

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SUO MOTO CRIMINAL PUBLIC INTEREST LITIGATION NO.1 OF 2020

The Registrar (Judicial),
High Court of Judicature of Bombay,
Bench at Aurangabad.

...PETITIONER

-VERSUS-

A) THE UNION OF INDIA

- 1) The Secretary,
Ministry of Home Affairs,
Government of India,
New Delhi.
- 2) The Secretary,
Ministry of Finance,
Government of India,
New Delhi.
- 3) The Secretary,
Ministry of Health and Family Welfare,
Government of India,
New Delhi.
- 4) The Secretary,
Ministry of Railways,
Government of India,
New Delhi.
- 5) The Indian Council of Medical and Reserach,
Through the Director General,
Government of India,
New Delhi.

B) THE STATE OF MAHARASHTRA

- 6) The State of Maharashtra,
Through the Chief Secretary,

Mantralay, Mumbai.

- 7) The Secretary,
Revenue and Forest Department,
Mantralay, Mumbai.
- 8) The Secretary,
Home Department, M.S.,
Mantralay, Mumbai.
- 9) The Secretary,
Urban Development Department, M.S.,
Mantralay, Mumbai.
- 10) The Secretary,
Finance Department, M.S.,
Mantralay, Mumbai.
- 11) The Secretary,
Public Health Department, M.S.,
Mantralay, Mumbai.
- 12) The Commissioner,
Public Health Service,
Aarogya Bhavan, St. George Hospital,
P. D'mello Road, Mumbai.
- 13) The Divisional Commissioner,
Aurangabad Division,
Aurangabad.
- 14) The Divisional Commissioner,
Nashik Division,
Nashik.
- 15) The District Collector,
Aurangabad.
- 16) The District Collector,
Ahmednagar.
- 17) The District Collector,
Beed.

- 18) The District Collector,
Dhule.
- 19) The District Collector,
Hingoli.
- 20) The District Collector,
Jalgaon.
- 21) The District Collector,
Jalna.
- 22) The District Collector,
Latur
- 23) The District Collector,
Nanded
- 24) The District Collector,
Nandurabar
- 25) The District Collector,
Osmanabad
- 26) The District Collector,
Parbhani
- 27) The Commissioner of Police,
Aurangabad
- 28) The Superintendent of Police,
Aurangabad
- 29) The Superintendent of Police,
Ahmednagar
- 30) The Superintendent of Police,
Beed
- 31) The Superintendent of Police,
Dhule

- 32) The Superintendent of Police,
Hingoli
- 33) The Superintendent of Police,
Jalgaon
- 34) The Superintendent of Police,
Jalna
- 35) The Superintendent of Police,
Latur
- 36) The Superintendent of Police,
Nanded
- 37) The Superintendent of Police,
Nandurabar
- 38) The Superintendent of Police,
Osmanabad
- 39) The Superintendent of Police,
Parbhani
- 40) The Dean,
Government Hospital And
Training Institute,
Aurangabad.

C) MUNICIPAL CORPORATIONS

- 41) The Municipal Commissioner,
Aurangabad Municipal Corporation,
Aurangabad.

Added as per leave granted vide order dated 07.07.2020:-

- 42) The Municipal Commissioner,
Ahmednagar Municipal Corporation,
Ahmednagar
- 43) The Municipal Commissioner,

Dhule Municipal Corporation,
Dhule

- 44) The Municipal Commissioner,
Jalgaon Municipal Corporation,
Jalgaon
- 45) The Municipal Commissioner,
Latur Municipal Corporation,
Latur
- 46) The Municipal Commissioner,
Nanded Municipal Corporation,
Nanded
- 47) The Municipal Commissioner,
Parbhani Municipal Corporation,
Parbhani
- 48) The Dean,
Swami Ramanand Teerth Rural Medical College
Ambajogai, District: Beed
- 49) The Dean,
Shri Bhausahab Hire Government Medical College,
Dhule
- 50) The Dean,
Government Medical College,
Jalgaon
- 51) The Dean
Government Medical College
Latur
- 52) The Dean,
Dr. Shankarrao Chavan Government
Medical College
Nanded
- 53) The District Civil Surgeon,
Aurangabad

- 54) The District Civil Surgeon,
Ahmednagar
- 55) The District Civil Surgeon,
Beed
- 56) The District Civil Surgeon,
Dhule
- 57) The District Civil Surgeon,
Hingoli
- 58) The District Civil Surgeon,
Jalgaon
- 59) The District Civil Surgeon,
Jalna
- 60) The District Civil Surgeon,
Latur
- 61) The District Civil Surgeon,
Nanded
- 62) The District Civil Surgeon,
Nandurabar
- 63) The District Civil Surgeon,
Osmanabad
- 64) The District Civil Surgeon,
Parbhani

...RESPONDENTS

WITH
CRIMINAL APPLICATION NO. 1192 OF 2020
IN
CRIMINAL SUO MOTO PIL NO.1 OF 2020

Shri Anna s/o Hiranman Mokale.

...APPLICANT

-VERSUS-

The Registrar (Judicial),
High Court of Bombay,
Bench at Aurangabad and
others.

...RESPONDENTS

WITH
CRIMINAL APPLICATION NO.1246 OF 2020
IN
CRIMINAL SUO MOTO PIL NO.1 OF 2020

Jyoti d/o Dhanraj Bhoi.

...APPLICANT

-VERSUS-

The Registrar (Judicial),
High Court of Bombay,
Bench at Aurangabad and
others.

...RESPONDENTS

...

Mr.Rajendra Deshmukh, Senior Counsel (appointed Amicus Curiae) a/w
Mr.Amol Joshi and Mr.Akshay Kulkarni, Advocates for the petitioner.

Mr.A.G.Talhar, Assistant Solicitor General of India, for the Union of India
authorities.

Mr.D.R.Kale, Public Prosecutor for the Respondent/ State Government
Authorities.

Ms.Anjali Dube-Bajpai, Advocate for respondent No.4.

Mr.A.V.Hon, Advocate for respondent No.45.

Mr.R.K.Ingole, Advocate for respondent No.46.

Mr.S.S.Bora, Advocate for respondent No.47.

Mr.V.V.Deshmukh, Advocate for applicant in Criminal Application No.1192/2020.

Mr.B.R.Waramaa, Advocate for the applicant in Criminal Application No.1246/2020

Mr.G.V.Wani, Advocate for the respondent No.46 in Criminal Application No.1246/2020.

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CORAM : RAVINDRA V. GHUGE
&
SHRIKANT D. KULKARNI, JJ.

Reserved on 07th August, 2020

Pronounced on 18th August, 2020

JUDGMENT (Per Ravindra V. Ghuge, J.):

1 On 04.08.2020, we heard the learned senior advocate/
Amicus Curiae, learned Assistant Solicitor General, learned Public
Prosecutor and the respective learned advocates for the appearing parties.
We had before us the judgment delivered by the learned Division Bench of
this Court at the Principal Seat (Coram : Dipankar Datta, CJ & A.A.Sayed,
J.) dated 12.06.2020 in PIL-CJ-LD-VC-21/2020 (*Jan Swasthya Abhiyan
and another vs. State of Maharashtra and others*) and other connected
PIL matters.

2 After extensive oral submissions on 04.08.2020, the learned counsel appearing for the respective parties sought an opportunity to go through the above referred judgment delivered at the Principal Seat and desired to tender brief written notes on 07.08.2020. We, accordingly, adjourned the matter and scheduled the hearing at 10:00 AM on 07.08.2020, by the consent of the parties.

3 On 07.08.2020, we considered the extensive oral submissions of the respective learned counsel and perused the written notes of submissions tendered by the learned Amicus Curiae and the learned Public Prosecutor.

4 As we embark to pen down this judgment, it would be appropriate to refer to paragraphs 1 to 11 of the PIL judgment (supra) delivered at the Principal Seat as under :-

- "1. *The entire human race has been facing the worst crisis of this century, brought about by a tiny creature. It is a virus, which reportedly originated from unknown causes in Wuhan city in Hubei province of China. Called Corona Virus 2019 – better known in present times as COVID-19 – it has brought about a tearful end to thousands of people all over the world. Even the most developed of nations have not been spared by COVID-19.*
2. *The drastic consequences emerging from the assault of COVID-19 led the World Health Organisation (hereafter “the WHO”) to declare the spread of infection caused by COVID-19 as a pandemic on March 11, 2020.*
3. *COVID-19 also started wreaking havoc in India. To contain the spread of infection caused by COVID-19, the*

Government of India initiated several preventive steps by invoking an enactment of ancient vintage, i.e., the Epidemic Diseases Act, 1897 (hereafter “the ED Act”) and an enactment of fairly recent origin, i.e. the Disaster Management Act, 2005 (hereafter “the DM Act”). Taking a cue from other countries where COVID-19 had already struck fatal blows, the most significant of such steps, which was also unprecedented as COVID-19, had been the announcement of a national lockdown for 21 days from March 24, 2020 restricting the movement of the entire population of India. Such lockdown has been extended from time to time in phases of 19, 14 and 14 days and is presently in force till the end of June 30, 2020 for containment zones, which the District Collectors/Municipal Commissioners have been authorised to identify. Series of regulations in the COVID-19 affected regions have been and are being enforced. The curbs that were imposed did initially result in containment of the pandemic but several other factors contributed to a surge, so much so that as on date India stands fourth in the list of ten most affected nations.

4. *The Indian Council of Medical Research (hereafter “the ICMR”), the apex body in India for the formulation, coordination and promotion of biomedical research, quite naturally stepped into the field. It has issued several advisories/guidelines, as part of its strategy, for regulation of activities to contain the spread of the pandemic and other related matters. Such advisories/guidelines have been of valuable assistance to tread the right path.*
5. *COVID-19, without doubt, poses a national challenge. It does not discriminate between a man and a woman, the old and the young, the rich and the poor, the privileged and the under-privileged. As the current statistics would reveal, senior citizens and persons with comorbidities form the most vulnerable class.*
6. *Despite the executive, at the Centre and the States, and the police having put their heart and soul to evolve policies to contain further spread of COVID-19 and the*

existing medical and para-medical staff with infra-structural support at their disposal tirelessly working 24/7 to attend to patients who have tested positive as well as patients who have been showing symptoms of being infected, apart from those suffering from other diseases, the alarm bells started ringing. The nation was not geared up to face this unprecedented challenge. Complaints of citizens regarding lack of adequate health and medi-care facilities poured in thick and fast. A medical solution to cure the effects of COVID-19 infection not having seen the light of the day yet, the contagion spread far too wide thereby endangering the lives of innocent people.

