

Court No. - 10

Case :- P.I.L. CIVIL No. - 10124 of 2021

Petitioner :- Pal Singh Yadav

Respondent :- U.O.I. Thru. Secy. New Delhi & Others

Counsel for Petitioner :- Chandra Shekhar Pandey, Prathama Singh

Counsel for Respondent :- C.S.C., A.S.G.

Hon'ble Ramesh Sinha, J.

Hon'ble Rajeev Singh, J.

1. The Court has convened through **Video Conferencing**.
2. Heard Sri Pal Singh Yadav-petitioner (in person) along with Ms. Prathma Singh and Sri C.S.Pandey, learned counsel for the petitioner, Sri S.P. Singh, learned Senior Advocate/Additional Solicitor General assisted by Ms. Pushpila Bisht, learned counsel appearing for respondent no.1-Union of India and Sri H.P. Srivastava, learned Additional Chief Standing Counsel appearing for the State respondents.
3. The present P.I.L. has been filed by the petitioner, namely, Pal Singh Yadav with the following prayer:

"(i) issue a writ, order or direction in the nature of Mandamus commanding the opp. parties to do needful in order to secure the public from pandemic situation causes sudden death and assure the guarantee of the right to life and liberty defined under Article 21 of the Constitution of India.

(ii) issue a writ, order or direction in the nature of Mandamus commanding the responsible person to prosecute the respondents for their activities which resulted continuous sudden deaths of the public in rem.

(iii) issue order or direction commanding the opp. parties to provide essential medical services including oxygen, bed in hospital and other medical services.

(iv) issue order or direction commanding the opp. parties to announce lock-down specially in District Lucknow by considering the self declared lockdown by several trade unions in District Lucknow.

(v) issue order or direction commanding the opp. parties to compensate the families of deceased persons due to carelessness of providing medical facilities on the part of the opp. parties."

4. At the very outset, a preliminary objection has been raised by the learned Additional Chief Standing Counsel appearing for the State regarding maintainability of the present P.I.L. in view of Chapter XXII Rule 1 (3A) of Allahabad High Court Rules stating that the petitioner has not disclosed his credentials and locus for filing the present P.I.L. He further raised another objection stating that in P.I.L. No.574 of 2020: In-Re Inhuman Condition At

Quarantine Centres and For Providing Better Treatment To Corona Positive Vs. State of U.P., a Coordinate Bench of this Court at Allahabad had taken *suo-motu* cognizance and passed a detailed order and directions on 27.04.2021 in which grievance of the petitioner is being taken care of and the matter is still *sub-judice* before the Court and the next date fixed is 03.05.2021.

5. In reply to the same, the learned counsel for the petitioner appearing in person has submitted that he has filed a separate affidavit under Chapter XXII Rule 1 sub-rule (3) of Allahabad High Court Rules in support of the present P.I.L., but so far as the second preliminary objection raised by the learned Additional Chief Standing Counsel with respect to the order passed by the Coordinate Bench of this Court at Allahabad on 27.04.2021 in the aforesaid P.I.L. he could not give the satisfactory reply.

6. After having examined the preliminary objection raised by the learned Additional Chief Standing Counsel, we find that so far as the *locus* of the petitioner is concerned, the petitioner has disclosed his credentials as per Chapter XXII Rule 1 (3A) of Rules of the Court in his affidavit filed in support of the present P.I.L. but so far as the other preliminary objection raised by the learned State Counsel regarding the order passed by the Coordinate Bench of this Court on 27.04.2021 in the aforesaid P.I.L, the matter is *sub-judice* and this Court is monitoring the situation for which the petitioner has also prayed for relief particularly in the prayer no. (iii) of the present P.I.L., the petitioner in person could not satisfactorily meet out the same. Further we find that the grievance of the petitioner with respect to prayer no. (iii) of the present P.I.L. has also been addressed and is being considered by this Court as is evident from the relevant paragraph nos. 19 and 26 of the order dated 27.04.2021 passed in the aforesaid P.I.L. No.574 of 2020, which are quoted here-in-below:

"19. As far as management of existing infrastructure is concerned, what we find is that hospitals and their staff though are working day and night i.e. 24 x 7 but the management of system is still not up to mark. For easing out the situation and the given paraphernalia we propose the following steps to be taken by the Government immediately in the cities of Lucknow, Prayagraj, Varanasi, Agra, Kanpur Nagar, Gorakhpur and Jhansi:

(i) Major government hospitals of the above cities of Lucknow, Prayagraj, Varanasi, Agra, Kanpur Nagar, Gorakhpur and Jhansi should have health bulletin system twice a day apprising people of health updates of the patients to avoid visiting attendants to hospitals. The hospitals may use large screens to give details of patients and their saturation levels. This will definitely help in reducing the number of visitors every day to the hospitals and chances of spread of further infection. The government is also directed to declare on its district portal of the above cities the occupied and vacant positions of beds in covid wards and ICUs of all government hospitals and covid assigned private hospitals and government is also directed to make wide publication of its district covid portals and sites in

news papers and also through public announcement systems.

(ii) Mere antigen negative report should not be a ground to throw a patient out of the hospital as such patients can still infect others. They needed to be shifted to non-Covid wards for at least a week and for this government needs to gear up to set up makeshift wards on the campus of the hospitals if there is a space so that there may not be problem of nursing staff and health workers. Availability of oxygen is to be ensured in those wards also as SPO2 level still can be on a lower side.

