

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Suo-Motu P.I.L. No.4 of 2020

(Court on its own motion vs. Union of India and Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.S.PBhandarkar, amicus curiae for petitioner.
Mr.U.M.Aurangabadkar, ASGI for respondent no.1.
Mr.M.G.Bhangde, Sr. Cl. Assisted by Mr.D.P.Thakare, Addl.
G.P along with Mrs.Ketki Joshi, G.P for respondent
nos. 2, 5, 6, 8 & 9.
Mr.S.M.Puranik, Advocate for respondent no.4.
Mr.B.G.Kulkarni, Advocate for respondent no.10.
Mr.M. Anilkumar, Advocate for Intervenor/applicant.
Dr.PK.Arora, in-person in CAO No.723 of 2021.

**CORAM : SUNIL B. SHUKRE &
AVINASH G. GHAROTE, JJ.**

DATE : 8.4.2021.

1. Heard Mr.S.PBhandarkar, learned amicus curiae, Mr.M.G.Bhangde, learned Senior Counsel for respondent nos.2, 5, 6, 8 and 9, Mr.S.M.Puranik, learned Counsel for respondent no.4, Mr.B.G.Kulkarni, learned Counsel for respondent no.10 and Mr. Anil Kumar, learned Counsel for Intervenor/applicant.

2. By way of modification of order dated 7th April, 2021, we direct that Dr.Kose, Joint Commissioner, F.D.A. Nagpur be added as a member of the Nagpur Covid-19 Committee.

3. We further direct that the agencies i.e.

M.A.D.C. and Maharashtra Pollution Control Board be added as party/respondents forthwith.

4. In pursuance of the order passed by this Court yesterday, the constituted Committee i.e. Covid-19 Committee conveyed its meeting yesterday at 5.00 p.m. and seriously deliberated over the situation of emergency arising out of explosion of Covid-19 pandemic at Nagpur. Today, the proceedings of the meeting have been tendered to this Court and they are taken on record. The Committee has given valuable suggestions and has expressed its mind over various dimensions of the present Covid-19 Pandemic situation. We appreciate the efforts taken by the Committee.

5. The Committee has taken a decision that all the applications that would be submitted for starting Covid hospital would be processed by the Nagpur Municipal Corporation within 24 hours. This is a creditable decision as, at present, as per the information provided by Mr.Puranik, learned Counsel for respondent no.4 and also learned Senior Advocate Mr.M.G.Bhangde, there are only 109 hospitals which have registered themselves with Nagpur Municipal Corporation as the hospitals having authority to treat Covid patients and more and more hospitals which are already functioning in Nagpur city are required to enter themselves in the register as authorised Covid centres. It is stated that many of the private hospitals

have shown their inclination to get themselves registered as authorised Covid centres. On this backdrop, we feel that the decision taken by the Committee would go a long way in increasing infrastructural facilities to be provided for effectively treating Covid patients.

6. The Committee has taken another important decision that now if any patient is advised Covid test, he would have to undergo two types of tests; one the Antigen test and the second RT-PCR test. The Committee has decided that if the result of Antigen test is negative, the patient will also be required to undergo RT-PCR test. Dr.Sanjay Deotale, President Elect, IMA and Dr.Archana Kothari, present President, IMA enlightened and educated this Court on the necessity of requiring of patients to undergo this procedure. They informed the Court that whenever the Antigen test comes positive, in all probability the patient would also be found positive in RT-PCR test, but this is not so in the case of a negative Antigen test report as the possibility of a patient whose Antigen test report is negative as testing positive in RT-PCR test is substantial. Therefore, they submit that it would be helpful to the Authorities managing present situation that the patients are advised to undergo two tests whenever there is need for doing so. They also submit that this way the patient load on RT-PCR laboratories will be reduced as the patient testing positive in Antigen test

would not be required to undergo RT-PCR test. We appreciate this decision of the Committee and approve it.