7. The situation in Maharashtra in general and Mumbai in particular did not present a very different picture from the rest of the nation. Maharashtra has the dubious distinction of being perched at the top of the list of affected States, accounting for nearly 34% of the total active cases. The mortality rate is not below the national level. The projections for June and July are also quite scary. This has been the situation despite the lockdown and the introduction of social distancing norms being in place for nearly two and half months past and, more or less, strictly enforced till the lockdown restrictions were eased quite recently.
8. Regard being had to the outbreak of COVID-19, the Government of Maharashtra in its Public Health Department decided on implementation of all emergency measures to control the communicable disease in the State of Maharashtra. Accordingly, by a notification dated March 13, 2020, invocation of the powers under sections 2, 3 and 4 of the ED Act, 1897 was notified. On the very next date, i.e., March 14, 2020, the Maharashtra COVID-19 Regulations 2020 came to be notified.
9. Keeping in mind that a large number of COVID-19 cases were detected and also that the death rate in COVID-19 positive patients in Mumbai and Mumbai Metropolitan Region were higher in the State than the national

average, the Chief Secretary to the Government of Maharashtra, by an order dated April 13, 2020, conveyed the decision of the Government to constitute a Task Force of specialist doctors to suggest measures to minimize the death rate as well as for clinical management of COVID-19, particularly critically ill COVID-19 patients in the six specialist designated hospitals mentioned therein. The Task Force, under the Chairmanship of Dr.Sanjay Oka, would consist of a total of 8 specialists and they were required to work on the specified terms of reference and to submit its recommendations to the Chief Minister on urgent basis. By a subsequent order dated April 17, 2020, two other specialist doctors were included in the Task Force.

10. Despite the State initiating measures to contain the spread of COVID-19, the number of casualties have since been on the increase and more than 3000 have become dear to God by now while the number of infected persons is fast approaching the lakh mark.

REACTION OF THE CITIZENRY/NGOs

11. No wonder, individuals, social activists/organisations, advocates, etc., based in Maharashtra, wary of the situation and perceiving that the Centre and the States have been remiss in their pursuit to preserve the lives of people, swung into action by taking recourse to legal remedies. Invoking rule 4(e) of the Bombay High Court Public Interest Litigation Rules, 2010, they presented petitions and raised issues alleging mismanagement of COVID-19 cases by the State. Such issues, pivotal to management of COVID-19, covered a wide range."
(Emphasis supplied)

5 This Court (Coram : T.V.Nalawade & Shrikant D. Kulkarni, JJ) had registered this suo moto Criminal PIL by virtue of the order dated 26.06.2020, which reads as under :-

- "1. Yesterday we came across one news item in daily newspapers published in Aurangabad. Elected representatives of all the political parties including the ruling party had come together and they expressed dissatisfaction over the work done by the concerned to control and prevent the spread of COVID-19 virus in Aurangabad District. It is a fact that in Aurangabad, the graph of infected persons has ascending trend and within 24 hours more than 200 cases were detected on 24.6.2020 and more than 260 cases were detected on 25.6.2020. There is also news item that more than 1000 teachers who were given the work of survey of the persons during this pandemic did not turn up and they virtually refused to do this work. There was a news item that the Commissioner Aurangabad Corporation now wants to follow Kerala and Dharvi pattern. It is learnt that the Commissioner is now in home quarantine as his cook was infected due to this virus. If some steps were taken to prevent the spread of the virus then it is necessary to know as to which steps were taken if the pattern like Kerala and Dharvi were not followed in this region. Today, there is one more news in which the Hon'ble Guardian Minister expressed that the power to take steps under relevant laws will be exercised by the Divisional Commissioner in this area. There is also news that the Divisional Revenue Commissioner expressed that there was lack of communication between the District Collector and Commissioner Aurangabad. It is unfortunate that there was lack of communication between these two officers of I.A.S. rank. It can be said that there is the possibility of involvement of ego matter. There is also possibility of non coordination and non -cooperation. In such a situation, all of them including the police machinery need to work together, but it appears that there was no such coordination in this region.
2. It is not that early to say that the stories of Kerala pattern, Dharvi pattern and also Malegaon pattern will be written as stories of success of the officers who handled the situation there. We are afraid that the stories of cities like Aurangabad or Jalgaon for that matter may not be pointed out in future as stories of success of the officers of this region.

3. *Due to the provisions made in the Acts like Epidemic Disease Act 1897, Disaster Management Act 2005 and the Ordinance issued by the Hon'ble President to make amendment in Epidemic Disease Act, 1897 and also due to the notifications issued under these Acts by the State Government on 14.3.2020 and 30.4.2020, all powers are vested in the officers like Collectors, Revenue Commissioners and Commissioners of Corporations to take necessary steps and action to prevent the spread of such virus. Those Acts also give necessary protection to these officers in respect of the acts done by them while exercising such powers. Though such powers are vested in the officers and they can act independently, without getting influenced by the politicians and others, it can be said that some officers acted without fear even of the infection of the virus to them, but some virtually failed to act. Though these Acts give all the powers to the officers, we are living in a system which is democratic republic and only the elected representatives are in touch with the people and they know the problems the people are facing. They only can help the officers for effective implementation of the directions given by the officers under the aforesaid Acts. The grievance of the politicians who had gathered to express dissatisfaction show that the officers were not in touch with them. Thus, this can be also a reason for not implementing effectively the guidelines given by the Center to prevent the spread of the virus. Further, only giving the guidelines or giving directions to subordinate officers is not sufficient in our system. Unfortunately, we have developed such work culture that there is huge negligence and inaction. Considering the danger that virus has created, it is not sufficient to only issue orders, but the authority or the officers created under the Act need to see that the directions given are followed and the guidelines are implemented at the ground root level. It can be said that in our country only poor and middle class persons are sufferers and they suffer when there is such calamity. They have no other alternative than to go to public institutions for treatment, help and protection. This circumstance needs to be kept in mind by these officers.*
4. *Many doctors and other health workers working in the*

public health centers are working with devotion, they have virtually sacrificed their family life and most of them continued to work when they got infected. There are few public servants including the health workers who have stopped attending duty by giving lame excuses. There are few public servants who attend the duty for name sake, but they do not show devotion. There are some who are on duty, but who avoid to attend the infected persons. As already observed, the other persons who are directed to do the duty of survey also need to do the work to control and prevent the spread of virus. It appears that due to some such persons who are not discharging the duty with devotion, the virus has spread to the present extent. In view of these circumstances, some directions need to be issued to enable the officers, authorities mentioned in the aforesaid Acts to act effectively. That can be done by taking action against the persons who are refusing or avoiding to discharge their duties assigned to them.

5. There was news item that in Jalna in Public Health Center, one old infected lady died and her dead body was lying in toilet block of the isolation cell for two days, but the Health Center gave report to outside that the lady was missing. This news creates a probability that the persons who are expected to attend the patients are not actually attending the patients and they are left inside with their own fate and without giving treatment to them. There were instances reported in newspapers that dead bodies were handed over to the relatives of the deceased even when swab was taken and report in respect of swab was awaited. There are news items showing that the persons who were quarantine in institutions were missing. There were also news that the persons who are kept in quarantine in institution and who are receiving the treatment in isolation are not receiving food or proper food in time. This is happening only due to the negligence of the concerned.
6. The statement made by the Commissioner of Municipal Corporation, Aurangabad that now he wants to follow Kerala and Dharvi pattern shows that there is a probability that contact tracing was not done properly in this region. That is also one reason for having ascending graph of the infected persons.

7. *In the aforesaid Acts, there are provisions which say that offences are committed under the Act by the act of commission or omission. Specific instances are mentioned by this Court though they are on the basis of news items. In such a situation, the authority and the State need to be very strict and even harsh and they need to go to the extent of using power given under Article 311 of Constitution of India against the persons who are not discharging the duty, in addition to registering the crimes against them under the aforesaid Acts. This Court is limiting the scope of this proceeding for taking criminal action against such persons so that the persons involved in the work of control of the virus discharge the duty with devotion and they realise that they will loose their jobs if they do not turn up to attend the duty or if they show negligence in discharge of the duty.*
8. *The aforesaid circumstances need to be made known to the public at large. It can be said that it is a fault of the system that there was apparently no coordination amongst the officers who were involved in implementing the guidelines. This Court wants only to help them to implement the guidelines and to take necessary steps which need to be taken as per the situation which is prevailing in this region at various places. That can be done by showing to all the concerned that they will not be spared if they do not attend the duty or they show negligence in discharging the duty. Only with this view, this Court is giving some interim directions to the respondents. The respondents are to be the officers appointed under the aforesaid Acts of all the districts police etc. which are covered under jurisdiction of this Court. The State, Home Department and Health Department of State are also to be made respondents. The directions are as under :-*
 - (i) *The respondents are to report to this Court about the employees who stopped attending the duty in public hospitals and also in other public offices when they were expected to work for the prevention of spread of the virus.*
 - (ii) *The respondents are to report to this Court about the action taken against the employees who did not turn up to discharge the duty. The respondents are to see that proper action including action of registration of the crime is*

taken against such employees and report about it is given to this Court.

- (iii) The respondents are to report to this Court about the action taken against the private laboratories and private hospitals and others who did not report the cases of infections due to this virus and the deaths caused due to this virus to the concerned.*
- (iv) The respondents are to report to this Court about the action taken against the private hospitals who have refused the admissions not only to COVID-19 patients, virus affected persons, but also to the other patients by giving lame excuses. The criminal action can be taken against them.*
- (v) The respondents are to report to this Court about the action taken for negligence shown by the persons involved in this work in discharge of the duty and when the specific instances are reported against them. The respondents are to see that criminal action is taken against them.*
- (vi) The respondents are to see that the record in respect of contact tracing is now preserved. This Court wants to ascertain as to whether the teams/squads created for contact tracing have honestly worked and they have collected necessary information. They are expected to create the record to show that they did visit to various places to trace the contacts of the infected persons.*
- (vii) The respondents are expected to create the facilities like CCTV cameras at the institutions where persons are kept in quarantine and also at the centers where the persons are kept in isolation so that it can be ascertained as to whether proper attention is paid to them and proper treatment is given to them. This record needs to be preserved as this Court would like to use it for taking action against the persons who show negligence.*

- 9. It appears that though containment zones were declared, the movement of the persons from the containment zones or from the sealed building were not restricted and that is also one of the reason for the present situation created in this region. It can be said that this is one of the offshoot of absence of coordination between the officers appointed under the aforesaid Acts and police machinery. In view of these circumstances, the Police Commissioner and all the*

District Superintendents of Police of this region are also to be made party respondents in this proceeding.

