people, but not to that of essential goods.
16. The Incident Commanders will in particular ensure that all efforts for mobilisation of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.
17. Any person violating these containment measures will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC (as per Appendix).
18. The above containment measures will remain in force, in all parts of the country, for a period of 21 days with effect from 25.03.2020.

  
Union Home Secretary

Appendix**1. Section 51 to 60 of the Disaster Management Act, 2005**

## OFFENCES AND PENALTIES

**51. Punishment for obstruction, etc.**—Whoever, without reasonable cause —

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

**52. Punishment for false claim.**—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

**53. Punishment for misappropriation of money or materials, etc.**—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

**54. Punishment for false warning.**—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

**55. Offences by Departments of the Government.**—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the



offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.**—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

**57. Penalty for contravention of any order regarding requisitioning.**—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**58. Offence by companies.**—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section— (a) “company” means any body corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.

**59. Previous sanction for prosecution.**—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

**60. Cognizance of offences.**—No court shall take cognizance of an offence under this Act except on a complaint made by— (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to

the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

## 2. Section 188 in The Indian Penal Code

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

### *Illustration*

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

Sachin  
True Copy

THE TIMES OF INDIA



US becomes the first country to record more than 1,000 coronavirus deaths in a day. WHO says in a few days, world will see 1 million confirmed cases & death toll will climb to 50,000



LOCKDOWN 9 JEE (Advanced) postponed, fresh date soon

AGENT RANA Ongoing the extraordinary...

3 states hike VAT, fuel price up 11

HC scraps Kerala liquor sale move

No chewing gum sale in Haryana

Daniel Pearl case: Death sentence of Qaida ultra nixed

Delhi HC: Minor can donate liver

Riots: Jamia student held

129 of 141 new corona cases in Delhi connected to Jamaat

AIIMS Resident Is 8th City Doc To Test Positive

OVER 13K ATTENDED DELHI MEET, SAY ANDHRA COPS

22 members arrested in MP districts of Rewa and Alwar...

Nearly 65% of 544 new all-India cases linked to TJ's event in city

CORONA COUNT CROSSES 2,500. Table with columns: State, Confirmed, Recovered, Deaths, Active. Rows: Maharashtra, Tamil Nadu, Delhi, Kerala, Karnataka, West Bengal, Andhra Pradesh, Kerala, Total India.

PM: Common, staggered lockdown exit plan needed

Indicates To CMs Curbs May Stay In Danger Zones

New Delhi: Indicating that...

'Religious leaders must show the way'

PM's video message to nation at 8pm

Min: Post-lockdown, int'l flights to India on country-to-country basis

All flights to take foreigners home

Doctors wary over the new testing strategy

Cops wary of snooping on 25,000 under quarantine

New testing strategy? Rapid antibody tests in hotspots

WHAT'S THE PLAN? COVID-19 hotspots may be targeted...

Govt app to help track infection

Insurers question high cost of Covid-19 treatment in pvt hosps

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Toi, 3rd April, 2020

(Excerpted from Page 1)

## Insurers question high cost of Covid-19 treatment in pvt hosps

Rajesh Chandramouli  
and Rachel Chitra || TNN

**Chennai/Bengaluru:** When Sanjay Nagral, a surgeon, tweeted that a Covid-19 patient was billed Rs 12 lakh for treatment in a private hospital, it raised eyebrows among insurers and agents. After all, how much insurance would the virus need?

With private hospitals now offering coronavirus treatment, health insurance claims ranging from Rs 90,000 to Rs 6.5 lakh are trickling in. A clamor

is already building up for 'package rates' to address concerns of inflated bills.

"While hospitals are doing a commendable job, we also see some cases of enhanced

**► Govt extends motor, health cover validity till April 21, P 10**

stay, abuse of antibiotics and bundling of procedures," said Dr S Prakash, MD of Star Health. Star Health has settled 41 claims till date with the highest amounting to Rs 6.5 lakh.

Sources said the General

Insurance Council (GIC) is seeking government intervention to define a treatment protocol, along with package rates, on the lines of what insurers pay for routine medical insurance claims. "With no surgical intervention, the protocol should be the same, unless there are other medical complications for the patient. One cannot pass off usage of 300 gloves or one PPE suit for one patient in a day," an industry source said.

**► Continued on P 10**

Times of India. 3rd April 2020

# Health insurance rates regulated but healthcare rates are not, says co official

► Continued from P 1

Another chief of a non-life company pointed out that health insurance rates are regulated but healthcare rates are not. He said that after years of dealing with hospitals, insurers have negotiated rates for some procedures with hospitals that are part of their network. "In case it (the claim) is from a non-networked hospital, then during the time of reimbursement we might partially reject the claim if we feel the hospital was artificially inflating its rates," he said.