7. The Committee has decided to explore different mechanism to boost morale of health workers and also explore the possibility of involving N.G.Os and Social workers. We would request the Committee to identify the N.G.Os., social workers and other stake holders and place their list before this Court so that meaningful interaction with them could be initiated and their assistance could be solicited in the drive we have started against the Covid Pandemic.

8. The Committee has also thought of ensuring mobilisation of people for taking Covid vaccination. The Committee is, however, of the opinion that the help of social organisations for mobilising people in this vaccination drive will also be required. The Committee has made a request to this Court for issuing necessary direction to the social organisations in this regard. We would have accepted the request had the names of social organisations been made known to us. However, the names of particular social organisations have not been disclosed in the proceedings. We would request the Committee to consider identifying social organisations and submit their names to this Court so that further necessary directions can be issued.

9. The Committee has stated that it has already formed two teams consisting of various personnel including Specialists from Government Medical College to monitor admissions of patients at private hospitals with a view to regulate flow of admissions to such hospitals. This is a good initiative taken by the Committee. Such step is essential in the present day scenario where the inflow of patients is very high while the outflow of patient from various hospitals is at a very low rate. In such a situation, management of availability of beds would have to be efficacious in the sense that only those patients who really require hospitalisation would be taken in and those patients who could be managed with quarantine at home or at the institutions or at a day care centre would be excluded from such hospitals. We would, therefore, direct the Managements of all private hospitals to scrupulously follow the admission criteria issued by the State for considering admission of Covid patients to their hospitals. The criteria in this regard would be found in the “Maharashtra Covid-19 Task Force Recommendations for the Management of hospitalised Covid-19 patients dated 23.3.2021”. These recommendations are available on the website of Ministry of Public Health, State of Maharashtra. However, these recommendations must be uploaded even on the website of Nagpur Municipal Corporation and therefore, we direct the Commissioner, Nagpur Municipal Corporation to see that these recommendations are duly uploaded and made

available for access and perusal by the members of public as soon as possible and in any case, latest by 9th April, 2021. We further direct the Managements of private hospitals to co-operate with the teams of Government Medical College, Nagpur constituted by Nagpur Covid-19 Committee whenever the teams would pay visit for verifying the process of admission of Covid-19 patients to their respective hospitals. If the team of G.M.C., Nagpur comes across any non-co-operation or resistance from any private hospital or any irregularity in admissions, same be brought to the notice of the Committee which, in turn, shall inform this Court accordingly so that the issue of taking of necessary action including coercive action would be considered appropriately by this Court.

10. The Committee has noted in the proceedings that Administration is taking necessary steps like taking of walk-in interviews etc. to recruit the required human resource in health and if any difficulties are faced by the Committee in this regard, same be placed before this Court. Shri Aurangabadkar, learned A.S.G.I. adds that very soon the proposal of creation of additional posts at AIIMS, Nagpur will be sanctioned by the Health Ministry and as soon as it is received, the recruitment process will be started and completed in minimum possible time. We expect that the whole process, starting from sanctioning staff proposal to completion of recruitment of additional staff, is completed latest by

30th June, 2021.

11. Thus, by and large the Committee has taken right decisions and has started to work in right earnest. However, something more is required which needs to be considered appropriately by the Committee. We would like the Committee to consider some issues and come back to this Court with its appropriate response. The issues are as follows :

i) Creation of Day Care centres for treating Covid-19 patients requiring a few hours of treatment every day at such places like Sports Complexes, Mangal Karyalayas, Public Schools, Sports Club, hospitals of such institutions like Railways, Western Coal Fields, M.O.I.L. and so on and so forth, as soon as possible, preferably within two weeks.