10. *It was pointed out by the learned Senior Counsel Shri Deshmukh that one website was made available which could have helped the officers to co-ordinate action of each other, but at present there is no updation of the website. The learned Senior Counsel drew the attention of this Court to website by name 'join the war against covid-19 register as volunteer' and 'my government meri sarkar'. The public prosecutor to look in to this matter also.*
11. *The learned Public Prosecutor is there. He has heard the order. He is to communicate this order to all the authorities created under the aforesaid Acts for compliance. Learned Senior Counsel Shri. Rajendra Deshmukh has kindly consented to work as amicus curiae and represent the Registrar Judicial. Copy of the order is to be supplied to him also. He is to prepare the draft of petition as Suo Moto Public Interest Petition in this matter and file it before the next date. We expect that the petition and the prayers are exhaustive and the directions if any which are required to be given, can be implemented to see that the officers appointed under the aforesaid Acts are helped in every way by this Court. Keep the matter on next Friday."*

6 On 03.07.2020, this Court (Coram : T.V.Nalawade & Shrikant

D. Kulkarni, JJ) passed the following order :-

- "1. *Today, learned Senior Counsel Shri. Rajendra Deshmukh submitted that he has prepared the draft of the petition. Hard copy is produced. It is taken on record. Today, the learned Public Prosecutor submitted that he has produced compilation of some papers which contain the necessary directions given by the officers and authorities for preventing the spread of COVID-19 virus. The learned Public Prosecutor submitted that though some actions are being taken against the public servants and against the persons who are not obeying the orders made by the officers and authority created under the Disaster Management Act, 2005, publicity is not given and that is*

why there is feeling that the authority is not acting. The learned counsel for Corporation submitted that Corporation has created one mobile application (App) and information is being supplied to the citizens about the availability of the bed etc. for treatment of affected persons. Learned counsel Shri. Sanjeev Deshpande submitted that he is filing appearance for Central Government.

2. This Court wants to go through the compilation produced by the learned Public Prosecutor in respect of the directions given and steps taken. It is a fact that the graph of the affected persons is still ascending in Aurangabad District and alarming situation is created in Aurangabad District. This Court has already observed that only giving direction is not sufficient, the directions need to be actually implemented and the officers issuing directions need to see that the directions are actually implemented and for that he needs to visit the various sites. It appears that recently some officers have started visiting various sites to see that the directions are followed.
3. Learned Senior Counsel Shri. Deshmukh today brought to the notice of this Court that there is still no discipline in public servants and the persons who are asked to discharge the duty under the programme created to fight virus are remaining absent on duty. He drew the attention of this Court to the news item published in today's newspaper wherein it is informed that the data operator did not resume the duty and the Block Development Officer, who was supervising the work felt helpless and he kept stones at the place where the data operator was discharging the duty. This happened in Dharur, District Beed. It is unfortunate that even when this Court has given necessary directions in that regard, such things are happening. Such persons need to be suspended immediately and if they are appointed on contract basis, contract need to be terminated and criminal action needs to be taken against them. Invariably against every such person such action needs to be taken and things can be corrected only by taking such action. This Court will be going through the record produced by learned Public Prosecutor and on the next date, more exhaustive order will be made and directions will be issued. This Court has

expressed that this Court may visit the sites to see that there is discipline in the staff employed in the aforesaid work and they are discharging their duties seriously and there are no lapses whatsoever and the visit will be paid as surprise visit to the hospitals, to the quarantine institutions and even to the isolation wards and the containment zones. This Court is making it clear that if it is found that the persons who are expected to discharge the duty are not present on the spot and due to that the spread of virus is going on, this Court will be giving directions specifically in respect of those persons to register the crime against those persons immediately and those persons may be of any rank. This Court will not be sparing anyone if such lapses are found.

4. *The learned Senior Counsel Shri. Deshmukh is allowed to produce the compilation of the news items showing the negligence of the concerned. As hard copy of the petition is produced, the office is to supply the copy of the petition to all the concerned who have fled the appearance. Similarly the learned Public Prosecutor is expected to supply copy of compilation and the papers produced to the learned Senior Counsel appointed by this Court. Respective counsels for Central Government, Corporation, State waive notice. The lawyers appointed for various respondents need to file their appearance. Stand over to 7.7.2020."*

7 Vide the above order, this Court had observed, with regard to alleged reluctance of the government employees in discharging their Covid-19 duties, in paragraph 3, that "*Such persons need to be suspended immediately and if they are appointed on contract basis, contract need to be terminated and criminal action needs to be taken against them. Invariably against every such person such action needs to be taken and things can be corrected only by taking such action.*" It was further observed that "*This*

Court has expressed that this Court may visit the sites to see that there is discipline in the staff employed in the aforesaid work and they are discharging their duties seriously and there are no lapses whatsoever and the visit will be paid as surprise visit to the hospitals, to the quarantine institutions and even to the isolation wards and the containment zones. This Court is making it clear that if it is found that the persons who are expected to discharge the duty are not present on the spot and due to that the spread of virus is going on, this Court will be giving directions specifically in respect of those persons to register the crime against those persons immediately and those persons may be of any rank."

8 On 07.07.2020, this Court (Coram : T.V.Nalawade & Shrikant D. Kulkarni, JJ) passed the following order :-

- "1. *Seen the contents of the petition. The draft of the petition was filed first time on the last time and we had no opportunity to see the contentions and the reliefs claimed. It appears that only the Commissioner of Aurangabad Corporation is made party respondent, but the Commissioners of other Corporations of this area/region over which this Court has jurisdiction are not made party respondents. They are to be made party respondents and notices are to be issued to them so that they can file their say. Similarly, the Civil Surgeons of the Civil Hospitals and Deans of the Government Colleges who are under jurisdiction of this Court are to be made party respondents. The learned Public Prosecutor submitted that the District Superintendents of Police had not fled report on the last occasion. But, now he submitted that he is producing the reports received from the District Superintendents of Police from this region.*
2. *The learned Public Prosecutor submitted that yesterday*

decision was taken by the authorities created under Disaster Management Act, 2005 and Epidemic Deceases Act, 1987 that Aurangabad city will be locked down which will be more strict for the period of nine days and it will be starting from 10th of this month. He submitted that all necessary steps will be taken to break the chain of spreading of the virus and this work will be speeded up during this lock down period. This Court wishes success for them in that attempt.

3. The record produced shows that show cause notice were issued to private hospitals, but the record does not contain the replies fled by the designated private hospitals. During the lock down, there will be attempt to trace the contacts of the patients and then the number is bound to increase and in that case, it will become very much necessary to have more beds for COVID-19 patients. In view of that possibility, the authorities are expected to take further action against those hospitals like criminal action if they are not complying with the orders issued by the authorities as only after that the beds will be available.
4. The record does not show that information was supplied by the Village Officer like Police Patils of Village Panchayats about the persons who entered the villages without due authorisation and who were found subsequently infected. Necessary action needs to be taken in that regard so that the spread of virus is prevented in rural area. This Court wants to know the steps taken in that regard on the next date.
5. As there will be more need of the beds for COVID-19 patients, people need to know that there are facilities for admission of COVID-19 patients. The record in respect of wide publicity given in respect of the availability of such beds in Public health Centers and Private hospitals needs to be shown to this Court and if it is not done such steps need to be taken. At Tahsil level one Central point needs to be created and at District level also, one office needs to be created where the relatives can take the patients from where the patients can be directed either to Public Health Center or to the Private Hospital and the record created by that Center will enable to take criminal action against the concerned for refusing to admit COVID-19 patients.

This Court wants to see such record and that record will help Courts to ascertain as to how the offence is committed under the aforesaid Special Enactments. Similarly the laboratories provided or designated for the testing of the virus needs to be made known to the public by giving wide publicity.

6. *This Court has already made it clear that this Court may take action against those who have passed the bug and who have shirked the responsibility. For that, this Court is again directing all the concerned to preserve the record in respect of every action like declaration of containment zone, creation of staff for having control over the containment zone, staff created for supplying essential items, to persons living in containment zone and the staff created to have watch on isolation centers and for giving necessary treatment, diet etc. to the patients. The record shows that task force is also created and one officer of Corporation is appointed as Head of the task force. That record also needs to be preserved as there are allegations that not a single meeting of task force was held.*
7. *This is really a testing time. Public servants will be tested and it can be ascertained as to whether they are sincere and they have devotion to the duty. If to save own life and to save skin they are shirking responsibility, then it can be presumed that there is no use of them to the system and after taking criminal action against them they can be removed and this way system can be cleaned. This Court is looking at the present situation that way and this Court intends to take such action against all those public servants who are passing the bug and who are shirking the responsibility.*
8. *As it was submitted by the learned Public Prosecutor that there will be lock down for nine days in future, this Court hopes that proper care of the people from the containment zone is taken by providing them foodgrain and essential items so that they are not required to come out of the containment zone. The record shows that public distribution system (P.D.S.) can be used and it appears that the State Government has declared that even the orange card holders can get the foodgrains from ration shop and that decision of the State Government can be used to supply essential items to the persons of*

containment zone and that is also a part of the duty of all the concerned. If it is found that there are lapses in that, this Court will be giving directions against those including criminal action against them. At this moment, this Court is not asking the authorities to do more as this Court hopes that all of them will be busy during lock down period and they should be able to concentrate on that work. This Court is keeping the matter on 21.7.2020.

9. *It is presumed that Civil Surgeons and Deans of this region are made party respondents and they are represented by the learned Public Prosecutor. However, notices are specifically to be sent to the Commissioners of Corporations. Registrar Judicial is to see that the notices are sent on official E-mail addresses of those Commissioners. The learned counsel for Aurangabad Commissioner submitted that the record of the compliance of the order issued under the aforesaid Acts and compliance of the orders made by the concerned is very bulky. She may produce the same before the Registrar Judicial as per her convenience."*

9 On 21.07.2020, this Court (Coram : Ravindra V. Ghuge & M.G.Sewlikar, JJ) considered two criminal applications filed by Shri Vinod Ashok Kharat and Ms.Jyoti Dhanraj Bhoi, along with the PIL. Insofar as the first Criminal Application No.1194/2020 (Vinod Ashok Kharat vs. The Registrar (Judicial) and others) was concerned, we had passed the following order :-

"Criminal Application No. 1194/2020

1. *Insofar as Criminal Application No. 1194/2020 is concerned, the said application has been filed by the applicant seeking intervention in the Public Interest Litigation being aggrieved by a marriage reception ceremony that has allegedly taken place and the news pertaining to which was reported in daily "Pudhari"*

Parbhani and Hingoli edition dated 10.07.2020 and in daily "Deshonnati" dated 10.07.2020. The newspaper cuttings placed on record suggest that a wedding reception was arranged by a high profile resident of Gangakhed and the said reception was attended by several people's representatives, people who are in the political arena and even by the revenue and police authorities. It is, therefore, prayed by the applicant that action be initiated against such violators who are the cause of the spread of COVID-19 pandemic.