Hospitals say the approach to Covid-19 patients in terms of treatment is not different. "The drugs and treatment are similar to what we use in the case of oth-



Insurers seek govt intervention for package rates

er respiratory ailments. So the largest item being billed might be room rent and personal protective equipment (PPE) used by the hospital staff attending on the patient," said Dr Manish Rai, head of Manipal Group Hospitals. "As for the use of a ventilator—that would be for a very few patients. We don't have a sufficiently large database in

the case of Covid-19 to say anything concrete," he added.

The pandemic claims are categorised under three categories—mild, moderate and severe—depending on infection levels. While the mild cases have seen hospitalisation of 5.5 days, the moderate last 7 days and the severe at least 11 days with a minimum two-day stay in the ICU. ICICI Lombard has also started to get Covid-19 claims. "The average size of the claim is Rs 5 lakh to Rs 6 lakh," said Sanjay Datta, chief of underwriting, claims and reinsurance. With the government already capping rates for the virus testing at Rs 4,500, insurers are seeking intervention to set package rates.

"These are early days. We

will move towards standardisation as we go forward. We will take up the matter with the government through the General Insurance Council (a grouping of nearly 50 general and health insurance companies)," an official at a medical insurance company said.

Girija Kumar, chairman, Oriental Insurance, feels that it is premature to talk about pricing. "There are not enough cases for us to come to any conclusions in this regard. At Oriental, we've received only 3 claims so far. Insurance claims are no indicator of the treatment costs for the 2,000-odd Covid-19 patients currently in India as the health insurance penetration in India is poor," he says.

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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
DEPARTMENT OF HEALTH & FAMILY WELFARE

9<sup>TH</sup> LEVEL, A WING, DELHI SECRETARIAT/ESTATE, NEW DELHI-110002.  
No.ss4hfw/274-284 Dated : 07/04/2020

Minutes of meeting held on 6/04/2020 at 3:00 PM under the Chairmanship of Hon'ble Health Minister (Delhi).

A meeting was convened by Hon'ble Health Minister (Delhi) on 06/04/2020 at 3:00 PM to discuss various issues of COVID-19 with Senior Officials of Health Department, GNCTD and representatives of following Pvt. Hospitals.


1. Indraprastha Apollo Hospital, Sarita Vihar
2. Sir Ganga Ram Hospital, Rajendra Nagar
3. Batra Hospital, Tughlakabad Inst. Area
4. Maharaja Agrasen Hospital, Punjabi Bagh
5. Fortis SS Hospital, Shalimar Bagh
6. Sri Balaji Action Medical Inst., Paschim Vihar
7. Venkateshwar Hospital, Dwarka
8. Manipal Hospital, Dwarka

In the meeting following points were discussed & decision were taken;

1. It was informed that Delhi Government is buying one lacs 'Rapid Test kits' for COVID-19 which could give instant results and it was decided to share the same with private hospitals. Further, List of authorised supplier of 'Rapid Test kits' for COVID-19 would be provided to all private hospitals Dr R N Das.
2. It was informed that around 3500 beds would be made available in LNH+GBPH, RGSSH and GTBH together, where patients could get the free treatment of COVID-19.
3. Simultaneously, it was decided that all private hospitals participating in the meeting will remain in state of readiness to be declared as COVID-19 dedicated hospital/Block, in case outbreak of COVID-19. However, following three Hospitals are declared COVID-19 Hospitals where patients can get treatment of COVID-19 on payment.
  - a. Gangaram Kolmat Hospital (42 Beds)
  - b. One Block of Indraprastha Apollo Hospital (50 Beds)
  - a. Max Devkidevi Hospital (East Block), Saket (36 Beds)
4. It further briefed that all private Hospitals should carry out initial screening of patients in their hospitals at flue corner for COVID-19.
5. All hospitals are required to get their staff trained for COVID-19 to manage COVID-19, if their hospital is declared as COVID-19 dedicated Hospital.
6. All patients of COVID-19 positive patients are required to be shifted to COVID-19 dedicated Hospital on confirmation except where patient is already on ventilator support.



7. All COVID-19 tests would be done of patients admitted even in private hospitals at government facilities by just sending samples to Government Labs.
8. All private Hospitals assured their full cooperation if their services are required to fight with COVID-19.
9. Meeting was ended with vote of Thank to the Chair.

