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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 11.06.2020

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W.P.(C) 3455/2020

HEMANT SINGH AND ORS.

..... Petitioners

Through: Mr. Mridul Chakravarty, Adv.

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Shadan Farasat, ASC, GNCTD
with Mr. Bharat Gupta, Adv. for
GNCTD.

Mr. Anurag Ahluwalia, CGSC with
Mr. Abhigyan Siddhant, Adv. for R-3
& 4/UOI.

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.

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

“a) Issue appropriate writ, order, directions, upon the Respondent Nos. 1 and 2 for enforcing strict cluster containment/ sealing, in terms of the guidelines/ notification dated 16.05.2020 of the Respondent No. 3;

b) Issue appropriate writ, order, directions, for quashing/ setting aside the Order dated 07.06.2020 issued by the Respondent No. 2;

c) Issue appropriate writ, order, directions, upon the Respondent No. 1 and 2 for ensuring availability of adequate number of beds in the hospitals in the State (Private as well as Government of Delhi hospitals) and provide adequate facility for admission of persons requiring treatment for COVID-19;

d) Issue appropriate writ, order, directions, upon the Respondent Nos. 1 and 2 for implementing the suggestions provided by the Delhi Medical Association vide its press release dated 06.06.2020;

e) Issue appropriate writ, order, directions, upon the Respondent Nos. 1 and 2 for ensuring and providing adequate facilities qua medical tests for detecting COVID-19 infection for people who are either symptomatic or asymptomatic of COVID-19 affliction and not to discriminate on the aforesaid basis;

f) Pass any other further order, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. Learned counsel for the petitioner is not pressing prayers (b) and (e). Thus, only prayers (a), (c) and (d) of this petition have been argued out before this Court.

3. We have heard learned counsel for both the sides at length.

4. Learned counsel for the petitioner submitted that respondents No.1 and 2 have not declared Defence Colony, an area situated in the city of Delhi as a containment zone as per the guidelines/notification issued by the respondent No.3 dated 16.05.2020 (Annexure P-1 to the memo of this writ

petition), which is required to be followed by the respondents No.1 and 2. It is also submitted by the learned counsel for the petitioner that more beds are required for Covid patients in hospitals situated at Delhi as the number of patients is increasing rapidly day by day. He submitted that steps should be initiated by the respondents No.1 and 2 in this regard. It is also submitted by the learned counsel for the petitioner that there are certain suggestions given by Delhi Medical Association vide their press release dated 06.06.2020 (Annexure P-12) which are required to be considered/followed by the respondents.

5. We have heard learned counsel appearing for the respondents No.1 and 2 at length who has submitted that in Defence Colony, the lane where House numbers C-54 to C-65 are situated, has already been declared as containment zone by respondents No.1 and 2. It is submitted by the learned counsel for the respondents No.1 and 2 that if in a particular colony, one or two houses, or a particular area within the colony, are having concentration of Covid patients, that does not mean that the whole colony is required to be declared as a containment zone. The whole Defence Colony area has not been declared as containment zone. It is submitted by the learned counsel for the respondents No.1 and 2 that the said declaration has been made in due compliance of the notification/guidelines issued by the respondent No.3 dated 05.05.2020.

6. It is further submitted by the learned counsel for the respondents No.1 and 2 that by notifications of the respondents dated 29.05.2020, 04.06.2020, 09.06.2020 and 10.06.2020 various steps have been taken for laying down Standard Operating Procedure for reserving some beds of private hospitals as well as some rooms of certain hotels (as extensions of nearby hospitals) to

admit Covid patients. Moreover, as per the latest directions/orders dated 10.06.2020, issued by Hon'ble Lieutenant Governor, Chairman of State Disaster Management Authority (SDMA), now availability of beds is required to be displayed on electronic Board of every hospital – State Government, Central Government and private hospitals.

7. Learned counsel for the respondents No.1 and 2 has also taken this Court to the latest figures of availability of beds for the Covid patients in the hospitals situated in the city of Delhi which are 9179 as on 09.06.2020 out of which 4914 beds have been occupied and remaining are available for the new patients. Similarly, total 569 ventilators are available out of which 315 are being utilised and remaining are available. It is further assured by the learned counsel for the respondents No.1 and 2 that they are strictly following all the guidelines and directions issued by the Central Government as well as by other competent bodies and similarly they are also strictly observing due compliance of the directions issued by the Hon'ble Lieutenant Governor of Delhi. Nonetheless, if any attention is drawn by the petitioner by way of any representation, the same will be taken care of by the respondent No.1 in accordance with law, rules, regulations and Government policy applicable to the facts of the case.