2. *The learned PP points out that the District Collector, Parbhani, Mr.D.M. Muglikar, has already made a statement, which is also reported in the same news cutting, that he would be initiating action against the violators. The learned PP is however, unable to state as to what action has been initiated.*
3. *We find that in the Suo-moto Criminal Public Interest Litigation, the intention of this Court is to ensure containment of the spread of COVID-19 pandemic and treatment being made available to the people at large, especially people belonging to lower income group, below poverty line group and such category of people who would not be able to spend large amount on treatment, if infected. In this backdrop, it would be appropriate for the applicant to approach the local administration with a specific complaint, keeping in view that the news reports are quite vague and do not mention the person who had allegedly arranged the marriage reception.*
4. *As such the criminal application is disposed off with liberty to the applicant to approach the local administration with a specific complaint and, in the event such complaint is tendered, the local administration which is lead by the District Magistrate of Parbhani, would initiate appropriate steps in order to ensure that the violators of lockdown restrictions do not go scot-free. Thereafter, if the applicant finds his grievance unredressed, he would be at liberty to avail of a remedy as is available in law."*

10 With regard to the second Criminal Application No.1246/2020 (Jyoti d/o Dhanraj Bhoi vs. The Registrar (Judicial) and others), we had passed the following order and issued certain directions :-

"Criminal Application No. 1246/2020

5. *Insofar as Criminal Application No. 1246/2020 is concerned, the learned counsel Mr. Waramaa submits that the situation in the Municipal Council of Amalner is quite grim and serious. Ever since the National lockdown was clamped on 24.03.2020 by the Government of India and measures were being adopted for the containment of the pandemic, the entire area falling under the Municipal Council, Amalner, has never been sanitised even once. The local administration, according to the applicant, has hardly shown any concern towards the residents. The applicant makes a grievance that the Chief Officer of Municipal Council, Amalner, has not shown any sensitivity and there is laxity on the part of the Municipal Council administration. This is the root cause of the growth of COVID-19 patients in the area and the situation is going from bad to worse.*
6. *In view of the above, we are issuing notice to respondent No. 20- District Collector, Jalgaon, respondent No. 33 – Superintendent of Police, Jalgaon and, respondents No. 42 to 46, returnable on 4 th August, 2020. The learned PP causes an appearance on behalf of these respondents to whom we have issued notices.*
7. *In the meanwhile, without indicating that we have accepted the contention of the applicant in this application as gospel truth without hearing the respondents, we are directing respondents No. 42, 43, 44 and 46 to ensure that appropriate steps for the sanitisation of the area under the Amalner Municipal Council are taken and, we expect the report of compliance on the next date of hearing. We make it further clear that this application is being entertained only to ensure that all Municipal Councils and talukas under various districts amenable to the jurisdiction of this Bench would consider these directions as being directions in rem and shall scrutinise whether*

sanitisation steps are being taken in such talukas and Municipal Councils of the respective districts. We are issuing this direction in order to ensure that the residents of such villages or municipal councils or talukas are not required to individually approach this Court with such applications. We are, therefore, making this direction applicable to all such places falling under the various districts amenable to the jurisdiction of this Bench in the interest of the public at large."

11 On the same date 21.07.2020, we had heard the learned Amicus Curiae, the learned Public Prosecutor and the learned advocates representing the respective sides, on the PIL. Having noted certain grievances as regards alleged excessive billing and alleged obstinate attitude shown by certain private hospitals in admitting Covid-19 patients, we had called upon the learned Public Prosecutor and the learned advocates representing various local bodies to take effective steps with regard to such complaints. The learned Public Prosecutor had informed us that the Divisional Commissioner of the Aurangabad Division Shri Sunil Kendrekar, the Administrator of the Aurangabad Municipal Corporation Shri Astik Kumar Pandey, the District Collector Shri Uday Chaudhari and the Commissioner of Police, Aurangabad Shri Chiranjeev Prasad, had formed a committee to deal with such complaints.

12 We had called upon the learned Amicus Curiae to express his views about the submissions made on behalf of the State and State Instrumentalities, that this Court should refrain from taking over

the administration of the Talukas, Municipal Councils, Municipal Corporations and 13 districts amenable to the jurisdiction of this Court. He had fairly submitted that this PIL could be utilized for issuing certain directions and guidelines for administering measures for the containment of Covid-19 pandemic. We relied upon the observations of this Court at the Principal Seat set out in paragraphs 92 and 93 of the PIL judgment dated 12.06.2020 (supra) and we had observed in our order dated 21.07.2020 as under :-

- "8. *Mr. Deshmukh, learned Senior Counsel, amicus curiae , points out from paragraph No. 3 of the order of this Court dated 07.07.2020 that this Court intends that the private hospitals should respond appropriately to the efforts of the local administration for the containment of the pandemic. The private hospitals should not exploit the patients and their relatives on the pretext of giving them treatment and facilities available in such private hospitals at higher costs. We are conscious of the concern expressed by the learned senior counsel that there is a possibility of private hospitals heavily charging the patients and their relatives. The learned PP points out that on the date the order was passed by this Court i.e. 07.07.2020, there were three complaints against two private hospitals namely, MGM Hospital, CIDCO, Aurangabad and Kamalnayan Bajaj Hospital, Aurangabad. Two complaints against the former and one against the latter were dealt with by the local administration lead by the District Magistrate and as the cases pertained to a grievance of excessive billing, the bills were scaled down and the complaints were dealt with.*
9. *The learned PP informs that now there are five complaints pending against three private hospitals. The two hospitals which figured in the earlier complaints, once again are a subject matter of such new complaints. Notices have been issued by the local administration and, after receiving response from the said hospitals, appropriate action would*

be taken, which would be reported to this Court on the next date.

10. Considering the above, we find it imperative on behalf of the local administration to consider the intention voiced by us in paragraph No. 3 of the order dated 07.07.2020 and place before us the follow up action taken by the local administration with regard to the pending complaints.
11. The submissions of the learned amicus curiae and the learned advocates representing various parties, appear to be aimed at expanding the scope of this suo-moto Public Interest Litigation which, ex facie in our view, are aimed at this Court administering the measures being implemented by the local administration over 13 districts amenable to the jurisdiction of this Bench. We do not intend to step into the shoes of the local administration and take over the mantle of administering the measures for the containment of COVID-19 pandemic. We deem it appropriate to follow the caution voiced by this Court (Coram : The Honourable the Chief Justice Shri Dipankar Datta and A.A. Sayed, J.) in their judgment dated 12.06.2020 delivered in a group of Public Interest Litigation (PIL-CJ-LD-VC-21/2020 and others). It would be advantageous for us to rely upon paragraphs No. 92 and 93 of the said judgment which read as follows :-

"92. While appreciating that the situation prevalent now is unprecedented and distinguishable from the cases that the Supreme Court had the occasion to consider, and also that insisting the State to dot each and every 'i' and/or to cross all 't' may not be justified on facts and in the circumstances, yet, the duty that the State owes to its citizens cannot be avoided by taking cover under the shield of policy matters. Judicial interference by way of a public interest litigation is available, nay warranted, if there is a clear violation of constitutional or statutory provisions or failure of the State to discharge its constitutional or statutory duties. Indubitably, some of these contingencies do arise in the present PIL petitions but in the wake of the unimaginable severity with which the pandemic has struck throwing everything asunder, a balance ought to be struck in exercise of the powers of judicial review. Instead of adoption of a critical approach

of the unintended failures of the executive, the exercise of the extra-ordinary power available under Article 226 of the Constitution has to be tempered by judicial restraint, more particularly in matters concerning domain experts without, however, sacrificing the need for attainment of the most desired results in the given circumstances. Efforts at all levels have to be made to boost the health and medicare facilities and to find a solution to bring the nation out of the impasse as well. What follows from the above is that instead of a judicial management of COVID-19, there has to be a nuanced administrative and scientific management hitherto unseen. Although the COVID situation in Maharashtra, as it appears from the data made available to us, is quite alarming but in the present circumstances, the need of the hour is to push forward the efforts undertaken by the Union and the State in fighting COVID-19 in the right direction consistent with the guidelines issued by the WHO and the ICMR, being the experts in the field, to ensure that fair treatment is received by one and all not only in the health sector but in all spheres of life. Also, judicial propriety demands that we tread the path of caution and circumspection having regard to the uncertainties ahead and refrain from substituting our view for those taken by the executive and be susceptible to a guilt of usurpation of power.

93. It is in this background that we are tasked to examine the points emerging for consideration. We, however, ought to restate that many of the concerns indicated by the petitioners in their respective PIL petitions stand addressed by the Government and the MCGM, as would be evident from the responses of their learned advocates noted above. This, we are inclined to the view, is sufficient to validate the claim of the Government and the MCGM that much progress has been achieved in containing the spread of COVID-19 and to take care of the ill."

12. The learned amicus curiae has drawn out attention to paragraph No. 4 of the order dated 07.07.2020. He has also pointed out paragraph No. 5 of the order and he submits that action needs to be taken even at village levels

in various villages and talukas and districts amenable to the jurisdiction of this Bench, inasmuch as, the administration at the local levels will have to give a wide publicity to the various facilities made available to the people at large for the treatment of COVID-19 patients inclusive of the facilities meant for testing symptomatic and asymptomatic patients.

13. *In this context, we are of the view that the District Collectors of each district, in tandem with the local administration at village and taluka levels, should ensure that there is restraint on the free movement of persons covered by the lockdown restrictions and to prevent uncontrolled movement of the citizens in and out of such villages, talukas and the entire district. We, therefore, find it necessary to observe that the District Collectors of these districts shall work in a synchronized manner with the administration at taluka and village levels to prevent the spread of the virus and initiate appropriate steps to prevent movement in and out of such villages and talukas by installing check-posts, to be monitored by the administration of the concerned villages, Talukas, Districts etc.*
14. *We also deem it appropriate to direct that the local administration under the District Collectors of the districts, as head of such administration, should ensure that the list of private hospitals which are being utilised for COVID-19 patients' treatment should be given a wide publicity and the administration should ensure that such private hospitals which have been declared as COVID-19 treatment hospitals, should implement the directions of the district administration in letters and spirit.*
15. *The learned amicus curiae, has then drawn our attention to paragraphs No. 6 and 7 of the earlier order dated 07.07.2020. The learned PP submits that a task force has been created at district levels and the District Collectors are the heads of such task force. The task force at the district levels have been working relentlessly and, an affidavit, indicating the steps taken, is prepared and would be filed in this Court shortly. The learned PP further submits that such private hospitals have been directed to allot certain number of beds and wards exclusively meant for the treatment of COVID-19 patients*

and the affidavit which is being filed contains such information.