(iii) Every bed in level two hospitals must be supported with a BiPAP machine and there should be availability of High Flow Cannula Mask at the rate of one per two beds and there should be ventilator available in ICUs at the rate of one per three beds available in ordinary covid wards.

(iv) Government hospital should be provided with sufficient medicines and injections including Remdesivir for patients to be treated, oxygen supply to hospitals should remain uninterrupted. This should be ensured at all cost so that no one should die for want of oxygen. If even after seven decades of our attaining freedom with so many heavy industries set up, we are not able to provide oxygen to our citizens, it's a matter of shame. We further direct that despite rules regulations framed for transporting and disposal of industrial oxygen, it should be immediately diverted to the use of people making it Medical Oxygen and its immediate uninterrupted supply for the said purpose be ensured by the Government.

(v) Health workers should be engaged on contract basis. Also such other staff including data feeders and computer operators should be likewise employed as testing sample and their collections are to be carried out on a very large scale continuously so that a large number of the cities' population is at least tested for Covid and it gets its result in time. It is unfortunate that even one percent of the city's population of each of the major districts of the State that are hit by Covid has not been tested so far ever since the second wave has hit the State.

(vi) The management of the Doctors, medical and paramedical staff needs an urgent attention. They are all working day and night and are getting infected as well when they remain amidst the Covid patients day and night. Effort should be to rotate the staff six hourly to give it the required rest.

(vii) Now since the existing medical health infrastructure in the major cities of Uttar Pradesh has attained saturation, a sustained growth thereof by way of enhancement has to be made. While building structure is a time taking task, optimum use of existing building should be made and setting up of makeshift wards upon the open space on the campuses of the hospitals should be thought of; the Government and district administration is directed to study viability of setting up more and more Level-1 covid centres with all requisite facilities so that people voluntarily approach there and stay to curb further spread and help in admission to L2/L3 as per need.

(viii) The number of ambulances must be increased immediately and these

ambulances that are requisitioned or purchased must be well equipped with life saving devices;

(ix) The Government must ensure that every death in all covid hospitals and assigned private hospitals and other Covid Centres in every district is reported to a Judicial Officer to be appointed by District Judge at the end of the day. The Government shall also ensure the correctness of the data forwarded to the officer concerned each day. It is also directed that the police station Incharge officer, in whose territorial limit the cremation place is situate, shall ensure that cremation in Covid death cases is strictly followed as per the guidelines in this regard issued by the Government. He shall also ensure that the details of every covid death is entered in the register maintained at the cremation area which shall also be communicated to the concerned municipal body or Nagar Nigam. The Government shall ensure that every hospital where covid death has taken place, the dead body is packed as per the protocol before it is sent to the cremation place to be finally cremated. The Municipal Commissioners of Nagar Nigam and other officers of Nagar Palikas must be put to task to ensure disposal of dead body of a covid deceased strictly as per protocol.

(x) Above all the administration of government hospitals is emerging as a larger issue these days and it should be addressed. Food, sanitation and other budgetary aspects should not come in the way of treatment of those admitted and patients must be supplied with good quality food and potable water and paper napkins at every meal which should be served at least 4 times a day in all levels of covid hospitals and covid centres.

(xi) Sanitization of hospitals, its corridors and washrooms must be undertaken at least three times to four times a day.

(xii) The hospitals that have been taken over or assigned as Covid health centres must be ensured to be well-equipped with all needed medical devices including BiPAP machine High Flow Cannula Mask and ventilators and that too all should be in sufficient numbers and constant oxygen supply must also be ensured to these hospitals.

26. Learned Additional Advocate General is directed to place before us also on the next date following details in respect of cities of Prayagraj, Lucknow, Varanasi, Agra, Kanpur Nagar, Meerut, Ghaziabad, Gautam Buddha Nagar, Gorakhpur and Jhansi:-

1. The existing total number of beds in the government hospitals in the level two and level three wards and their current occupancy as on 2nd of May 2021. Per day demand shall also be informed to us. Government shall also inform as to why the various community health centres are not being converted into level 2 hospitals. This would lesser the burden of main hospitals;

2. Total number of beds in ICUs and its occupancy. Total number of BiPAP machines and high flow Cannula masks and ventilators shall also be provided in respect of government hospitals and covid assigned private hospitals;

3. *Statistical details of the oxygen supply to the government hospitals where there are no oxygen producing plants shall also be provided. Exact need of the hospitals and the working of the oxygen plants wherever they are there in the hospitals shall be provided along with their capacity;*

4. *The exact number of supply of life-saving drugs including Remdesivir in government hospitals;*

5. *Details of meals that are given to the patients. The number of times, quality of meals and vitamin and calorie value of such meals per serving should be placed before us. The source of the meals shall also be given;*

6. *Number of existing ambulances and their status; and*

7. *Modalities adopted for admission to level 3 and private hospitals.*

8. *Exact number of covid deaths reported between 19th April 2021 to 2nd May 2021.*

9. *Viability to use LPG Cylinders for filling Liquid Medical Oxygen to meet the demand of cylinders."*

7. In view of the aforesaid facts and circumstances, the present PIL requires no interference by this Court. It is, accordingly, **dismissed** on the ground of non-maintainability.

8. However, the petitioner is at liberty to seek further redressal of his grievance, if any, by moving an appropriate application in the aforesaid P.I.L. No.574 of 2020, if so chooses.

Order Date :- 28.4.2021

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