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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 7th August, 2020*

+ **W.P.(C) 3736/2020**

GAURAV KUMAR BANSAL Petitioner

Through: Petitioner in person.

Versus

UNION OF INDIA & ORS. Respondents

Through: Mr.Chetan Sharma, ASG with
Mr.Kirtiman Singh, CGSC; Mr.Waize Ali Noor,
Mr.Rohan Anand, Adv. for UOI/ICMR.

Mr.Sameer Vashisht, ASC with Ms.Urvi Kapoor,
Adv. for R-2&3.

Mr.Tushar Sannu, ASC with Ms.Ankita
Bhadouriya, Adv. for R-4/IHBAS.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

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

Proceedings in the matter have been conducted through video conferencing.

1. This public interest litigation has been preferred with the following prayers:-

“A. Issue a Writ/Order/Direction in the nature of mandamus against respondents and in particular Respondent No.01 and Respondent No.02 to issue GUIDELINES with respect to COVID 19 TESTING FACILITY for HOMELESS MENTALLY ILL PERSONS.

B. Pass any other Order or Direction which this Hon'ble Court may deem fit and proper under the facts and circumstances as mentioned above."

2. Having heard the learned counsel for the parties and looking to the affidavits filed by the respondents, especially the latest affidavit dated 6th August, 2020, it appears that certain steps are being taken for testing the homeless mentally ill persons for COVID-19. The principal difficulty which had been brought to our notice, as recorded in the earlier orders, was that homeless mentally ill persons often do not possess identity documents, address and mobile phone number, which were being required prior to testing. It appears that this concern has been addressed in the aforesaid affidavit dated 6th August, 2020 filed on behalf of the Indian Council for Medical Research. Paragraphs -7 and 9 of the said affidavit read as under:-

7. It is further submitted that in so far as the observations of this Hon'ble Court regarding establishment of camps for the homeless/mentally ill patients are concerned and as to whether such patients are required to submit Govt. ID details and mobile telephone number mandatorily as per the guidelines issued by ICMR for COVID-19 laboratory testing, a clarification has been sought from the answering respondent for tackling the situation related to homeless/mentally ill patients, who may factually not possess such documents/numbers. In this regard it is submitted that:-

(a) State specific guidelines for establishment of camps for mentally challenged/homeless patients can be issued and further implemented by the respective States. Thereafter, the said State authorities may adopt suitable protocol to address the grievance raised while ensuring that strategy of 'Test/Track/Treat' is followed.

(b) In addition all States have been given access on ICMR portal by merging the Application Programming Interface ('APIs').

(c) Further, individuals being tested who factually do not possess a phone number; a number “9999999999” can be entered into the database. It is clarified that this number may be used for homeless/mentally ill patients only.

(d) In addition, for address of these people, the address of testing labs or hospitals of admission may be entered.

(e) In so far as the RT-PCR (Reverse Transcription-Polymerase Chain Reaction) Application is concerned, the issue was under deliberation of this Hon’ble Court in WP(C)No.3031 of 2020 titled ‘Shri Rakesh Malhotra vs State of NCT of Delhi & Ors.’ Wherein in terms of the directions of this Hon’ble Court a meeting was held on 23.06.2020 between various stake holders and several issues had been resolved, including the operation of RT-PCR App. It is submitted that the ICMR does not have any role in the operation of the RT-PCR App.

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9. It is submitted that the answering respondent has already issued a generic Advisory dated 23.06.2020 namely 'New Additional Strategies for COVID-19 Testing' wherein at para A (ii) and para B (ii) of Annexure 1 and para (xvi) of Annexure 2 of the said Advisory has specifically mentioned about the testing strategies for mentally ill/homeless patients. The said Advisory of the answering respondent is available on the website of ICMR and has already been filed before this Hon'ble Court in the present case.”

3. A perusal of the above makes it clear that steps have now been taken to enable testing of the homeless mentally ill persons for Covid-19.

4. However, it is further suggested by the petitioner that as an alternative, the identity of the concerned police officer having jurisdiction upon the area in question shall also allowed to be noted in place of the patient’s contact details.

5. Thus, we hereby direct the concerned respondent authorities that over

and above the aforesaid measures as noted in paragraphs 7 and 9 of the additional affidavit of ICMR reproduced hereinabove, as an alternative, wherever it is not possible to secure the patient's contact details, identity of the concerned police officer having jurisdiction upon the concerned area shall also be allowed to be submitted.

6. Mr. Chetan Sharma, learned ASG assures us that the aforesaid provisions will be widely disseminated amongst all concerned expeditiously.

7. With these observations, we see no reason to further monitor this case. The petition is, accordingly, disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

AUGUST 07, 2020

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