8. In view of the aforesaid arguments canvassed by the learned counsel for the petitioner as well as learned counsel for the respondents and also looking to the fact that affected part of Defence Colony situated in Delhi (being the lane where House numbers C-54 to C-65 are situated), has already been declared as containment zone, we see no reason to declare the whole Defence Colony as a containment zone. Learned counsel for the petitioner also did not point out any other part of Defence Colony where

there is a cluster of Covid-infected persons, requiring its declaration as a containment zone. Learned counsel for the petitioner has referred to the Guidelines dated 16.05.2020 issued by the Ministry of Health and Family Welfare, Government of India. Under Clause 6.4 of the said Guidelines, the geographical delineation of the containment zone has been left to the district authorities/ urban local bodies, in accordance with the criteria mentioned therein. Nonetheless, if in the future, keeping in mind the applicable guidelines or on advice given by the experts to respondent No.1, if there is need to declare any other part of Defence Colony as a containment zone, the respondent No.1 shall do so in accordance with law.

9. So far as availability of the beds is concerned, it appears that some steps have already been initiated by the respondents as stated by the counsel for the respondents No.1 and 2. On 29.05.2020, some hotels which are in close proximity to private hospitals have been taken over to accommodate Covid patients.

10. Similarly, Standard Operating Procedure (SOP), issued on 04.06.2020, has also been pointed out in detail by the learned counsel for the respondents No.1 and 2. This procedure shall be followed scrupulously by the concerned respondent authorities for the welfare of the public at large.

11. Similarly, learned counsel for the respondents No.1 and 2 submitted that vide Government order dated 09.06.2020, more than 2000 beds have been taken from the private hospitals for accommodating Covid patients.

12. Thus, it appears that the respondents No.1 and 2 are taking steps to meet the difficulties of the public at large and they are arranging beds from the private hospitals in accordance with the advice of the experts given to the respondents. Learned counsel for the petitioners also did not dispute the

figures regarding present availability of beds which were cited by the learned counsel for respondents No. 1 and 2. The world is presently going through Covid-19 pandemic affecting all sections of the society at large. In a matter like this, Government should be given some degree of movement in joints. There cannot be any hard and fast mathematical solution of such a problem. In a situation like this, experimental based solutions are to be tested. Suffice it to say that the respondents appear to be aware of the fact that there is need of more beds for Covid patients and therefore they are issuing directions from time to time. Both Central Government as well as State Government are issuing directions looking to the present needs of the society. This Court has also taken cognisance of these issues in W.P.(C) No. 3250 of 2020 (*Court on its Own Motion vs. State of NCT of Delhi & Ors.*), in which certain directions have been passed. W.P.(C) No. 3250 of 2020 remains pending before this Court, and further information has been sought from the concerned authorities, to enable this Court to consider whether any further directions are necessary.

13. The Hon'ble Lieutenant Governor, as Chairman of State Disaster Management Authority (SDMA), has also issued directions dated 10.06.2020 for developing electronic board in hospitals displaying information to the people about the availability of the beds, etc. Moreover, a mobile application has already been developed by respondent No.1 wherein such data is to be uploaded by all the hospitals. Though, there was a time gap in uploading such data, now necessary directions have been given in terms of the decision taken in the meetings held between respondent No.1 and the owners/management of those hospitals.

14. We expect from all the hospitals situated in Delhi that they shall

correctly upload the availability of “real time bed capacity data” so that public may know in advance where to go if they are suffering from Covid.

15. Considering the gravity of the situation, we hereby direct the respondents to increase the number of the beds for Covid patients and also try to increase the number of ventilators so that all Covid patients in need can get these facilities. We also expect from the respondents that they shall scrupulously follow the guidance / directions / guidelines issued by the Central Government. We also direct the concerned respondent authorities to look into the suggestions given by Delhi Medical Association vide their press release dated 06.06.2020 which are annexed as Annexure P-12. These suggestions may also be kept in mind whenever the respondents are formulating their policy decisions.

16. A suggestion has been given by Mr. Mridul Chakravarty, learned counsel for the petitioner and we also appreciate the suggestion that there are “ready to move in” Government flats available in the city of Delhi, which may be utilized by the Covid hospitals for putting such infrastructure like beds, etc. to accommodate Covid patients. This suggestion will be kept in mind by the concerned respondent authorities as and when they are formulating or amending their policy decisions.

17. Looking to the aforesaid aspects of the matter, no further directions are required to be given to the respondents at this stage in the present petition. Nonetheless, if any further grievances are to be ventilated by the petitioners, the petitioners may prefer a fresh representation to the concerned respondent authorities and the same will be decided in accordance with law, rules, regulations and Government policy applicable to the facts of the case.

18. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

JUNE 11, 2020/kks

PRATEEK JALAN, J