

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, Aditya Singh Parihar, Amitanshu Gour, Jitendra Kumar, Katyayini, Rahul Sahai, Rishu Mishra, S.P.S. Chauhan, Satyaveer Singh, Shailendra Garg, Sunita Sharma, Swetashwa Agarwal

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

Hon'ble Siddhartha Varma, J.

Hon'ble Ajit Kumar, J.

Order on the Petition :

Heard learned counsel appearing in the Public Interest Litigation, Sri Manish Goyal, learned Additional Advocate General and Sri S.P. Singh, learned Additional Solicitor General of India.

(1) The inspection report with regard to the encroachment and cleaning of the city submitted by Sri Chandan Sharma and Sri Shubham Dwivedi, Advocates in compliance of our earlier order be kept on record. The Court shall go through this report on the next date.

(2) Insofar as unauthorised permanent structures and buildings on public road and public land are concerned, we direct Nagar Nigam to supply to the Court all relevant law relating to the buildings which might be preventing the Nagar Nigam to demolish the buildings and other permanent structures which have come-up on the public roads and roadside public land in the city. The Nagar Nigam shall also give an explanation as to why full-fledged structures including religious ones are existing on the roadside public land without any permission of the Nagar Nigam.

(3) A Counter affidavit has been filed by Sri Vijay Chandra Srivastava, Advocate which is taken on record. Sri Vijay Chandra Srivastava, learned Advocate has given valuable suggestions *qua* compliance of COVID-19 guidelines and we appreciate the same. He may, on the next date, give the photographs with regard to the crowding and also with regard to the garbage which has not been cleaned by the Nagar Nigam. He may also, on the next date, pinpointedly state where fogging in the City has not been done.

(4) Dr. Vimal Kant, Nagar Swasthya Adhikari shall ensure proper fogging and santization of the city and also see to the clinics/hospitals which the Nagar Nigam is contemplating to establish in the city of Prayagraj under Section 112-B of the U.P. Municipal Corporation Act, 1959.

(5) With regard to the work which the Nagar Nigam has to do under section 112-B of the U.P. Municipal Corporation Act, 1959, we expect that proper fogging, sanitization, cleaning of drains and the repair of roads shall be done. Foremost task that has to be done by the Nagar Nigam is to see to the health of the city. By the next date, the Nagar Nigam should definitely come-up with proposals of at least one clinic per two Wards in the municipal city of Prayagraj. After the clinics are established, the State shall provide regular staff/doctors for the clinics.

(6) Sri Garg, who has appeared through Video-Conferencing, has expressed his concern with regard to the spitting of Pan and Gutkha.

In this regard, State to ensure proper enforcement of Pandemic Rules and guidelines with regard to Pan and Gutka.

(7) We record that though we tried to contact the Swaroop Rani Nehru Hospital through Video-conferencing, the video-conferencing could not take place due to bad connectivity of the internet. Under such circumstances, it would be in the fitness of things that proper wi-fi connection be installed in SRN Hospital by the next date fixed so that we may look into the affairs of the Wards/ICUs of SRN Hospital which are dedicated to the COVID-19 patients.

Further, it has been stated by Sri Manish Goyal, learned Additional Advocate General that fabrication of the building in which the bigger testing machine has to be installed, would be completed by 15.9.2020. Thereupon, Sri S.P. Singh, learned ASGI informed us that in the event the fabrication work of the building is completed by 15.9.2020, the installation of the machine shall be completed by 18.9.2020.

(8) So far as the application of Sri Jitendra Kumar, Advocate with regard to the cattle fare, is concerned, learned Additional Advocate General states that somehow the said application has not been received.

In this regard, learned Additional Advocate General shall take action.

(9) With regard to the engagement of P.G. students for rendering medical service in these times of pandemic, learned Additional Advocate General may take instructions.

(10) With regard to the selling of sub-standard masks in all corners of the city, learned Additional Advocate General may take instructions. We may state that earlier also we had granted time to the learned Additional Advocate General to take instructions. This is a serious matter. If using of cloth mask is sufficient, then definitely the sale of sub-standard masks should be discouraged.

(11) Now coming to our earlier direction with regard to appointment of Advocate Commissioner. A list of 24 Advocates has been supplied by the High Court Legal

Cell/U.P. State Legal Services Authority. It may be kept on record. In addition to this list, the State Legal Services Authority may take the consent of the learned counsel, who are there already in their list, if they intend to work as Advocate Commissioners for the High Court in this case and after having received the consent, these learned Advocates may be assigned Wards along with the 24 Advocate Commissioners who have been asked to work in respect of their assigned Wards and collectively they shall submit their reports. These reports shall be with regard to the following :-

(i) Whether the residents in the Ward in which the Advocate Commissioners have been appointed as Commissioners are maintaining social distancing and are wearing their masks;

(ii) If any social distancing norm is violated or if it is found that any individual in a particular Ward is not wearing mask then the Advocate Commissioner may submit a report in this regard to the Zonal Officers of the Ward who in their turn shall communicate to the Municipal Commissioner and the Municipal