ii) While setting up the Day Care Centres, the Committee would be required to go about the job by considering the following requisites :

a) identification of suitable places, their requisitioning for Covid purpose and payment of appropriate rent,

b) computation of Centrewise bed strength,

c) identifying and providing required

manpower per centre and fixing remuneration to be paid to the man power,

d) the hierarchical structure of every Day Care Centre, like the in-charge Doctor/Administrator through on duty medical staff to support medical staff,

e) oxygen supply support,

f) possibility of use of Day Care Centres also as Transit Care Centres for serious Covid patients who require immediate hospitalisation but do not get admission and have to wait in queue for the bed to become available,

g) providing of infrastructure including common toilets and making provisions for medicines, supply of oxygen and other materials,

h) identification and declaration of two helpline numbers for supply of medicines and equipments,

i) requisitioning voluntary services of members of VHA and IMA and making of appropriate appeal in this regard to these members.

iii) requisitioning the services of doctors having such qualifications as B.A.M.S., D.H.M.S., Unani and Ayush doctors to be deployed at Day Care Centres.

iv) involving private hospitals in management of Day Care Centres and appealing to them to voluntarily spare some of their medical and nursing staff as for example 4 to 5 doctors and 4-5 nurses per private hospitals.

v) spelling out the difficulties in terms of supply of material and human resources faced by Health Authorities and management of private hospitals in Nagpur and specific suggestions for addressing the difficulties.

vi) considering re-deployment of the material already available at Radha Swami Satsang Hospital, Kalmeshwar and placing on record of the case by way of a report all the facts giving details of material available at Radha Swami Satsang hospital, Kalmeshwar set up by Nagpur Municipal Corporation and the plan for its re-deployment at newly set up Day Care Centres.

12. Smt. Monica Dhawad, Inspector, F.D.A. submitted that presently stock of medicines including Remdesivir is available and whenever required in

genuine cases, it would be made available to the concerned Covid hospitals. On a query made by this Court regarding providing of the necessary medicines including Remdesivir and medical equipments under the control of F.D.A. to Day Care Centres, she informed the Court that necessary provision can always be made in this regard by the F.D.A. With this assurance given to the Court, we would request the Committee to consider to keep the stock of necessary medicines and medical equipments/gadgets at Day Care Centres which would now be set up under the present directions of the Court so that all the medicines including Remdesivir and equipments/gadgets are available for their administration and use in fit cases at these centres.

13. Mr.Anil Kumar, learned Counsel for the applicant makes a request for permitting him to place intervenor's suggestions in brief before Nagpur Covid-19 Committee so that they can be appropriately considered by the Committee. We grant him permission and we request him to submit his suggestions in brief in writing to the Member-Secretary of the Committee within a week from the date of passing of the order and if they are so submitted, the suggestions would be placed before the Committee and appropriately considered by the Committee.

14. Mr.C.S.Samundre, learned Counsel for the

M.A.D.C. has submitted that this Court has given directions to M.A.D.C. to issue No Objection Certificate for fire and also Occupancy Certificate within 3 and 7 days respectively. He submits upon instructions that it has been noticed by the Officials of M.A.D.C. that still there are several deficiencies at the premises of AIIMS, Nagpur and unless these deficiencies and lacunae are removed, it will not be possible to issue any N.O.Cs. We agree with this submission. The N.O.Cs. cannot be issued by giving a go bye to the mandatory requirements.

15. Mr.Ulhas Aurangabadkar, learned A.S.G.I. submits on instructions that the Contractor who is entrusted with the construction work at AIIMS, Nagpur has assured that latest by 30th April, 2021 the entire construction work in respect of three wards would be completed and all the deficiencies would be removed.

16. Mr.Samundre, learned Counsel, on instructions, submits that at present M.A.D.C. would issue provisional N.O.C. and Occupancy Certificate for 3 wards, within 7 days, subject to the condition that within a month's time all the deficiencies at the site are removed and necessary clearance from MPCB is obtained.

