

Court No. - 7

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 574 of 2020

Petitioner :- In-Re Inhuman Condition At Quarantine Centres And For Providing Better Treatment To Corona Positive

Respondent :- State of U.P.

Counsel for Petitioner :- Gaurav Kumar Gaur, Abhinav Gaur, Aditya Singh Parihar, Amitanshu Gour, Arvind Kumar Goswami, Bhagwan Dutt Pandey, Ishir Sripat, Jamil Ahamad Azmi, Jitendra Kumar, Katyayini, Pradeep Kumar Srinette, R.K. Shahi, Rahul Sahai, Rajeev Kumar Singh, Rishu Mishra, S.P.S. Chauhan, Sarveshwari Prasad, Satyaveer Singh, Shailendra Garg, Siddharth Shukla, Sunita Sharma, Suo Moto, Sushil Kumar Mishra, Swetashwa Agarwal, Uttar Kumar Goswami, Vibhu Rai

Counsel for Respondent :- C.S.C., Arun Kumar, Ashish Mishra, Dhiraj Singh, Hari Nath Tripathi, Purnendu Kumar Singh, Satyavrat Sahai, Sunil Dutt Kautilya, Suresh Chandra Dwivedi, Tahir Husain, Vishakha Pande

Hon'ble Siddhartha Varma, J.

Hon'ble Ajit Kumar, J.

1. Heard Shri Manish Goel, learned Additional Advocate General assisted by Shri A.K. Goel, learned Additional Chief Standing Counsel, Shri S.K. Singh, learned Additional Solicitor General of India assisted by Shri Purnendra Kumar Singh, learned counsel appearing for Union of India and learned Advocate Commissioners.

2. Shri Bhanu Chandra Goswami, District Magistrate, Prayagraj; and Shri Mohit Jain, Nodal Officer, Swaroop Rani Medical College, Prayagraj have also appeared through video conferencing and have been heard.

3. The recent surge of pandemic COVID-19 has virtually incapacitated all our medical infrastructure in the State of U.P. and specially in cities like Prayagraj, Lucknow, Varanasi, Kanpur and Gorakhpur. It appears that the pandemic is teasing the system in a situation where patients have outnumbered the hospital beds and people are just running from pillar to post and in this process attendants of patients are not only getting infected but others in public are also getting infected and a complete chain has got formed. Before it further spirals to engulf in it the entire population of these badly hit districts, it is necessary to take some harsh steps in larger public interest. We know that putting a lockdown to public activities is a matter purely in the nature of policy decision by the concerned government and it was in keeping with this principle that we in our last order dated 13.04.2021, had directed the

government to think about restricting public movement to break the chain of Covid infection. However, in the affidavit filed today nothing concrete has been placed before us. No concrete plan has yet been chalked out in the light of our observations made in our last order though some efforts of course, have been made to engage some private hospitals to convert them as Covid hospitals, but even there facilities available are not upto mark. We also do not see anything new in the government guidelines issued on 17.04.2021.

Bar & Bench (www.barandbench.com)

4. We understand the limitation of the government in creating infrastructure forthwith to meet the challenge of COVID-19. At the moment efforts are afoot to create the same but before all efforts are translated into action much water would have flown under the bridge to the utter dismay of a large population of have nots. We are of the view that in a democracy there are legitimate expectations from the government to adopt measures to meet public health issues like all other issues of public interest. Public interest expects judiciary to remain vigilant to all the issues which if not not

addressed to in time, will result in the failure of the system which is meant to safeguard public interest.

5. In any civilised society if public health system is not able to meet the challenges and people die for want of proper medication, it means there has been no proper development. Health and education go side-by-side. Those in the helm of affairs of governance are to be blamed for the present chaotic health problems and more so when there is a democracy which means a government of the people, by the people and for the people.

6. We take the example of population of the city area of Prayagraj (Allahabad) which is nearly 30 lakhs and total available beds in the government hospitals which are 12 in number, are 1477 (L2 and L3) and 500 in L1 category and further beds in ICUs are only 514. Thus the medical health infrastructure that the government has developed in the past, can cater to the needs of less than 0.5% of the city population. In villages the situation is still worse. These figures might be

approximate ones but may quite explain the situation.