16. *We find that the directions issued by us in paragraphs No. 5 and 6 of our earlier order dated 07.07.2020, are sufficient indicators to the local administration of all the districts that we would be considering lapses seriously and we would not be hesitating in recommending action against those persons who have caused such lapses, naturally excluding involuntary/unintended lapses.*
17. *The learned amicus curiae , then points out paragraphs No. 7 and 8 of our order dated 07.07.2020 which was passed before the curfew was clamped in the Aurangabad region with effect from 10.07.2020 to last for a period of 9 days until 18.07.2020. Since the said period has just ended and the curfew has been lifted with effect from 19.07.2020, we would deal with the directions set out in paragraph No. 8 of the order dated 07.07.2020 in a subsequent hearing so as to ensure that the learned PP has enough instructions available to address this Court with regard to the issue covered by paragraph No. 8.*
18. *Stand over to 4 th August, 2020.*
19. *The replies to be filed by the respondents, would be with proper pagination and, in the event of there being any overlapping of the pagination, they would be at liberty to correct the same.*
20. *The parties shall note that this Public Interest Litigation shall be taken up for hearing after lunch on the said date."*
(Emphasis supplied)

13 On 31.07.2020, this Court (Coram : T.V.Nalawade & M.G.Sewlikar, JJ) took up this criminal PIL for a hearing and passed the following order :-

- "1. *Not on board. Taken on board.*
2. *The matter is taken on board in view of the some information which is received and some developments which have taken place. Firstly this Court wants to appreciate the work done by the authorities from Aurangabad District. Everybody knows that lockdown of*

nine days was declared in July 2020 in this District and due to cooperation of the citizens, it became successful. There was apparently cooperation amongst the officers of Corporation under the leadership of Municipal Commissioner, officers of revenue department under the leadership of Divisional Commissioner/District Collector and police officers under the leadership of Police Commissioner and D.S.P. (Rural) during the lockdown period. We appreciate that. We also appreciate the initiative taken by the Municipal Commissioner of Aurangabad Municipal Corporation and also the courage shown by him. Thousands of antigen tests were taken and it appears that more than 500 shop keepers who were infected were detected in the tests and many other persons were also found infected during the tests. This Court has no hesitation to observe that it was a good initiative and it had its own impact on the situation. Firstly, the tests detected infected persons and due to that, to that extent the spreading of virus was prevented. The second achievement is the spreading of awareness amongst people about the virus and removing the fear of the tests from the minds of the persons of this area. This is really achievement.

3. It appears that only the authority from the Aurangabad district is feeling that it is bound by the orders made by this Court. This Court had already observed that condition created in Jalgaon district is also alarming. That continues to be alarming and no concrete steps appear to be taken in Jalgaon district. In other districts which are under the jurisdiction of this Court, the figure of infected persons is on the rise and today there is news item that during last 24 hours more than 117 infected persons were detected in Nanded district. This Court has taken suo-moto cognizance to see that all the authorities from all the districts which are under jurisdiction of this Court become active and they remain active till the virus is active.
4. In one of the orders, this Court had directed the authorities to supply information about the steps taken by them to stop the spread of virus in village area of this region. When on one hand the number of infected persons in city area is coming down on the other hand the

number of infected persons from rural area is going up and the trend is still in upward direction. It is unfortunate, but it is a fact that when the virus spread initially in cities like Pune, Mumbai, Mumbai Metropolitan Region (MMR) etc. many persons from this area started returning to their native places. Many of the persons of those areas have purchased properties in smaller cities, though by way of investment or by having resort center in rural area and there they shifted themselves. Even when inter-district travel is prevented and the prevention is continued till 31 st August of this year, the persons were able to go to those places even without having passes issued by the authority and due to that there is spread of virus in village area. In view of that situation, this Court has made order to the authorities to show the record in respect of village area. Due to different culture in our village area which involves close contacts of all the families of the village with each other and which is different from fat culture of the society, the persons of the village protect each other and due to that the information is not given to the authorities. Anybody who knows the village culture ought to have anticipated that and ought to have taken steps in that regard. As there is apparent failure on that front, at present there are more COVID-19 hot spots in rural area than the city area. Recently one of us, Justice T.V. Nalawade had occasion to go to Jalna for court inspection. He went with necessary pass and at the entry point of Jalna, he noticed that there was no strict checking and police force (2-3 constables) posted there were not asking to show pass to anybody. They were making casual inquiry with the travellers and they were allowing the vehicles from Aurangabad side to Jalna side. This approach must have helped in spreading of the virus in the parts of this region. Strict vigil needs to be kept and unless that is done, the authorities will not be in a position to control the things. This Court hopes that proper steps in that regard will be taken. Similarly Justice Shri. Nalawade noticed at 11.00 a.m. when he was crossing boundary of Aurangabad and he was entering Jalna that there were some police constables and some staff of the corporation and revenue department

who were intercepting vehicles coming from Jalna and were asking the persons who were entering Aurangabad area to undergo antigen test. When Justice Shri. T.V. Nalawade was returning from Jalna at 4.00 p.m. such screening was not there and there was laxity and anybody could enter Aurangabad from Jalna area at that time. This Court has already observed that only issuing orders and giving directions by the authority are not sufficient in such a situation due to particular kind of culture of the work developed in our country. The officers who issue orders and directions, need to have follow up, need to see that subordinates are implementing the orders and the orders are actually implemented. There may not be necessity like sting operation, but the authorities may send some persons in disguise to confirm that the officers at such points are doing the duty only. Unless that is done, the things will not improve.

5. By letter dated 3.7.2020 one person from Jalna has informed to this Court that the authority from Jalna changed the officers who were expected to work for controlling the spread of virus and this order was made in favour of those public servants because they have some influence. Copies of orders dated 29.5.2020 and 5.6.2020 are produced to substantiate this allegation. This Court has already observed that in the situation which is created by the virus the public servants need to be tested and the servants who are useless need to be removed from the service by filing complaints against them in police station under the special Enactments like Epidemic Disease Act, 1897, Disaster Management Act, 2005 etc. This Court has already observed that the authorities need to act freely as sufficient powers are given to the authorities under aforesaid Special Enactments and they can act without getting influenced by anybody. In the situation like present one, a good atmosphere needs to be created amongst the staff, subordinates by showing that superiors are impartial. Unless that happens, there will not be total cooperation from all the staff members. In view of the nature of allegations made in the aforesaid anonymous complaint which must have been made by a public servant, this Court is hereby directing the Public Prosecutor to see that

copy of complaint is sent to the authority from Jalna and the reasons for the change of the officers are shown to this Court. It needs to be kept in mind that there are directions from Central Authority and there are directions from State Authority that if there is breach of these directions, then the persons who are responsible can be also held guilty and action can be taken under aforesaid Special Enactments against them. To see that the officers and authority act fairly and impartially this Court is taking such steps. Such correspondence is compelling this Court to take more steps which this Court will mentioned at proper place.

- 6. Recently more complaints were received in respect of working of private hospitals. This Court has already observed that the aforesaid Enactments have given ample powers to the authorities to pass orders of requisition and take complete control of the private hospitals if they are required for treatment of the COVID- 19 patients. This Court expects that every order made by this Court is communicated to the authorities from all the districts which are under the jurisdiction of this Court. These orders need to be communicated to the private institutions like private hospitals as action can be taken against them under the provisions of Special Enactments.*
- 7. There was a news item on T.V. channel about 15 days back and the channel showed a video clip of infected person. He had a grievance that there was no supply of oxygen, he was complaining about breathlessness, but nobody was there to supply oxygen to him. He died on that night. As yet the reasons of death are not known. Similar incident took place in the last week and that person also died. On the second occasion, the person who circulated the video clip positively complained in video clip that if something happens to him, the concerned should be blamed for it. When there is such kind of grievance, it becomes duty of the concerned authorities to fix the responsibility and give the complaint to police as such conduct is not less offence of than culpable homicide not amounting to murder. Unless and until action is taken against such persons, others will not improve their conduct. The learned Public Prosecutor is to see that information in respect of aforesaid two incidents is*

supplied in this matter. This Court has already given directions to see that CCTV systems are fixed in isolation cells. This Court wants affidavit of all the authorities or concerned officers to show that there is installation of CCTV system in isolation centers. CCTV system should be installed in private hospitals also where the treatment is being given to infected persons. This has become more necessary as recently there was a complaint from one district that even when three injections were purchased which were costly injections, they were not used to treat the patients. Ordinarily, the hospitals have their own pharmaceuticals shops and from those shops injections are purchased. If there is complaint that injections were asked by doctors and they were purchased and handed over to the hospitals, but they were not utilized, then it is a serious complaint. Cost of each such injection is more than Rs.35,000/-. Serious note of this incident also needs to be taken and this Court wants to have report from the concerned.

8. *Learned Senior Counsel Shri. Deshmukh submitted that recently in Pachora tahsil of Jalgaon district there was one incident of unnatural death of one youngster and the relatives of the youngster feel that it is not suicide, but it is atleast culpable homicide not amounting to murder. He is expected to give complete details in that regard so that the order if any required can be made. The learned Public Prosecutor is to collect the information in that regard.*
9. *In our society there are many who cannot afford to pay charges of private hospitals. It is learnt that many poor persons and the persons who have no influence are not able to get admissions in hospitals even when they are infected. It will be the subject of research to find out the number of poor persons who died at residential places due to such condition, but they went unnoticed by anybody. It can be said that they spread virus as they remain at residential places, but the blame cannot be put on them as it is fault of our system that we did not either spot them or attend them. Such incidents are more in rural area and so proper attention needs to be paid to the rural area. The persons of rural area hardly get medical treatment as it is a dream for them to come to designated hospital and get admitted there.*

10. Due to aforesaid circumstances, this Court is now feeling it necessary to allow all those persons who have grievance with regard to the care and treatment of infected persons and others to approach this Court directly. They may give grievance in writing to this Court either by post or on E-mail or through Advocate. The grievances may be of following nature :-
- (i) There was no supply of necessary items in containment zone.
 - (ii) There was no supply of ration from fair price shops to the card holders and others.
 - (iii) There was no center created where the relatives of infected persons or infected person can go to get admission in hospital.
 - (iv) The officers or authority did not help them in getting admission in hospital.
 - (v) Any hospital did not give admission to them even when authority had directed that hospital to admit the patient.
 - (vi) They have doubt that necessary treatment was not given and the medicines and injections which are supplied by them or Government were not actually utilized by the doctors.