Commissioner in his turn shall submit a report to the Senior Superintendent of Police and thereafter the said report shall also be placed before this Court. These reports, needless to say, should be supported by evidence;

(iii) The Advocate Commissioners shall, with the help of their Corporators, go around their Wards and also submit a report with regard to the bad drainage, if it is found. If the Corporators do not cooperate, a report to that effect may also be submitted;

(iv) If the surface of any road in the Ward is found to be bad, then the Advocate Commissioners shall report about the same to the Municipal Commissioner and also to this Court; and

(v) The Advocate Commissioners shall also see that the Nagar Nigam chalks out plans for opening public clinics in every Ward for the purposes of initial first-aid, checking of Blood Sugar and checking of Blood-Pressure etc. In the present times, these clinics may also be used as Sample Collection Centres for COVID-19. The learned Additional Advocate General and the counsel for the Nagar Nigam agreed that a concerted effort would be

made to have within ten days a clinic for every two Wards after getting suitable premises. Learned Additional Advocate General also agreed that as and when clinics are opened, doctors from the Provincial Medical Services shall be appointed.

It has also been brought to our notice that computer link for getting information about COVID-19 report on a click of a button is not updated. We direct the authority concerned that the reports be loaded in such a manner that anyone who has been tested and has an I.D. should come to know his/her report without any hindrance.

Orders on various application:

Amendment Application No.1 of 2020:

Inre: PIL No. 851 of 2020:

The application is allowed. Office to correct the cause title. A copy of the report of the District Magistrate be given to Sri Sunil Chaudhary, Advocate.

Intervention Application Nos. 38 of 2020:

and

Intervention Application No.39 of 2020:

Let a copy of the Intervention Application filed by Ms. Sangeeta Dogra be served upon the State as also upon the counsel representing the State Pollution Control

Board within 48 hours. Specific instruction may be sought by the State and the Pollution Control Board by the next date fixed.

This application may be listed on the next date fixed.

Civil Misc. Recall Application No. NIL of 2020 (dated 7.9.2020)

Sri Manish Goyal, learned Additional Advocate General assisted by Ms. Akanksha Sharma has prayed for modification in respect of direction no. (i), at page no.3 of the order dated 2.9.2020 whereby we had directed for viewing of CCTV footage captured through CCTV cameras installed in various parts of the city by the Zonal Officers of Nagar Nigam. Learned Additional Advocate General has prayed that CCTV footages may not be made available to the Zonal Officer for security reasons.

Learned counsel appearing for Nagar Nigam has no objection and even suggested that Advocate Commissioners may themselves take video clippings of crowded places and forward the same to their respective Zonal Officers.

Accordingly, we modify our direction no.(i) (supra) to the extent that the Advocate Commissioners, whom we have appointed by our order, may take the video-clips of crowd gathering in violation of COVID-19 guidelines and report the same to their respective Zonal Officers of the Nagar Nigam and the Zonal Officer concerned will provide the said video-clips to the Senior Superintendent of Police, Prayagraj, who shall, in his turn, take action.

The application is, accordingly, allowed to the extent indicated above.

In addition to the above, Sri Manish Goyal, learned Additional Advocate General has submitted that insofar as the direction no.(vi), contained in our order dated 2.9.2020 is concerned, compliance thereof may not be in public interest in view of the "Evidence Based Advisory on Correlation of COVID-19 Disease Severity with CT Values of the Real Time RT-PCR Test" dated 5.8.2020 issued by the ICMR. A copy of the Evidence Based Advisory has been placed before us which has been taken on record.

We have given our thoughtful consideration to the various advisory notes contained in the advisory dated 5.8.2020 and find that three of the notes are of significance and relevance and the same are being reproduced here as under :-

"There are no reliable studies to definitively prove a direct correlation between disease severity/infectiousness and Ct values. Viral load does not have much role in patient management.

- Ct values differ from one kit to the other. Comparability of Ct values among different kits is a challenge as our labs are using a mixed basket of kits now with different Ct cut-offs and different gene targets.

- Patients in early symptomatic stage may show a high Ct value which may subsequently change. In such cases, high Ct values will give a false sense of security".

In view of the above, prima facie we find substance in the argument of Sri Manish Goyal that supply of information with regard to CT Value may give a false sense of security to a person who has been tested COVID positive. However, when we made a pointed query to Sri S.P. Singh, learned Additional Solicitor General of India, who represents ICMR in this case, as to what was his stand on the advisory dated 5.8.2020, Sri Singh sought a

week's time to study the matter and verify as to whether there is any further advisory issued by the ICMR after 5.8.2020.

Accordingly, time prayed for is allowed but in the meantime, we modify our order dated 2.9.2020 to the extent that CT Value information may not be given as a Rule.

Further, let the link/messages of the case for the next date be sent to all the counsel appearing in this case so that they may enter the premises without any hindrance.

Put up on 14.9.2020 at 2.00 PM.

Order Date :- 7.9.2020

GS

(Siddhartha Varma, J.)

(Ajit Kumar, J.)