

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2020

CORAM

THE HONOURABLE Mr.JUSTICE R.SUBBIAH

AND

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.7522 of 2020

and WMP.Nos.8950 and 8951 of 2020

The Tamil Nadu Govt. Medical Laboratory,
Technician's Association
(Govt.Reg.1091/70)
No.56, Dr.Sathiyavanimuthu Nagar,
Pallavan Salai, Chennai-600 002.
Represented by its State Secretary
Mr.A.Gopinathan ... Petitioner

Versus

1] The Secretary to the Government
Government of India,
Ministry of Health and Family Welfare,
Department of Health and Family Welfare,
Medical Education Division, Nirman Bhavan,
New Delhi.

2] The Under Secretary to the Government
Government of India,
Ministry of Health and Family Welfare,
Department of Health and Family Welfare,
Medical Education Division,
Nirman Bhavan, New Delhi.

3] Medical Council of India,
Rep.by its President, I.M.A. House,
Indraprastha Marg, New Delhi-110 002.

4] The Principal Secretary to Government,
Government of Tamil Nadu,
Health and Family Welfare Department,
Fort.St.George, Secretariat,
Chennai-600 009.

5] The Nodal Officer State (EOC)
(Emergency Operation Control and Superintendent of Infected
Diseases and Integrated Committee)
No.359, Anna Salai, DMS Complex, Chennai-600 006.

6] The Director of Public Health and Preventive Medicine,
359, Anna Salai, DMS Complex,
Chennai-600 006.

7] The Director of Medical and Rural Health Services,
Chennai-6.

8] The Director of Medical Education,
Government of Tamil Nadu, Chennai-10.

9] The Dean Madras Medical College,
Rajiv Gandhi Govt. General Hospital,
Chennai-600 003.

10] The Dean, ESI Medical College Hospital,
Coimbatore.

11] The Dean Dharmapuri Medical College,
Dharmapuri.

12] The Medical Superintendent,
Rajiv Gandhi Government General Hospital,
Chennai-600 003.

13] The Director Department of Micro-Biology,
Madras Medical College,
Chennai-600 003.

14] The Director Department of Pathology Madras Medical
College,
Chennai-600 003.

15] The Director,
Department of Bio-Chemistry Madras Medical College,
Chennai-600 003.

16] The Dean,
Rajiv Gandhi Govt. General Hospital,
Chennai-600 003.

... Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondents 1 to 10 to direct all the Government Hospitals Authorities in the entire State of Tamil Nadu to deploy the ENT Specialists Doctors and Post Graduate Training Doctors to take the related Samples i.e., throat swab (Oropharyngeal) and Nasal Swab (Nasopharyngeal swab) from respective Hospitals from the COVID-19 Patients in respective Isolation Wards in the entire State of Tamil Nadu as per the Letter in File No.Z 200115/127/2019- ME-1 dated 08.04.2020 issued by the respondents 1 and 2 to control the Pandemic Corona Virus i.e., COVID-19 by taking effective steps by considering the Petitioner's representation dated 20.03.2020 and 01.04.2020.

For Petitioner : Mr.Haja Nazirudeen, Senior Counsel
for Mr.A.Ilayaperumal

For Respondents: Mr.R.Shankara Narayanan, Addl Sol General
Assisted by Mr.K.Srinivasa Murthy
for R1 to R3.
Mr.V.Jayaprakash Narayanan, Govt. Pleader
for R4 to R16.

O R D E R

[The Order of the Court was made by R.Subbiah, J.]

The present writ petition has been filed by the Tamil Nadu Government Medical Laboratory Technician's Association for a direction to the respondents 1 to 10 to direct all the Government Hospital Authorities in the entire State of Tamil Nadu to deploy the ENT Specialists Doctors and Post Graduate Training Doctors to take the related Samples ie., throat swabs (Oropharyngeal) and Nasal Swab (Nasopharyngeal swab) from respective Hospitals from the Covid-19 patients in respective isolation wards in the entire State of Tamil Nadu as per the Letter in File No.Z 200115/127/2019-ME-1 dated 08.04.2020 issued by the respondents 1 and 2 to control the Pandemic Corona Virus ie., Covid-19 by taking effective steps by considering the petitioner's representation dated 20.03.2020 and 01.04.2020.

2. When the matter is taken up through Video Conferencing, the learned Government Pleader appearing for the State brought to the notice of this court the letter dated 08.04.2020, issued by the Government of India, regarding utilization of services of ENT specialists/Post Graduate Trainees for collection of Covid sample. In the said letter, the Under Secretary to the Government of India, has requested all States and Union Territories to organize collection of Covid-19 case samples by using the services of ENT Specialists and residents. The services of these professionals working in all Government/Private Medical Colleges of the States were directed to be utilized for this purpose.

3. The learned Government Pleader further submitted that representation dated 01.04.2020 is prior to the letter issued by the Government of India dated 08.04.2020. Therefore a direction may be given to the petitioner association to give fresh representation regarding training and safety measures to be adopted while taking samples.

4. It is relevant to note that petitioner's representation dated 01.04.2020 is with reference to impart of

training to lab technicians who take samples from Covid-19 patients and also requested the authorities for procedure to be laid down for testing samples professionally.

5. At this juncture, learned counsel for the Petitioner Association submitted that it would suffice to direct the 6th respondent to consider a fresh representation to be submitted by the Petitioner Association in this regard.

6. In view of the submission made by the learned counsel for the Petitioner and the learned Government Pleader, it is for the petitioner to give fresh representation seeking guidelines as regards safety measures to be adopted while taking samples from Covid-19 patients, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the Director of Public Health and Preventive Medicine-R6 is directed to consider the same and pass appropriate orders in accordance with law, within a period of two weeks thereafter. It is made clear that this court has not expressed any opinion on the merits of the matter.

7. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-I)

//True copy//

Sub Assistant Registrar

nvsri

To

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Department of Health and Family Welfare,
Medical Education Division, Nirman Bhavan,
New Delhi.

2] The Under Secretary to the Government
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Writ Petition No.7522 of 2020

PVS (CO)
GMY (08/09/2020)



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