Care is to be taken by these persons to see that every complaint or grievance is supported by affidavit which can be sworn in before the Superintendent of District Court or Assistant Superintendent of Tahsil Court or even before the notary public. This Court will consider those complaints for taking action against the concerned.

11. Information needs to be supplied in respect of reservation of beds in designated hospitals and use of those beds. Information about the availability of ventilators and the deaths due to non-availability of ventilators also needs to be supplied by the State.
12. Information is to be given to this Court about action taken against negligence shown in treatment if complaints were received in that regard.
13. The learned Public Prosecutor is to see that the part of today's order, particularly the intention of the Court to consider individual complaint is given publicity up to village level. That part of the order is to be used for

informing public that they can approach this Court directly for informing their grievances against the concerned public servant and also against the private hospitals and others.

14. *Authenticated copy to be given to the learned Senior Counsel of the petitioner Shri. Rajendra Deshmukh, the learned Public Prosecutor and the learned counsel for Aurangabad Corporation Aurangabad. The Public Prosecutor is to see that today's order is communicated to all the respondents. Keep the matter on due date i.e. on 4.8.2020."*

14 We are now informed vide the submissions of the learned advocates and the written notes of arguments tendered by the learned Amicus Curiae and the learned Public Prosecutor that though the growth of fresh patients of Covid-19 in the State of Maharashtra has not abated, the administrations in the 13 districts amenable to the jurisdiction of this Bench, have considerably succeeded in controlling the pandemic. The local administrations in all districts are putting in strenuous efforts and are working relentlessly even upto late hours in the night. They begin their activities in the early hours of the day and are leaving no stone unturned in their efforts to contain the spread of corona virus.

PIL - WHETHER CRIMINAL OR CIVIL

15 In the hearing on 07.08.2020, the learned Public Prosecutor and the learned advocates representing the local bodies, have strenuously submitted that though the intention of this Court in suo-moto registering

this PIL is laudable, this case should not have been registered as a Criminal PIL. It should have been registered as a Civil PIL. The learned Amicus Curiae submitted that he was appointed by this Court, which was assigned with the roster for taking up urgent criminal matters pertaining to the Division Bench. As the said Bench registered the PIL as a Criminal PIL, the learned Amicus Curiae has put in his efforts to assist the Court to achieve the object of controlling the spread of corona virus. Since we are disposing off this PIL, we deem it appropriate to leave this issue open to be decided in an appropriate litigation.

16 The learned Public Prosecutor and the learned advocates representing the local bodies further submitted that criminal offences cannot be registered against the employees of the State Government or the local bodies for inadvertent lapses or negligence on their part. Service jurisprudence and the principles of natural justice will have to be followed before initiating any disciplinary action against the Government employees and the employees of the local authorities. It was further contended that, at the most, it can be left open to any aggrieved person to approach the Police Station for the lodging of any complaint as there can be no embargo on an aggrieved person approaching the Police Station or the district administration.

17 Having considered these submissions, in the light of Article 311 of the Constitution of India and the principles of natural justice, we

intend to make it clear that this Court would not advice short-circuiting of the legal procedure for initiating disciplinary action against the employees of the State/ Local authorities or for dispensing with their services. It cannot be ruled out that the employees, who are discharging Covid-19 duties, are susceptible to unintended lapses. It is possible that some employees may be acting negligently and may have indulged in dereliction of duties. It is equally possible that some employees may have faltered or lapses may be attributable to their conduct, which could be out of inadvertence. Each of such cases will have to be dealt with by the administration and an appropriate action can be initiated by following the due procedure of law. Depending upon the facts and circumstances of each case, the administration can impose commensurate punishment/ penalty. If the legal procedure is followed and if it legally permits the administration to register a criminal offence against any of the erring employees under the provisions of the Epidemic Diseases Act, 1897 and/or the Disaster Management Act, 2005, we find it judicious to leave it to the administration to deal with such cases with an iron hand. At the same time, we deem it appropriate to record that the aggrieved patients or the kith and kin of the victims of callousness and negligence at the hands of the employees on Covid-19 duties or hospitals, etc., would be at liberty to take recourse to a remedy as is permissible in law, notwithstanding the pending disciplinary action initiated by the employer of such employees.

ISSUES RAISED

18 We find in this litigation, ever since the registration of this criminal PIL, that there have been various types of cases which have been placed before us by the learned advocates or which have been a part of daily reporting by the local newspapers. Various news items appearing in daily newspapers have been taken up by this Court on various occasions and orders as reproduced above, have been passed from time to time. The Covid-19 pandemic situation as it is before us today, is indicative of the local administration in all districts amenable to the jurisdiction of this Bench, having put in tireless efforts. As has been voiced by us in our order dated 21.07.2020 in the light of paragraphs 92 and 93 of the judgment dated 12.06.2020 (supra) delivered at the Principal Seat, we cannot step into the shoes of the local administration at the district, taluka and village levels. The object of this PIL cannot be to takeover the administration of such villages, talukas and districts.

19 We are informed that every District Collector has now created a Task Force at the district level for combating Covid-19 pandemic considering the State Government's order dated 13.04.2020 and the Maharashtra Covid-19 Regulations, 2020 brought into force by Notification dated 13.03.2020. The grievances of individuals, of any nature viz. from lack of oxygen upto lack of proper treatment, refusal to

admit patients by Covid-19 hospitals or excessive billings, are being looked into. Such individual grievances will have to be dealt with by the Task Force at the district level, as these aggrieved individuals cannot be rendered remedy-less and can conveniently approach the Task Force.

20 The learned Amicus Curiae has canvassed before us that this Court should issue certain directions and guidelines for making the District Administration more sensitive and responsive towards the task of strictly imposing lock-down restrictions, containment of the pandemic, identifying private hospitals for Covid-19 duties, ensuring deployment of adequate staff in Covid-19 duties and for ensuring that no corona positive patient is ignored or neglected.

21 The learned Public Prosecutor strenuously submits that the local administration in the State of Maharashtra is practically waging a war against the Covid-19 pandemic. Fullest cooperation, as is expected from the localities, is not forthcoming and casual and indisciplined behaviour of some of the localities is defeating medical protocol of physical distancing, use of masks, refraining from unnecessarily stepping out of the residences, etc.. For illustration, he submits that curfew was required to be clamped from 10.07.2020 to 18.07.2020 in Aurangabad as there was a sudden spike in corona positive patients and the daily number had crossed 475 new patients on a given day. In the last two weeks, the growth was of about 2400 patients. The curfew, which was strictly implemented,

delivered much desired results and the number of new positive patients started reducing. Presently, the growth in new patients to the extent of Aurangabad district is somewhere between 225 to 275 per day, when earlier the number was between 425 to 475 per day. The district administration in all these districts are relentlessly battling the pandemic and there are no signs of complacency.

22 Insofar as infrastructure and remedial measures are concerned, we find that neither the medical fraternity, the State administration, nor the people world over were aware as to the magnitude of this pandemic. An atmosphere of circumspection prevails worldwide and countries are grappling to come to terms with Covid-19. Infrastructure is now being provided to every nook and corner of the State. Taking into account the dense population, critical requirements like oxygen, ventilators and medicines are being made available on war footing. The State Government has proportionately enhanced the supply of medical equipments for the containment of the Covid-19 virus. The learned Public Prosecutor, however, makes a grievance that the strenuous efforts of the district administration in strictly implementing the lock-down restrictions, had faced stiff resistance in various areas and there were instances of localites assaulting the traffic police and hurling abuses on doctors including lady doctors of the Government Medical College and Hospital and those on Covid-19 duties. This Court has issued appropriate

directions to deal with such situations and the district administration is now extending adequate protection to the doctors and Covid-19 warriors.

23 As on date, we find, and more so in view of the news reports quoting the World Health Organization (WHO) and various international and national pharmaceutical companies pertaining to the manufacturing of a vaccine, that this war against Covid-19 pandemic appears to be endless. Internationally, research to develop a vaccine is reported to have been undertaken by reputed organizations. Today, the recovery rate of positive patients in India and in Maharashtra, is quite high and is encouraging. We are given to understand that despite the dense population of this country, the death rate/ mortality in positive patients is one of the lowest in the world. Co-morbidities have also contributed to the cause of death in many cases.

24 In this backdrop, it would be unfair on our part to keep the Damocles Sword of initiating criminal action and registering of criminal offences, hanging on the administration and Covid-19 employees. We have no doubt that the district administration is working hard. However, black sheep are found in all walks of life and in all spheres. It is mostly such work shirkers and indisciplined employees, who give a set back to the spirit and momentum of hardworking employees and give a bad name to the system. Some stray acts of dereliction in duties or unintended negligence are highlighted and the general public at large, on getting to

know such instances through the print and electronic media, develop an apprehension or an impression that the State and the local administration have failed. We, while dealing with such cases of work shirking, dereliction of duties and negligence, would be failing in our duties if the effective steps and measures adopted by the administration for battling the spread of Covid-19 pandemic, are ignored. The dedicated Covid-19 warriors, who are risking their lives and their families in this war against the pandemic, need to be complimented. The low death rate and high percentage of recovery of patients is not a mere coincidence and is unquestionably the result of dedicated hardwork of the corona warriors. Their service in such extra-ordinary testing times, is a service to the Nation and mankind.

GRIEVANCES

25 In these two months, many grievances of the people have been redressed. We can summarize the grievances emerging from this PIL and which are similar to those which were considered by the learned Division Bench at the Principal Seat in the PIL judgment (supra). We are, therefore, reproducing some of the overlapping grievances and we are adding to those in view of the submissions of the parties before us, as under :-

- (a) Failure and/or neglect in providing testing facilities for

frontline/ healthcare workers at non-COVID hospitals/ wards.

- (b) Absence of Personal Protective Equipments (hereafter “PPEs”) for healthcare workers treating non-COVID patients.
- (c) Reluctance of the State to introduce capping of prices/charges for pathological tests and hospitalisation/ treatment.
- (d) Omission to reserve beds in private hospitals for the weaker sections in terms of the provisions of the Bombay Public Trusts Act, 1950.
- (e) Unhealthy conditions in quarantine centres, which carry with it the risk of spread of the contagion among people kept in isolation.
- (f) Neglect to provide a grievances redressal cell.
- (g) Shortage of medical equipments and necessities.
- (h) Shortage in treating facilities.
- (i) Shortage of ambulances.
- (j) Confusing information regarding treatment facilities.
- (k) Spreading of inaccurate information through social networking sites.
- (l) Reluctance of private hospitals and practitioners in admitting Covid-19 patients or treating them.