  
(S.M. Ali)  
Spl. Secretary (H&FW)  
07/04/2020

Conv to:-

1. PA to Secretary(H&FW),9<sup>th</sup> Floor, Delhi Secretariat
2. Director General Health Services, Karkardooma, New Delhi
3. OSD to Minister (Health)
4. Indraprastha Apollo Hospital, Sarita Vihar
5. Sir Ganga Ram Hospital, Rajendra Nagar
6. Batra Hospital, Tughlakabad Inst. Area
7. Maharaja Agrasen Hospital, Punjabi Bagh
8. Fortis SS Hospital, Shalimar Bagh
9. Sri Balaji Action Medical Inst., Paschim Vihar
10. Venkateshwar Hospital, Dwarka
11. Manipal Hospital, Dwarka

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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) Diary No(s). 10816/2020

SHASHANK DEO SUDHI

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

O R D E R

The Court convened through Video Conferencing.

This Court by order dated 03.04.2020 had directed the petitioner to serve a copy of the petition to learned Solicitor General of India.

Notice.

Two weeks time is allowed to respondents to file an affidavit in reply.

This writ petition under Article 32 of the Constitution of India filed as Public Interest Litigation seeks a direction to the respondents for ensuring to provide free of cost testing facility of COVID-19 (Coronavirus) by all testing Labs whether private or Government. The petitioner has also challenged the Advisory dated 17.03.2020 issued by Indian Council of Medical Research Department

Signature valid

Digitally signed by  
ASHOK KUMAR  
Date: 2020.04.05  
18:21:30 +05'30'

Health Research, insofar as it fixed Rs.4500 for screening and confirming COVID-19. The petitioner also prays that a direction be issued that all the tests relating to COVID-19 must be carried out



under NABL accredited Labs or any agencies approved by WHO or ICMR. Even before the COVID-19 was declared a pandemic by WHO on 11.03.2020, it had spread in several countries. As of now, more than 200 countries are suffering from this pandemic. The number of patients suffering from COVID-19 is rapidly increasing Worldwide with death toll rising rapidly. In our country, in spite of various measures taken by the Government of India and different State Government/Union Territory the number of patients and death caused by it is increasing day by day. Our country has a very large population.

The Indian Council of Medical Research Department of Health Research has notified the details of operative Government Laboratories and Private Laboratories to test COVID-19.

We find *prima facie* substance in the submission of petitioner that at this time of national calamity permitting private Labs to charge Rs.4500 for screening and confirmation test of COVID-19 may not be within means of a large part of population of this country and no person be deprived to undergo the COVID-19 test due to non-payment of capped amount of Rs.4500. It is submitted before us that insofar as Government Laboratories are concerned the COVID-19 test is conducted free of cost.

The private Hospitals including Laboratories have an important role to play in containing the scale of pandemic by extending

philanthropic services in the hour of national crisis. We thus are satisfied that the petitioner has made out a case for issuing a direction to the respondents to issue necessary direction to accredited private Labs to conduct free of cost COVID-19 test. The question as to whether the private Laboratories carrying free of cost COVID-19 tests are entitled for any reimbursement of expenses incurred shall be considered later on. We further are of the view that tests relating to COVID-19 must be carried out in NABL accredited Labs or any agencies approved by ICMR.

We, thus, issue following interim directions to the respondents:

(i) The tests relating to COVID-19 whether in approved Government Laboratories or approved private Laboratories shall be free of cost. The respondents shall issue necessary direction in this regard immediately.

(ii) Tests relating to COVID-19 must be carried out in NABL accredited Labs or any agencies approved by WHO or ICMR.

.....J.  
[ASHOK BHUSHAN]

.....J.  
[S. RAVINDRA BHAT]

NEW DELHI;  
APRIL 08, 2020

ITEM NO.8

VIRTUAL COURT

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) Diary No(s). 10816/2020

SHASHANK DEO SUDHI

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

Date : 08-04-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Tushar Mehta, SG

UPON hearing the counsel the Court made the following  
O R D E R

The Court convened through Video Conferencing.

Issue notice.

Two weeks time is allowed to respondents to file an affidavit in reply.

The Court issued the following interim directions to the respondents, in terms of the signed order:

(i) The tests relating to COVID-19 whether in approved Government Laboratories or approved private Laboratories shall be free of cost. The respondents shall issue necessary direction in this regard immediately.

(ii) Tests relating to COVID-19 must be carried out in NABL accredited Labs or any agencies approved by WHO or ICMR.

(ANITA RANI AHUJA)  
COURT MASTER

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

[Signed order is placed on the file]

*Sachin*  
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The Times of India  
Delhi Edn  
9<sup>th</sup> April, 2020

# Insurers get big claims, say private hosps overcharging

Pradeep.Thakur  
@timesgroup.com

**New Delhi:** Insurance filing of 90 patients having Covid-19 symptoms admitted to private hospitals across the country has generated claims of more than Rs 1.95 crore, with total treatment costs growing from an average Rs 1.65 lakh to Rs 2.16 lakh a patient.