7. We further notice that government has a plan to set up three 1000 bedded make shift hospitals at Lucknow. Similarly there is a plan to increase 20 beds every day to the existing infrastructure at Prayagraj. If we consider the efforts against per day count of COVID positive cases that are around 8-9 thousands in only two districts of Prayagraj and Lucknow and per day seekers to admission in COVID hospitals being 500-1000 as minimum, the current efforts won't be of much help in terms of required need of medical health in this 21st century of modern era. If people die of pandemic in a large number due to paucity of sufficient medical aid it would be the governments to blame which failed to counter the pandemic even after one long year of experience and learning. One would only laugh at us that we have enough to spend on elections and very little to spend on public health.

8. One cannot even imagine what will happen if only 10% of the city population gets infected and needs

medical help in hospitals. How the government will manage with the presently existing infrastructure is anybody's guess.

9. We have been informed that people are getting developed influenza like infections in every fifth house of every Mohalla in the city and tracking-tracing and testing system, if has not failed, has certainly not been able to meet the requirement of the population of the city. Reports are neither updated before 72 hours nor, samples are taken care of, owing to the shortage of manpower. Only VVIPs are getting reports within 6-12 hours. Thus early testing scheme or plan is a farce.

10. We have also been informed that a large number of the medical and health workers are either in isolation or quarantined for becoming COVID positive and the system of medical health is being managed with 1/3rd strength only and that too has gone tired due to the 24x7 service.

11. Economy, economy and economy is the only tune that the government is all the time harping upon, but

bread and butter if you take to a person who needs oxygen and medication, it will be of no use to him. You may have grocery shops with full of eatables and industries which produce bikes and cars but all this won't be of any use if your medical shops run out of stock of life saving drugs like Remdesvire in the current surge of pandemic. It is a shame that while the Government knew of the magnitude of the second wave it never planned things in advance.

12. If hospitals are not able to provide beds and oxygen we are sure that cities like Prayagraj, Lucknow, Varanasi Kanpur and Gorakhpur in the State of you U.P. cannot provide medical aid to even 10% of the populations at any given point of time. If hospitals' staff and medicos go ill for the relentless services to cure people in the pandemic, people would start losing their lives and all pomp and show of development would be of no avail.

13. In such above situation, the night curfew in the name of Corona Curfew and the weekend Curfew are

nothing else but a mere eyewash. It was probably an effort to show that our last order had been taken care of. We are however, not satisfied at all. We see people are largely not following our order for putting masks on their faces nor, the police could ensure 100% masking till date.

14. We must record our displeasure the way government and the State Election Commission proceeded to hold election forcing teachers and other government staff to perform duties exposing themselves to the threat of pandemic that looms large these days. The police was virtually shifted to polling places giving priority to election above public health.

15. In the state of Uttar Pradesh where COVID-19 has taken the form of a pandemic the authorities which were holding the Panchayat elections, were fully in the know of the fact that no activity had to take place where it was not possible to keep people away from each other.

16. Further the photographs of the various places

where elections were held definitely show that no social distancing was maintained. Also we find that on many occasions in various political rallies masks were never worn by people. In our considered view action is liable to be taken against the organisers who did not anticipate such eventualities under the Uttar Pradesh Public Health Epidemic Diseases Act, 2020 and/ or any other relevant Act in force. The action taken shall be placed before us on the next date fixed.

17. As we have discussed above and also noticed, the situation has worsened due to recent outbreak of Covid-19 pandemic since the last one week, we are of the definite view that if things are not arrested to give some respite to medical and paramedical staff, the entire system would collapse and relief will be confined to VIPs and VVIPs. We find from the scenario that emerges from the Government Hospitals that admission of patients to ICUs are largely being done on the recommendation of VIPs. Even supply of life saving anti viral drug namely Remdesivire is being provided only on the recommendation of VIPs. VIPs and VVIPs are

getting their RT-PCR report within 12 hours, whereas, ordinary citizen is kept waiting for such reports for two to three days and thus, spreading further infection to other members of his/her family. We cannot lose site of a fact that large number of doctors of King George Hospital and other hospitals like Swaroop Rani Nehru Medical Hospital have gone into isolation after being tested Covid positive. Even the Chief Minister of the State is in isolation in Lucknow. If popular government has its own political compulsions in not checking public movements during this pandemic, we can not remain mere passive spectators. Public health is the top most priority and call of the moment and any complacency of any degree today will cause havoc to people. We can't shirk away from our constitutional duty to save innocent people from the pandemic which is spreading due to the negligence of a few.