PRINT AND ELECTRONIC MEDIA

26 Taking into account the daily reporting of various newspapers and credibility of such news reports, keeping in view the information supplied to us that one video clip showing a patient begging for oxygen, was infact a false story, we find it appropriate to refer to paragraphs 78, 79 and 80 of the PIL judgment (supra) delivered at the Principal Seat, which read as under :-

"78. We wish to begin by dealing with an argument of Mr.Desai in course of his reply. It is on the point as to whether the Court can place reliance on newspaper reports. Conscious of the settled legal principle that newspaper reports are hearsay evidence and such reports cannot be relied upon unless proved by evidence aliunde by the correspondent on being examined and deposing to have perceived the fact reported, Mr.Desai referred to the situation of the lockdown now prevailing because of the pandemic; this, according to him, has disabled the petitioners to collect evidence from the ground level by their own investigative efforts and forms the reason to urge the Court to adopt a liberal approach bearing in mind the absence of relevant pleadings on specific instances of remissness/negligence.

79. The role of the media in present times has been discussed in several decisions of the Supreme Court. It would be useful to note what was observed in Sanjoy Narayan, Editor-in-Chief, Hindustan Times vs. High Court of Allahabad, reported in (2011) 13 SCC 155, albeit in course of a contempt action. The passage relevant for our purpose reads thus:

“3. The media, be it electronic or print media, is generally called the fourth pillar of democracy. The media, in all its forms, whether electronic or print, discharges a very onerous duty of keeping the people knowledgeable and informed. The impact of media is far-reaching as it reaches not only the people physically but also influences

them mentally. It creates opinions, broadcasts different points of view, brings to the fore wrongs and lapses of the Government and all other governing bodies and is an important tool in restraining corruption and other ill-effects of society. The media ensures that the individual actively participates in the decision-making process. The right to information is fundamental in encouraging the individual to be a part of the governing process. The enactment of the Right to Information Act, 2005 is the most empowering step in this direction. The role of people in a democracy and that of active debate is essential for the functioning of a vibrant democracy.

4. With this immense power, comes the burden of responsibility. With the huge amount of information that they process, it is the responsibility of the media to ensure that they are not providing the public with information that is factually wrong, biased or simply unverified information.

6. The unbridled power of the media can become dangerous if checks and balances are not inherent in it. The role of the media is to provide to the readers and the public in general with information and views tested and found as true and correct. This power must be carefully regulated and must reconcile with a person's fundamental right to privacy. Any wrong or biased information that is put forth can potentially damage the otherwise clean and good reputation of the person or institution against whom something adverse is reported. Pre-judging the issues and rushing to conclusions must be avoided." (emphasis supplied)

80. Despite the electronic and print media having a pivotal role to play and the caution sounded above notwithstanding, reflection of a proper balance is often missing. At times, we find media houses to be divided in their loyalties and the reports coloured by partisan spirit and motivation. All loyalties must exclusively centre round the welfare of the State and its people. While opposing views on an issue lay bare the two sides, any conclusion ~ positive or negative ~ must be based on a true and fair account of what is perceived by the correspondent. The responsibility thrust on the media to disseminate correct information is onerous and is not supposed to be taken

lightly. Be that as it may."
(Emphasis supplied)

27 It was further observed in the PIL judgment (supra) in paragraphs 82 and 83 as under :-

"82. Taking judicial notice, on the basis of reports and photographs printed/displayed by the media, to remedy a perceived wrong or injustice is not what has been abhorred by the Courts in India. Initiation of suo motu proceedings on consideration of media reports for serving public good is not a rare phenomenon. But even in such cases, the decision on the issues at hand have invariably rested on evidence that is admissible and relevant. So long a media report relied on by a party or any part thereof is not disputed by the other, we see no harm in separating the grain from the chaff and putting the same to a party for eliciting his/its response. As would be evident from the recording of arguments of the parties, Mr.Sakhare for the MCGM himself relied on a newspaper report to impress upon us the success achieved by the MCGM in tackling the situation. The said report has not been disputed by any party. However, if a pleading is insufficient and a contentious issue arises for decision based on a media report, the same cannot be decided resting on such report unless evidence aliunde to return a finding is available. We end this discussion by observing that extra-ordinary situations deserve extra-ordinary treatment and in these times of test, inviting the attention of the judiciary to newspaper reports for taking cognizance of the plight of the unfortunate sufferers and requiring a party to share the details for the Court to suggest corrective measures, in the absence of the report or a part thereof being disputed, is not an impermissible course of action. After all, it is justice that should prevail over technicalities in times such as these and it must be left to each Court, dealing with the PIL petition, to decide in exercise of judicial discretion the weight that ought to be attached to the relevant media report.

83. *As we find from articles/reports penned by experts, there have been many factors which have been responsible for the spread of the pandemic in India and a consequent surge in the number of COVID-19 victims and sufferers, viz. lack of vision to deal with COVID-19 when reports started pouring in of its vicious and merciless attack on several foreign nations, lack of preparedness to tackle a problem of such magnitude, which included an initial lack of sufficient testing kits as well as protective gear all over the country and a general lack of adequate health and medi-care facilities, lack of sharing of data which could have been helpful in dissemination of knowledge not only for treating confirmed COVID positive patients but also detecting suspected individuals, lack of proper balance in Centre/State relations, lack of awareness of a large section of the Indian citizenry as to what COVID-19 is capable of, etc. It is indeed unfortunate that we have by now lost a number of fellow citizens to COVID-19; however, it is not the time now to look back and grieve. The negative concept of "Lockdown 1", "Lockdown 2" and the like have to be regarded as things of the past and the nation has to look up and proceed with a positive outlook of 'Unlock 1' and 'Mission Begin Again", which are the slogans of the Central Government and the Maharashtra Government, respectively."*
(Emphasis supplied)

28 Insofar as the contention of the respondents that this Court should be slow in placing reliance upon the print and electronic media for directing the Government to register criminal offences, is concerned, we have no doubt that the role of the print and electronic media is of importance and responsibility. The fourth pillar of the nation places information of national and international importance before the public at large. In this pandemic, it has an enormous capacity of highlighting the

effective efforts of the administration, as well as its shortcomings. However, good efforts put in by the administration should not be criticised merely for the sake of public consumption. Unnecessary or unwarranted criticism has its own pitfalls. It could cause an irreparable damage and would dampen the spirit of the covid-19 warriors. We are aware that the Constitutional Court is to ensure that the fundamental rights of the citizens guaranteed under the Constitution of India, have to be protected. The Constitutional Court should neither be shy of nor find itself powerless in upholding the fundamental rights of the citizens as guaranteed under Article 21. If the executive fails to protect the rights of the citizens and extend proper treatment to the patients in the Covid-19 pandemic, the Constitutional Court has the power and the jurisdiction to take up the said issue in public interest and issue appropriate orders and directions to the executive so as to uphold the fundamental rights of the citizens in the true sense.

29 The Honourable Supreme Court has observed in paragraphs 65 to 67 of its judgment in ***Union of India vs. Moolchand Kharaiti Ram Trust, (2018) 8 SCC 321***, as under :-

"65. The State has to ensure the basic necessities like food, nutrition, medical assistance, hygiene etc. and contribute to the improvement of health. Right to life includes right to health as observed in *State of Punjab & Ors. v. Mohinder Singh Chawla & Ors. (1997) 2 SCC 83*. Right to life and personal liberty

under Article 21 of the Constitution also includes right of patients to be treated with dignity as observed by this Court in *Balram Prasad v. Kunal Saha & Ors.* (2014) 1 SCC 384. Right to health i.e., right to live in a clean, hygienic and safe environment is a right under Article 21 of the Constitution as observed in *Occupational Health and Safety Association v. Union of India & Ors.*, AIR 2014 SC 1469. The concept of emergency medical aid has been discussed by this Court in *Pt. Parmanand Katara v. Union of India & Ors.* (1989) 4 SCC 286. In *Paschim Banga Khet Mazdoor Samity & Ors. v. State of West Bengal & Anr.* (1996) 4 SCC 37, right to medical treatment has been extended to prisoners also.

66. In *Parmanand Katara* (supra) this Court has observed that every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise, which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way, and there is an obligation upon the doctor to treat the injured victim on his appearance before him either by himself or being carried by others. It has also been observed by this Court that the effort to save the person should be the top priority not only of the medical professional but even of the Police or any other person who happens to be connected with the matter or who happens to notice such an incident or a situation. Apprehensions that the doctor will have to face police interrogation and stand as a witness in court and face all the harassments, should not prevent them from discharging their duty as medical professionals to save a human life and to do all that is necessary.
67. In *Paschim Banga Khet Mazdoor Samity* (supra), this Court has observed that the Constitution envisages the establishment of a welfare State. In a welfare State, the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential

part of the obligations undertaken by the Government in a welfare State. The Government discharges this obligation by running hospitals and health centers which provide medical care to the person seeking to avail of those facilities. Preservation of human life is thus of paramount importance. Government is duty-bound to provide timely care to persons in serious conditions. Medical facilities cannot be denied by the Government on the ground of non-availability of bed. Denial of medical assistance on unjust ground was held to be in violation of right to life under Article 21 and the State was directed to pay the compensation of Rs.25,000 to the petitioner and requisite directions were issued by this Court. The State cannot avoid its constitutional obligation in that regard on account of financial constraints and was directed to allocate funds for providing adequate medical infrastructure."

GUIDELINES/ ADVISORIES / DIRECTIONS

30 To the extent of the power of this Court in issuing directions, advisories and guidelines is concerned, we deem it appropriate to advantageously rely upon paragraph 92 of the judgment delivered at the Principal Seat in the group of PILs (supra), which we have already reproduced in the earlier part of this judgment. We are, therefore, of the view that this Court has the power, in the interest of the public at large, to issue appropriate directions to the Executive with the object of upholding the rights of the citizens.

31 In the above backdrop, we deem it appropriate to issue guidelines to the district administration in the State of Maharashtra. While

doing so, we are not oblivious of the fact that we do not have the expertise to issue directions insofar as the medical protocol is concerned. Being aware of our limitations, we are issuing guidelines for ensuring that the residents of the State do not feel neglected or ignored or deprived of medical assistance, which is expected from the State in view of Article 21 of the Constitution of India. Since we are in respectful agreement with the directions issued by the Principal Seat in its PIL judgment dated 12.06.2020 (supra) and the view taken by the Nagpur Bench in the matter of *Citizens Forum for Quality vs. State of Maharashtra and others, LD-VC-PIL-12/2020 dated 10.06.2020*, in order to avoid repetition, we hold that the said directions shall ipso-facto apply to all the respondents in this PIL, depending upon the situation as may arise before them. In addition thereto, we issue the following directions/guidelines :-

A) TASK FORCE:-

- (a) The District Collectors of all districts shall establish a Task Force, if not already established.
- (b) A helpline be created by the District Task Force so as to be functional 24 hours and enough staff be deployed to respond to the calls made on such helpline.
- (c) Wide publicity be given to the helpline numbers, which would achieve the purpose of creating the helpline.