The hospitalisation claims have grown with 82% patients still undergoing treatment as of Saturday. On average, per day claim of these patients is over Rs 43,000 when ICU with ventilator cost should not be more than Rs 10,000, said an official. The cost of the treatment, however, can vary according to the level of intervention and specialists consulted.

In one case in Gurgaon, the hospital raised a claim of over Rs 6.70 lakh while the patient is still being treated. The insurance company, so-



Doctors consulting patients at a Kerala hospital

urces said, has cut down claims by 50% as it found many of the expenses booked by the hospital avoidable.

According to sources, health insurance companies, as on April 4, have already settled Rs 66 lakh in claims filed by private hospitals with regard to 27 patients. At present, the billing variation is too wide in case of Covid-19 patients, ranging from Rs 60,000 to Rs 6.70 lakh on an average length of stay of five days.

Sources said for an average hospitalisation of five days, Rs 6.70 lakh was way above a reasonable cost that should not exceed Rs 50,000.

"In absence of standard operating procedure developed by the Centre for treatment of Covid-19 patients, these private hospitals are overcharging in many cases with no standardised rates or any treatment slabs prescribed," the health official said.

Full report on [www.toi.in](http://www.toi.in)

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IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
I.A NO.....OF 2020  
IN  
WRIT PETITION (CIVIL) NO..... OF 2020

IN THE MATTER OF:-

SACHIN JAIN

.....PETITIONER

-VERSUS-

UNION O F INDIA

.....RESPONDENT

APPLICATION FOR EXEMPTION FROM FILING  
ATTESTED/ NOTARISED COPY OF AFFIDAVIT

To,

Hon'ble the Chief Justice of India  
and his companion judges of the  
Supreme Court of India

The humble application of the above  
named Applicant/Petitioner

**MOST RESPECTFULLY SHOWETH**

1. The applicant herein has filed the accompanying Writ Petition under Article 32 of the Constitution of India in the nature of Public Interest Litigation , the contents of which may be read as part of this application which are not being repeated for the sake of brevity.

2. The applicant submits that in view of the lockdown the applicant could not get a notary public/oath commissioner to attest the affidavit that is being filed in support of the petition and applications. The applicants solemnly affirms that the facts stated in the petition are true and correct to the best of my knowledge . The Petitioner undertakes to file an attested copy of the affidavit at a later stage if so directed by this Hon'ble court.

3. That the present application is being filed bonafide and in the interest of justice.

#### PRAYER

It is therefore prayed that this Hon'ble court may be pleased to:

- a) Exempt the filling of the Attested/Notarised copy of the affidavit
- ;b) Pass such other order(s) as deem fit in the facts of the case;

Kurukshetra

Drawn By: Petitioner

Dated:11.04.2020

Filed by:

*Sachin Jain*

(SACHIN JAIN)

PETITIONER-IN -PERSON

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

I.A NO.....OF 2020

IN

WRIT PETITION (CIVIL) NO..... OF 2020

IN THE MATTER OF:-

SACHIN JAIN

.....PETITIONER

-VERSUS-

UNION OF INDIA

.....RESPONDENT

APPLICATION FOR URGENT HEARING

To,

Hon'ble the Chief Justice of India  
and his companion judges of the  
Supreme Court of India

The humble application of the above  
named Applicant/Petitioner

**MOST RESPECTFULLY SHOWETH**

1. The applicant herein has filed the accompanying Writ Petition under Article 32 of the Constitution of India in the nature of Public Interest Litigation, the contents of which may be read as part of this application which are not being repeated for the sake of brevity.

2. The applicant submits that the matter is of very urgent nature in view of the fact that it pertains to seeking directions for an urgent regularization of treatment tariff being charged by the private hospitals across the country from the patients of Covid-19 pandemic.

3. That a serious prejudice is likely to be caused to the fundamental and human rights of the citizens of India in the event the public sector reaches a saturation in terms of its capacity to admit more patients and the patients in need fail to afford the expansive treatment from the private health sector.

4. In such circumstances, it is expedient in the interest of justice that the present matter is taken up for hearing on an urgent basis through Vidyo App or in the alternative by way of What App or FACETIME on the applicant's mobile No. 98185-44445.

5. That the present application is being filed bonafide and in the interest of justice.

#### PRAYER

It is therefore prayed that this Hon'ble court may most graciously be pleased to:



a) Allow the urgent listing and hearing of the accompanying Writ  
Petition;

b) Pass such other order(s) as deem fit in the facts and circumstances  
of the case;

Kurukshetra

Drawn By: Petitioner

Dated: 11.04.2020

Filed by:

*Sachin Jain*

(SACHIN JAIN)

PETITIONER-IN -PERSON