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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 9th June, 2020

+ W.P.(C) 3407/2020

KAIRAV NAYAR

..... Petitioner

Through: Mr. Rajiv Nayar, Sr. Adv. with
Mr. Arjun Sial, Ms. Manjira Dasgupta &
Mr. Kartik Nayar, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mrs. Maninder Acharya, ASG
with Mr. Abhay Prakash Sahay, CGSC with
Mr. Viplov Acharya, Adv. for R-1 & R-3
Mr. Satyakam, ASC for GNCT of Delhi

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

Proceedings of the matter have been conducted through video conferencing.

CM APPL.12101/2020 (exemption)

Allowed, subject to just exceptions.

W.P.(C) 3407/2020 & CM APPL.12100/2020 (Ad Interim Directions)

1. This Public Interest Litigation has been preferred with the following prayers:

“a) Issue a Writ of Certiorari or any appropriate writ, order or direction thereby quashing/setting Office Order dated

02.06.2020 issued by the Respondent No. 2 to the extent that it restricts the testing of asymptomatic Covid -19 patients and direct accredited laboratories to resume testing including that of asymptomatic patients;

b) Issue a Writ of Mandamus or any appropriate writ, order or direction thereby calling upon the Respondents or authorities acting under them in exercise of powers bestowed upon them including but not limited under National Disaster Management Act, 2005 to carry out large scale testing, to be monitored by Nodal officers so appointed, co-extensive with the “Unlockdown” and lifting the restriction on movement and allow the accredited private laboratories to resume testing including all asymptomatic patients in view of the sudden spike and sharp increase in the number of positive cases;

c) Issue a Writ of Mandamus or any appropriate writ, order or direction thereby calling upon the Respondents to place on record the total capacity, current status/availability of all Covid Care Centre, Covid Medical Centre, Dedicated Covid Hospital, Hotels converted into Extended Hospitals along with number of ventilators and other crucial equipments/facilities required for providing medical care to all categories of Covid patients such as with mild or no symptoms, moderate symptoms and critically ill patients;

d) Issue a Writ of Mandamus or any appropriate writ, order or direction thereby calling upon the Respondents to prepare and also observe guidelines for setting up necessary infrastructure required for Dedicated Covid Hospitals, Covid Medical Centers, Covid Care Centers etc.

e) Issue a Writ of Mandamus or any appropriate writ, order or direction thereby calling upon the Respondent No. 2 to strictly comply with the Guidelines dated 07.04.2020 pertaining to management of confirmed Covid 19 cases issued by the Respondent No. 1 to ensure that only patients who have been clinically diagnosed/assigned as “severe” to be admitted to Dedicated Covid Hospital and moreover rotation/transfer of recovered patients to Covid Healthcare Centres and or Covid Care Centre after proper clinical

diagnosis, convert the existing requisitioned hotels into extended Covid Hospitals and acquire more such premises if required to make sufficient medical infrastructure including hospital beds and ventilators available to patients;

f) Issue a Writ of Mandamus or any appropriate writ, order or direction thereby calling upon the Respondents to make sufficient healthcare facilities available to citizens including but not limited to hospital beds on urgent basis to ensure proper and necessary healthcare facilities and treatment for COVID 19 patients and moreover set up responsive helplines and immediate response cell in-order to ensure no patient is deprived of necessary medical facilities including hospital beds and ventilators;

g) Issue a Writ of Mandamus or any appropriate writ, order or direction thereby calling upon the Respondent No. 2 to permit testing of asymptomatic Covid -19 patients in-terms of the Guidelines dated 18.05.2020 passed by the Respondent No. 3/ICMR;

h) Issue a Writ of Mandamus or any appropriate writ, order or direction thereby calling upon the Respondents to produce all show cause notices, disclose purported violation committed by accredited private laboratories, replies so issued along with the copy of the concerned minutes of the meetings wherein directions were passed to discontinue testing of asymptomatic patients.

i) Issue a Writ of Mandamus or any appropriate writ, order or direction thereby calling upon the Respondents to frame guidelines regarding treatment and healthcare to be provided to Asymptomatic Patients of COVID 19;

j) Pass such other or further order(s) as this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case."

2. Having heard the counsel for both the sides and looking to the facts and circumstances of the case, it appears that prayer (a) in this writ petition is about the directions to be given to the private labs to carry out tests for

asymptomatic patients which has been taken care of by the latest development of the fact that now the Hon'ble Lt. Governor of NCT of Delhi has already issued an order dated 8th June, 2020 thereby giving direction to carry out tests for asymptomatic patients. The directions have been implemented by the order of the same date issued by the Principal Secretary (Health & FW), GNCTD.

3. So far as other prayers of the petitioner regarding the availability of the beds in the hospitals with facilities for proper care, facilities of ventilators etc. are concerned, it appears that the issues involved relate to the policy decision to be taken by the Government of NCT of Delhi. They have already constituted a committee of experts which is a multi member committee of doctors advising the Government. Moreover, the respondents have already launched a mobile application namely "Delhi Corona" which facilitates in giving real time information in Central Government run hospitals, State Government run hospitals and private hospitals regarding availability of beds, ventilators etc. Besides, district wise ground teams have assigned for effective surveillance of Corona-affected patients. Each district has a District Surveillance Officer supported by medical team to reach out to the patients by making calls or home visits to assess whether they need home quarantine or are required to be sent to hospitals or a nearby quarantine centre. Furthermore, out of 209 ambulances available overall, 136 are exclusively dedicated for Covid patients. 125 additional ambulances have been hired by Government of NCT of Delhi from private operators for non-serious patients. These developments have been noted in our order dated 8th June, 2020 passed in W.P.(C) No. 3250 of 2020 (Court on its Own

Motion vs. State of NCT of Delhi & Ors.)

4. Looking to the issues raised by the petitioner, this is not an adversarial petition and therefore, we direct that, at this stage, the suggestions made in this writ petition be treated as a representation by the concerned respondent authority and decide the same with the help of experts committee already constituted by Government of NCT of Delhi.

5. With the aforesaid observations/directions, this writ petition is disposed of. The pending application also stands disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

JUNE 09, 2020

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