18. Thus in the larger public interest, we are called upon to pass orders to break the chain of the pandemic COVID-19.

19. We are of the considered view that in given scenario of present time if people are restrained from going outside their homes for a week in the first instance, the current chain of spread of COVID infection can be broken and this will also give some respite to the frontline medical and health workers who would pay more attention to those patients who are already admitted. They would also get some sort of much required short rest as they are getting exhausted. Accordingly we are passing the following directions in respect of cities of Prayagraj, Lucknow, Varanasi, Kanpur Nagar and Gorakhpur, and we direct the government to strictly enforce them forthwith:

1. All establishments be it government or private, except financial institutions and financial departments, medical and health services, industrial and scientific establishments, essential services including municipal functions, and public transport, shall remain closed till 26th April, 2021. The judiciary will however, function on its own discretion;
2. All shopping complexes and malls shall remain closed till 26th April, 2021;

3. All grocery shops and other commercial shops excluding medical shops, with more than three workers shall remain closed till 26th April, 2021;

4. All hotels, restaurants and even the small eating points on thel as etc. shall remain closed till 26th April, 2021;

5. All institutions like educational institutions and other institutions relating to other disciplines and activities be it government, semi government or private shall remain closed including for their teachers and instructors and other staff till 26th April, 2021 **(this direction is for the whole of Uttar Pradesh);**

6. No social functions and gatherings including marriage functions shall be permitted till 26th April, 2021. However, in case of already fixed marriages a necessary further permission would have to be taken from the District Magistrate of the concerned district. Gatherings would be limited to 25 persons and the district magistrate concerned shall take decision after giving due consideration to the prevailing situation of the impact of Covid 19 including notification of containment zones in the area where such marriage has to take place;

7. All religious activities in public of any kind is directed to remain suspended till 26th April, 2021;

8. All religious establishments of any kind are directed to remain closed till 26th April, 2021;

9. All hawkers including fruits and vegetable vendors, milk vendors and bread vendors, shall go off the road by 11 AM every day till 26th April, 2021;

10. Containment zones shall be notified every day in two leading Hindi and English newspapers having wide circulation in the districts of Prayagraj, Lucknow, Varanasi, Kanpur Nagar/ Dehat and Gorakhpur.

11. All public movements on roads would remain restricted completely, subject to above directions. Movements would be only allowed in case of medical help and emergencies.

12. In addition to the above directions, we direct the State Government to go robust for implementing the current vaccination programme.

20. Let a copy of this order be sent to the Chief Secretary, Government of Uttar Pradesh today itself to

enforce our above directions forthwith from the night of 19.04.2021 till 26.04.2021 in the cities of Prayagraj, Lucknow, Varanasi, Kanpur Nagar, and Gorakhpur. Copies of this order shall also be placed before the District Magistrates of the concerned districts.

21. Our above directions are nowhere close to a complete lockdown. We are conscious of the fact that before imposing a lockdown the concerned government has to work out various modalities. In this order if we have not imposed a lockdown it does not mean that we do not believe in it. We are still of the view that if we want to break the chain a lockdown for a duration of at least two weeks is a must.

22. We, therefore, once again in addition to the directions we have already given, direct the government to consider imposition of a complete lockdown in the entire state for at least a period of two weeks. This would not only break the chain of the spread of the virus but would also give respite to health workers.

23. Put up this matter again on 26.04.2021 at 11.00
a.m.

(Ajit Kumar,J.) (Siddhartha Varma,J.)

Order Date :- 19.4.2021
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