- (d) Private hospitals, in addition to those already reined in for treating Covid-19 patients, be requisitioned, by the Task Force or the Divisional Commissioner or as may be provided under the policy of the State or any enactment, if the need so arises.
- (e) The task force would endeavour to create parity in the slabs of rates/ charges of private hospitals who are requisitioned for extending the treatment to Covid-19 patients.
- (f) Ambulances be requisitioned and deployed in Covid-19 duty.
- (g) The charges for utilizing the ambulances belonging to the Government hospitals should be fixed and wide publicity should be given so as to prevent instances of overcharging the patients or their relatives.
- (h) Private ambulances shall be requisitioned and the charges for utilizing private ambulances should be fixed. Wide publicity shall be given to such private ambulances with cellphone numbers of those operating such ambulances and the fixed charges to be paid by the patients/ relatives.
- (i) The Task Force or it's Nodal Officers shall deal with the complaints with regard to the excessive billings by the private hospitals.
- (j) Complaints with regard to force exerted by the private

hospitals on the patients for purchasing more medicines/ injections than the quantity required in the treatment, shall be dealt with by such task force or the Committee formed for the said purpose.

- (k) Those private hospitals, which are requisitioned for Covid-19 treatment, should be intimated that the director or proprietor or the head of such hospital, would be held liable for civil and criminal action, if such hospital refuses to admit a covid-19 patient despite the availability of beds.
- (l) Surprise visits to covid response centres be carried out by the task force.
- (m) Nodal Officers be appointed and nodal points for prevention of the spread of corona virus and for dissemination of credible information in respect of availability of beds, etc. be created.
- (n) Maximum publicity be given to the list of private hospitals and the number of beds earmarked for the treatment of Covid-19 patients.
- (o) Services of private practitioners, if the need so arises, be requisitioned and they be supplied with PPE kits and adequate protective gear while being deployed.
- (p) The Task Force shall adopt special measures for extending the facilities of medical counseling and accord wide publicity so

as to encourage citizens to undergo rapid antigen test and endeavour to eliminate "fear psychosis" in the minds of suspected patients.

(B) PERSONNEL/STAFF:-

- (a) Adequate number of employees should be deployed by the district administration/ Task Force on Covid-19 duty.
- (b) Monthly salary payments of the employees and/or contractual employees deployed on Covid-19 duty, should be made on regular basis.
- (c) Routine medical tests of the doctors and employees deployed on Covid-19 duty, should be carried out so as to safeguard their health in view of they being exposed to the corona virus infection.
- (d) Absenteeism of and/or lame excuses by the doctors or employees for evading Covid-19 duty, be dealt with strictly.
- (e) Strict disciplinary action be initiated against ineffective, non performing officials and work shirkers.

(C) INFRASTRUCTURE:-

- (a) Sanitization of localities at regular intervals, as may be desired by the task force, shall be strictly carried out.

- (b) Lifting of garbage from the localities shall be carried out on daily basis.
- (c) List of private hospitals requisitioned for Covid-19 duty along with their telephone numbers, should be given wide publicity.
- (d) Besides Government laboratories, private laboratories may be earmarked and the kits for carrying out rapid antigen test, RT-PCR test (swab test), etc. shall be made available, as per the policy of the State Government, for such private laboratories.
- (e) Wide publicity shall be given to the list of laboratories where different types of corona virus tests are performed.
- (f) As far as possible, CCTV systems be installed at the quarantine centres, covid care centres and covid hospitals.
- (g) Nodal officers be appointed at rural levels like villages and talukas to monitor the prevention of spread of corona virus.
- (h) Number of beds earmarked in private hospitals and the Government hospitals for Covid-19 patients should be widely publicized and it should be made imperative for private hospitals to disclose it's daily occupancy of Covid-19 patients and availability of beds, on it's website.
- (i) Wide publicity be given to the websites of the private hospitals which have been requisitioned for treatment of

Covid-19 patients.

- (j) Private hospitals shall ensure that one Principal Officer is appointed for dealing with Covid-19 wards and the beds earmarked for treatment.
- (k) Supply of oxygen in all parts of the State, naturally inclusive of the rural areas and villages where public health centres are available, shall be made in abundance and cases of lack of oxygen cylinders should be eliminated.

(D) SUPPLY OF FOOD GRAINS:-

Wherever required, as per the policy of the Government:-

- (a) Public Distribution System on the lines of the Fair Price Shop be established or the Fair Price Shops presently available, may be utilized so as to distribute food grains to the residents of the containment zones and the weaker sections of the society.
- (b) Recording the details of beneficiaries, by such fair price shop licencees shall be made mandatory for distribution of grains in containment zones.

(E) GENERAL :-

- (a) Primary health care services at the doorsteps of senior citizens

and people with co-morbidities, ought to be provided.

- (b) The district administrations should issue press notes for the correspondents of the newspapers on daily basis. Press briefing is optional.
- (c) Data of Covid-19 positive patients be preserved.
- (d) CCTVs be installed at quarantine centres, covid care centres and covid hospitals.
- (e) The fleeing or run-away patients, who have tested corona positive, be apprehended and be admitted for treatment. If necessary, they be penalised with fine by way of a reprimand.
- (f) Wearing of masks in public place, observing physical distancing and complying with lock-down restrictions, shall be mandatory.
- (g) RT-PCR test or any other appropriate test be conducted on the bodies of those patients, who have died of suspected corona virus, so as to alert the relatives and all those persons who had come in contact with such patients, though the identity of the deceased may not be disclosed.
- (h) The Divisional Commissioner shall form committees at district levels, which shall issue a press-note indicating the status of the tests carried out, number of positive patients, number of patients who have tested negative, cured patients, availability

of beds in the Government and private hospitals (occupancy status), number of deaths due to Covid-19, etc.. Such press-note may be issued on daily basis, if practicable, and at least three times in a week.

- (i) There shall be no direction to the district administration to conduct a press-conference and it is left to the Divisional Commissioner and the district administration to hold such press conference, if they find it appropriate.
- (j) Since the press-note would indicate the details as directed above, any person, be he of any status, found to have indulged in spreading rumours or painting a false picture of the Covid-19 situation, should be dealt with strictly by the district administration and if permissible in law, offences may be registered against such individuals under the prevalent laws including the Epidemic Diseases Act, 1897 and the Disaster Management Act, 2005. If any employee is involved, he should be subjected to disciplinary action as well.
- (k) Since Aurangabad has become a model for conducting of rapid antigen tests on localites and shop/ establishment owners, the stationed/earmarked laboratories shall be utilised to enable the people to voluntarily subject themselves to such a test.

- (l) So also, the mobile laboratories for conducting such tests should be established in order to make it convenient for the public at large and especially the senior citizens or patients with co-morbidities, to undergo tests.
- (m) The State and the Districts' Administration shall legally ensure that doctors, para-medics, employees deployed/ Covid warriors are protected against aggression or oppression or agitation by any individual or a group of persons on the ground that they are involved in combating Covid-19. Private hospitals and private medical practitioners, pressed into such service, shall be adequately protected. Rumour mongers claiming that Corona virus spreads due to doctors/ para-medics or hospitals with Covid-19 wards and hostilities, by any person howsoever high he may be, towards Covid-19 warriors, shall be strictly dealt with and action, permissible in law, shall be initiated.
- (n) Notwithstanding all guidelines/ advisories set out hereinabove, which are not exhaustive, the State/ District Administrations would be at liberty to introduce such measures as would be necessary for combating Covid-19.

pious act. Much has been done. Lot more needs to be done. In this situation, we are reminded of the 1922 poem by Robert Frost, titled as "Stopping by Woods on a Snowy Evening", which ends with "*The woods are lovely, dark and deep, But I have promises to keep, And miles to go before I sleep, And miles to go before I sleep.*" We are sure that these words would inspire all those involved in the Covid-19 battle, to continue their good work to save mankind. The translation by Girija Kumar Mathur of the original by Charles Albert Tindley (I will overcome some day), "*Hum Honge Kaamyab Ek Din*", will give all enough inspiration.

33 This PIL is, accordingly, disposed off. The pending Criminal Applications do not survive and stand disposed off.

34 Before we part with this judgment, we find it necessary to compliment the officials, who have wholeheartedly and dedicatedly devoted themselves in this battle against the corona virus. We are informed that the Divisional Commissioner Shri Sunil Kendrekar has been spending sleepless nights and is travelling extensively in several districts for coordinating the containment measures. He has been visiting covid-19 wards frequently. He is leading the administration under his division, by example. Such dedication requires to be complimented. The Administrator of the Aurangabad Municipal Corporation Shri Astik Kumar Pandey,

District Collector of Aurangabad Shri Uday Chaudhari (now transferred), Shri Chiranjeev Prasad, Commissioner of Police, Aurangabad, all District Collectors, all the District Superintendent of Police and the Civil Surgeons of all districts amenable to the jurisdiction of the Aurangabad Bench, have done a splendid job and deserve compliments. We expect these officers and all Covid-19 warriors in their respective teams to continue to serve mankind with their devotion and dedication. We also find it appropriate to compliment the medical and para medical staff of various Government hospitals/ dispensaries under the Aurangabad Division. The private medical practitioners and private hospitals, who have devoted their wards for covid-19 treatment, also deserve compliments. At the same time, we expect the State and the administration to deal with willful and intentional acts of negligence, callousness and work shirking, with a strict hand and initiate appropriate action against such errant employees/ officers.

35 Shri Rajendra Deshmukh, learned Senior Advocate as Amicus Curiae, has ably assisted us. He has graciously declined to accept fees in this matter and has donated the same for the treatment of Covid-19 patients. The High Court Legal Services Sub- Committee, Aurangabad shall transfer the said amount to the account of the District Collector, Aurangabad.

36 The learned Registrar (Judicial) of this Bench is directed to

serve a copy of this judgment on the Chief Secretary, State of Maharashtra, so as to be circulated to all the Divisional Commissioners, Police Commissioners, District Collectors, Superintendents of Police, the Commissioners/ Administrators of Municipal Corporations, etc. in the State of Maharashtra.

(SHRIKANT D. KULKARNI, J.)

(RAVINDRA V. GHUGE, J.)

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