

Court No. - 68

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 574 of 2020

Petitioner :- In-Re Inhuman Condition At Quarantine Centres And For Providing Better Treatment To Corona Positive

Respondent :- State of U.P.

Counsel for Petitioner :- Gaurav Kumar Gaur, Rishu Mishra, S.P.S. Chauhan

Counsel for Respondent :- C.S.C., Purnendu Kumar Singh

Hon'ble Siddhartha Varma, J.

Hon'ble Ajit Kumar, J.

Civil Misc. Time Extension Application No. Nil of 2020

This application has been filed for extending time for submitting reports as per this Court's order dated 18.08.2020. Sri Chandan Sharma, Advocate, is being allowed ten days' further time to give reports of all the five zones.

Application is allowed.

Civil Misc. Withdrawal Application No. Nil of 2020

For the reasons stated in paragraphs no.6 and 7, Sri Ram Kaushik, Advocate who was appointed as Advocate Commissioner, is allowed to withdraw from being an Advocate Commissioner.

Application is disposed of.

When we asked Sri Chandan Sharma, Advocate, if he required someone else for assistance, he stated that definitely for the purpose of inspection, measurement etc. it would be in the fitness of things if someone else is also appointed an Advocate Commissioner. From amongst the Counsel who were present in the Court, we think it appropriate to appoint Sri Shubham Dwivedi, Advocate, an Advocate Commissioner who shall along with Sri Chandan Sharma, Advocate, give his report as was directed in our order dated 18.08.2020.

Civil Misc. Intervenor Application No. Nil of 2020

Intervenor Application filed by Sri Shailendra Garg be kept on record. A copy of this application be served on the State and we place it for further argument on the next date. The Registry is directed to give a regular number to this application.

Civil Misc. Intervenor Application No. Nil of 2020

Intervenor Application filed by Sri Prabha Shankar Mishra, Advocate, be kept on record.

Learned AAG has sought time to file a reply by the next date fixed.

The Registry is directed to give a regular number to this application.

Order on Petition

Heard Sri S.P.S. Chauhan, Sri Ram Kaushik, Ms. Priyanka Midda, Advocates, who are assisting the Court in the Public Interest Litigation. Sri Manish Goyal Additional Advocate General assisted by Ms. Akansha Sharma was also heard. Sri S.D. Kautilya assisted by Sri Satya Brat Sahay appeared for the Nagar Nigam.

The reports from the Principal of the Motilal Nehru Medical College, Prayagraj, and the Chief Medical Officer, Prayagraj, and the reports from various districts have been placed on record. Sri Kautilya, with regard to the clearing of encroachment and fogging etc. also filed his report. He has also filed an affidavit. So far as the state of the ICU in the medical college is concerned, we have directed Sri S.P. Singh learned Additional Solicitor General of India who appeared through video conferencing to produce before the Court the norms which are prevailing for the placing of doctors in the ICU Covid-19 Wards.

Today, Sri Kautilya also informed us that one doctor Dr. Vimal Kant has been appointed as a Nagar Swasth Adhikari in the Nagar Nigam and he would oversee the cleanliness and the sanitization of the city. He assured that the newly appointed doctor shall ensure that fogging would be done in the city on a regular basis and that he

shall definitely see that the chemical malathion is mixed with the diesel as per the ratio provided under the guidelines.

Ms. Rishu Mishra also pressed her application with regard to the sub-standard masks which were not being manufactured in conformity with the guidelines provided by the Central Government and were being permitted to be sold. A copy of the guidelines may be served on Sri Manish Goyal AAG. He may look into the matter.

A Copy of the enquiry vis-a-vis Smt. Chunni Devi was presented to us in a sealed cover. Apparently this report has not been served on the learned Additional Advocate General Sri Manish Goyal. Let a copy of this enquiry report be supplied to Sri Manish Goyal by the Registry. He may see as to how and why, when it was found that the lady had died while going to the toilet, she was put on a ventilator.

From the record, we find that a complete lockdown was imposed on the 25th of March, 2020. Thereafter when the Government thought that the spread of the virus had been contained, it started bringing in a process by which the economy started functioning. This process of re-starting the economy was termed as "Unlock". Unlocking of the economy has been done till now in

three phases. Unlock-1 came on 1.6.2020, Unlock-2 came on 1.7.2020 and Unlock-3 ultimately was announced on 29.7.2020. When after the unlock started and the spread of the virus continued, this Court on 17th of August, 2020, asked the administration and the State Government as to what steps they were taking to stop the spread of the virus in the districts of Lucknow, Kanpur Nagar, Prayagraj, Varanasi, Bareilly, Gorakhpur and Jhansi. On the 17th of August, 2020, itself a road map to fight the contagion was produced.