17. According to us, this is a fair proposal and so, we request the M.A.D.C. Authorities to issue

provisional N.O.C. and provisional Occupancy Certificate within seven days subject to the condition that within 30 days of the date of issuance of these Certificates, all the deficiencies are removed and necessary clearance from MPCB is obtained by AIIMS, Nagpur, failing which the provisional N.O.C. and provisional Occupancy Certificate shall stand lapsed, unless the time line is extended by this Court for just and proper reasons.

18. Before we are done with this order, we think it necessary to express our concern over the safety of the patients and the staff attending to them at the institutional quarantine centres. The reason being that it has been reported to us that at some such institutional quarantine centres, as for example M.L.A. hostel, the Covid patients kept in quarantine there, are seen leaving their respective rooms and roaming freely in the corridor and also on the open spaces/lounge available within the premises of M.L.A. hostel. It has been further reported to us that police constables deployed at M.L.A. hostel for preventing quarantined Covid patients from coming out of their respective rooms and also reporting the breaches of conduct committed by them to the Authorities, for many of them, are not performing their duty diligently and that they remain engaged and engrossed all the time in their smart mobile phones. It has been further reported to us that because of such reckless and dangerous behaviour of some

quarantined Covid patients at M.L.A. hostel, those entrusted with the duty to look after quarantined patients have started contracting Covid-19 and it has also been reported that one of the PWD engineers deputed there has contracted Covid-19 three times in less than an year. It is also reported that even the Executive Engineer in-charge of M.L.A. hostel has caught the infection twice. Such behaviour of quarantined Covid patients is highly deplorable and needs to be dealt with in a very stringent manner by the concerned Authority. We, therefore, direct the Collector, Nagpur to take immediate steps for keeping quarantined Covid-19 patients in strict isolation of the degree prescribed under the applicable Rules/Regulations/SOP and if there are no such Rules or Regulations or SOP, we direct the Nagpur Covid-19 Committee to frame the same and bring them in force immediately.

19. We also direct the Committee to devise a method for regular inspection of all institutional quarantine centres in Nagpur by an appropriate team with a mandate to take action then and there. We direct the Commissioner of Police, Nagpur and also Superintendent of Police, Nagpur (Gramin) to ensure that the police personnel deputed at all institutional quarantine centres, within and without city limits, diligently and sincerely perform their duty, especially by refraining themselves from using smart mobile phones for the purpose of entertainment and

recreation while on duty and take stern action against the erring police personnel.

20. Additionally, we direct that CCTV cameras be installed in the corridors of all institutional quarantine centres and where the corridors are not available, at suitable places, so as to have electronic surveillance for checking the movements of quarantined patients in and out of the rooms at the State's expenses, proposals for which shall be prepared by the Collector, Nagpur; the Commissioner, Nagpur Municipal Corporation and other heads of the department under whose control the Centre is and send the same to the State Government/Central Government, as the case may be, for early sanction, within ten days of passing of the order. Copies of the proposals be placed on record.

21. At this stage, it has been brought to the notice of this Court by the learned amicus curiae and learned Counsel for the respective respondents that all the orders passed in this Suo-motu P.I.L. bearing no.4 of 2020 are not being uploaded under the same cause title on verification, it is seen that the orders are uploaded but they are not available under the category of Suo-motu P.I.L. and these orders could be searched on the website only by clicking on the option of Coram of Judges. Consequently, if any search is made by choosing the category of P.I.L., the

orders are not seen and for downloading the orders passed in a case having the category of “Suo-motu P.I.L.”, the user has to go to the option of “Coram”. This deficiency, in our opinion, can be removed by creating additional option of “Suo-motu P.I.L.” in the category wise search. We, therefore, request the Registry to include category of Suo-Motu P.I.L. in the option of searches so that any order passed in a case like this, i.e. Suo-motu P.I.L. could be searched by the parties with convenience by clicking on the option of particular category of the case. We expect that suitable modifications in the software would be got done within three months from the date of order, unless it is not possible to do so for some technical reason, in which case report may be submitted to this Court.

22. Stand over to 20.4.2021 at 2.30 p.m.

JUDGE

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