

**Court No. - 72**

**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

**Counsel for Respondent :-** C.S.C.

**Hon'ble Siddhartha Varma,J.**

**Hon'ble Ajit Kumar,J.**

This Public Interest Litigation has travelled through the tracks the Covid-19 infection as traversed. It started off with the monitoring of the hospitals which were treating the Covid-19 patients, dealt with how the migrant labourers coming from outside the State were being accommodated and then went on to monitor the various hospitals in the State of U.P. in general and Prayagraj in particular.

Eversince the lockdown was imposed on 25<sup>th</sup> March, 2020 to prevent the spread of Covid-19 infection, we find that the State of U.P. has from time to time come up with various ways and methods to arrest the spread of the infection. The behaviour of the Covid-19 virus has been extremely erratic, to say the least. It has never behaved very uniformly. Sometimes, it gives an impression that it moves only from symptomatic patients to other people and on other occasions, we find that even asymptomatic patients spread the infection. The World Health Organisation has also not been able to give any definite method by which the infection travels. However, this much is certain that the efforts of the State of U.P. have borne results and, therefore, we are able to boast of our targets and statistics. Whatever be the trend, we cannot deny the fact that when we move around in the society, there are always chances of getting the infection. It has been noticed that the breadwinner of a family who goes out to work normally has the chance to come back with the infection. To prevent the person who goes out to earn his livelihood from getting infected, our State has made immense efforts to provide masks and sanitizers. Offices and

buildings where people work, have been sanitized. For this work of extreme magnitude, we record our appreciation.

Be that as it may, we find that we are all continuously living in a shadow of fear of catching the infection. When our Hon'ble Prime Minister talked to the Chief Minister of the States, he stressed on the importance of widespread testing. If widespread testing is done then people who are not infected can go out to work fearlessly and help the country to change the sprouting economy into a lush green one. If systematic tests are done then people who are infected would not go out and whether they are symptomatically or asymptotically infected, would surely quarantine themselves in their homes or in the accommodations provided by the Government. With this in mind yesterday, we had requested the learned Additional Advocate General Sri Manish Goyal to enquire as to what would be the burden on the State Exchequer if a systematic mass testing is done.

Today, the learned Additional Advocate General Sri Manish Goyal has informed the Court that burden on the exchequer for testing of an individual is Rs.2500/-. Under such circumstances, we suggest that the State of U.P. should begin with forming a procedure for the city of Prayagraj to undergo mass systematic testing and if we are able to succeed in the experiment then rest of the district of Prayagraj and thereafter all the districts of the State of U.P. can emulate the process. Sri Goyal has further informed us that in the State of U.P. for the last two and a half months about 94,63,756/- households have been touched and thereby around 4,82,71,852/- people have been actually contacted. 1865 hotspots have been identified and declared. So far as the testing for migrant labourers were concerned, learned Additional Advocate General informed us that 17.06 lakhs had been tested and 3950 had been found positive. Under such circumstances, therefore, he submitted that the Court under a wrong impression yesterday had stated that no random tests were being done.

In view of the above, we do find that work on a large magnitude has been done by the State Government and we record our appreciation for that.

However, in order to get a systematic testing done, we took suggestions from the Bar who suggested that the following steps may be taken:

(i) The city of Prayagraj which is divided into various wards the competent Authority should prepare a list of all the families residing in every such ward.

(ii) Every ward can take steps to have a Sample Collection Centre.

(iii) Every five wards in their turn can have a testing facility.

(iv) Every family should compulsorily get the family member, who goes out for work, tested every month.

(v) Since it has been found that if a family member is positive, the whole family would get affected, testing of one individual would be sufficient. Only if it is found that the earning member is positive, the other members would have to get tested and thereafter treatment would be followed.

(vi) If the State thinks it proper then pool testing of families ward-wise can be done.

(vii) If the family is a salaried family then it may get the test done through its own resources. Here, it may be clarified that a salaried family means a family getting salary from either the Central Government or the State Government or any other private sector company.

(viii) To ease the burden on the State, every salaried member may provide money for getting one more individual tested who is not getting any salary from the Central Government or the

State Government or any other private sector company and is actually economically not well off.

(ix) Such business families and such salaried individuals who can afford to provide the State of U.P. funds for the tests then they may contribute wholeheartedly. On such donations, the Government may make arrangements for providing tax benefits.

(x) For the remaining public who are definitely suffering from the present situation, the State may provide funds for getting Covid-19 tests performed.

(xi) Only such individuals who have been found to be free from infection may be allowed to move within the city and such individuals who are found to be infected along with the families may be either home quarantined or be quarantined in places where the Government thinks it proper.

(xii) Every individual who enters the city of Prayagraj, must compulsorily get a test done for the Covid-19 infection.

(xiii) We find that the State of U.P. has already made a law that every person who goes outside or is moving in the public domain, should wear a mask and this law should be implemented strictly and violation thereof may invite penalty.

(xiv) It may be stated that the tests may be repeated, to begin with every 15 days, and thereafter, with the passage of time, it may be done on a monthly basis. If the Indian Council of Medical Research does not agree with the tests being done at these intervals then they may suggest an alternative protocol.

(xv) We find from the statistics that to begin with only two tests a day in the district of Prayagraj were being conducted and now we are having 400 tests everyday for a population of around 60 lakhs. This number of tests seems to be highly insufficient.

(xvi) The State of U.P. may, therefore, have Testing Centres for every five wards of the city where the earning member of the family may compulsorily go and get himself tested. If a particular member of a particular family trying to go to the Centre finds it dangerous for his health in view of the prevailing infection then the staff from that Centre may, after taking all precautions, go to the house of that particular individual and perform the test.

We find merit in the above suggestions. Despite the fact that the above suggestions are cumbersome, we feel that the strange situation in which the Covid-19 infection has landed us, it requires us to take recourse to stringent measures. During the progress of this Public Interest Litigation, we find that the State has always cooperated with the Court and on all occasions has sincerely abided by our directions. The above directions/suggestions might appear to be of a massive magnitude but if we have to conquer the infection of Covid-19 then we will have to follow them in letter and spirit.

It is within the domain of the State Government to see how the above suggestions can be translated into action. They also have to see how feasible they are. The State alone can change the protocol of setting up Covid-19 testing centres. Under such circumstances, we desire that the State may come up with a complete blue print for dealing with the infection.

Since installation of testing machines on this large scale might entail the certificate of the Indian Council of Medical Research, we direct the Registrar General to inform the Assistant Solicitor General of India who represents Union of India in the High Court within 48 hours and who in his turn shall have instructions from the Indian Council of Medical Research in the above regard. These instructions would be placed before us on the next date, when the Assistant Solicitor General

of India or any counsel authorized by him representing Union of India shall also be present.

Place this petition on 25<sup>th</sup> June, 2020 at 10:00 AM.

A copy of this order shall be made available to the Chief Secretary (Home), U.P., Health Secretary and also the Commissioner, District Magistrate and Senior Superintendent of Police, Prayagraj within 24 hours and the same shall be sent through the Registrar General of this Court.

**Order Date :-** 18.6.2020

Siddhant

(Ajit Kumar,J.)

(Siddhartha Varma,J.)