For the last several dates, we are being repeatedly assured of concrete steps being taken by the administration of various districts of the State to contain the spread of COVID-19 but the manner and the rise this pandemic has shown in several parts of the State, it is evident that any step lesser than a lock down, would be of no help. We have noticed the directives issued from time to time by the State Government, the last being of the 17th of August 2020. However, we have also noticed that both the police and the district administration have despite the directives completely failed in restricting the movement of people who are moving without business and are assembling at various commercial places including the tea stalls and beetal shops. The police of

course have limited powers to prosecute under section 188 IPC and then challan the people for not wearing the mask but if people themselves are not taking the impact of pandemic quite seriously then in the interest of public some harsh steps have to be taken. Law is meant for the people and if spread of virus COVID-19 can be contained by locking the people inside their homes, let it be, as it will not only save the lives of people in general but even will result in better use of government resources. When we have to balance between bread and butter and life, the latter has to prevail. Food is for life to survive and not vice-versa. We do not think that a lock down for a fortnight would bring the economy of the State to such a halt that people would die of hunger. The learned Additional Advocate General on the last date i.e. on 18.8.2020 had ruled out any scope of a lock down at the end of the Government, though of course he had assured that the State would take every measures and would not leave any stone unturned to check the spread of the pandemic. A week's time was sought to enable the district administration and the police of every district in the State, especially the seven districts namely Lucknow, Kanpur Nagar, Prayagraj, Varanasi, Gorakhpur, Bareilly and Jhansi to gear up to fetch the desired results. Today, a

statistics of police challan and penalty has been placed before the Court. Besides the measures adopted through public announcement system etc. to demonstrate that the district administration and the police have done a robust exercise in the last seven days to convince people to confine themselves to their homes and to move out only in exceptional circumstances of urgency and that too by wearing masks and following social/physical distancing norms but unfortunately the statistics of admitted rise in number of COVID positive cases is very disheartening.

Learned Additional Advocate General took us through various affidavits available on record to show that things were moving in the right track and he also showed to us the results of steps the State was taking. He also argued that an action of imposing a lockdown would be against the spirit of unlock directions issued under the relevant laws.

We do not doubt government's will but we are equally conscious that measures taken are not enough and are needed to be made more severe and stringent but of course, workable too at the same time. Putting people to challan/fine and then letting them go and the insufficient police force to do round the clock patrolling in lanes and by lanes in the district not only consumes public measure

and machinery but minimal results are being achieved. Thus, in our opinion the best choice today is to close down things for a while though selectively, to force people to confine themselves to their homes.

The statistics of the seven districts, namely, Lucknow, Kanpur Nagar, Varanasi, Prayagraj, Bareilly, Jhansi and Gorakhpur, where stringent steps were taken, show that by today i. e. the 25th August, 2020, the rise of the infection has been in the following manner:-

Chart prepared as per Covid-19 -- 24 Hour summary report issued from 15.8.2020 to 24.8.2020 by the official websites			
S. No.	District	Date	No. of Patients tested positive
1.	Lucknow	15.8.2020	671
		16.8.2020	814
		17.8.2020	595
		18.8.2020	514
		19.8.2020	767
		20.8.2020	796
		21.8.2020	620
		22.8.2020	765
		23.8.2020	693
		24.8.2020	740
2.	Kanpur Nagar	15.8.2020	250
		16.8.2020	397
		17.8.2020	429
		18.8.2020	261
		19.8.2020	414
		20.8.2020	348

		21.8.2020	236
		22.8.2020	100
		23.8.2020	327
		24.8.2020	268
3.	Prayagraj	15.8.2020	203
		16.8.2020	138
		17.8.2020	144
		18.8.2020	175
		19.8.2020	234
		20.8.2020	319
		21.8.2020	266
		22.8.2020	303
		23.8.2020	267
		24.8.2020	199
4.	Varanasi	15.8.2020	141
		16.8.2020	215
		17.8.2020	198
		18.8.2020	148
		19.8.2020	140
		20.8.2020	147
		21.8.2020	187
		22.8.2020	155
		23.8.2020	242
		24.8.2020	91
5.	Gorakhpur	15.8.2020	310
		16.8.2020	385
		17.8.2020	69
		18.8.2020	267
		19.8.2020	353
		20.8.2020	186
		21.8.2020	260
		22.8.2020	364

		23.8.2020	234
		24.8.2020	199
6.	Bareilly	15.8.2020	177
		16.8.2020	155
		17.8.2020	95
		18.8.2020	130
		19.8.2020	147
		20.8.2020	92
		21.8.2020	107
		22.8.2020	124
		23.8.2020	99
		24.8.2020	79
7.	Jhansi	15.8.2020	41
		16.8.2020	71
		17.8.2020	93
		18.8.2020	78
		19.8.2020	145
		20.8.2020	92
		21.8.2020	56
		22.8.2020	113
		23.8.2020	69
		24.8.2020	58

The number of deaths have also surprisingly risen.

Under such circumstances we direct the Chief Secretary of State of U.P. to give the following information to the Court:-

(i) Was there any plan of action to contain the infection when the economy was re-opened?

(ii) If there was any plan of action then was it ever implemented?

(iii) Orders which have been issued from time to time by various districts in fits and starts show that there is no central planning which might have been implemented. Individual orders are being issued by administrative officers in separate districts as per their discretion. The Chief Secretary, therefore, to inform if there was any planning done for the whole State of U. P and whether the enforcement by the authorities responsible for the whole State had taken any action.

(iv) The Chief Secretary to also inform if any action had been taken by the Central authority to punish authorities in the districts who had not followed the planning, if there was any, by the Central Agency.

(v) The Chief Secretary to, therefore, come up with a Road Map, in view of what has been observed by us in this order, to contain the contagion from now onwards by the next date.

Considering the urgency involved in the matter we are keeping this case on 28 August 2020 at 2:00pm. On the next date fixed, the Chief Secretary, Uttar Pradesh, to file an affidavit and provide the information asked for.

The Registrar General to communicate this order to the Chief Secretary, Uttar Pradesh, forthwith.

Order Date :- 25.8.2020

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(Ajit Kumar,J.) (Siddhartha Varma,J.)