

\$~03

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3031/2020

RAKESH MALHOTRA

..... Petitioner

Through: Petitioner in person.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF INDIA  
& ORS. ....Respondents

Through: Mr. Sidharth Luthra, Sr. Advocate  
with Mr. Arjun Dewan, Ms.  
Aayushi Sharma Khazanchi and  
Mr. Akash Arora, Advocates for  
GNCTD.

Ms. Maninder Acharya, ASG, Mr.  
Anurag Ahluwalia, CGSC, Mr.  
Abhigya Siddhant, Ms. Shefali  
Jaishwal and Mr. Viplav Acharya,  
Advocate for R-3.

Mr. L.K. Bhushan and Ms. Aditi  
Awasthy, Advocate for Dr. B.L.  
Kapur Hospital.

Mr. Rohit Aggarwal and Ms.  
Gunjan Sinha Jain, Advocate for  
Sir Ganga Ram Hospital.

Mr. Sanjeev Sharma, Advocate for  
the applicant in CM APPL.  
12106/2020.

**CORAM:**

**HON'BLE MS. JUSTICE HIMA KOHLI**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**ORDER**

**25.06.2020**

%

**HEARD THROUGH VIDEO CONFERENCING.**

**CM APPL. 12106/2020 (by the applicant for directions)**

1. Pursuant to the order dated 22.06.2020, Ms. Nutan Mandeja, Director General Health Services, the Government of NCT of Delhi (GNCTD) has filed a Status Report stating *inter alia* that a meeting of the Committee constituted by the Lt. Governor, GNCTD was conducted through video conferencing under the chair of the Chief Secretary on 23.06.2020. A copy of the minutes of the meeting approved by the Members of the Committee has been annexed as Annexure 'A' to the Status Report. The relevant points that have been considered by the Committee in terms of our previous order dated 18.06.2020 are as follow:-

- (i) The Committee has agreed that to avoid duplication of data entries on multiple portals, the private laboratories will be permitted to enter relevant information on the RT-PCR App and on the ICMR portal and they will not be required to upload the data or make entries on any other portal or App.
- (ii) The Committee has opined that the phlebotomists attached to the private labs who are required to collect the samples on site may fill up Sample Requisition Forms (SRF) in hard copy and subsequently, the said information may be captured and uploaded on the RT-PCR App after going back to the laboratory.
- (iii) It has been agreed that updation of the information will be done by the private laboratories within 30 minutes, for a positive test and 90 minutes, for a negative test, as recommended by the ICMR. For this purpose, the Delhi Government shall augment the number of data entry operators at the labs to facilitate entries on the ICMR portal.

- (iv) The Committee has also recommended that to ensure that all the samples are processed within a maximum period of 48 hours reckoned from the time, the sample reaches the concerned lab and the private laboratories have been advised not to accept samples beyond their processing capacity.
- (v) Lastly, the Committee has suggested that an interactive platform be identified and virtual meetings be convened between the GNCTD and the private laboratories to iron out any difficulties that may be faced by them in the future.

2. On inquiring from Mr. Satyakam, learned ASC as to the timeline within which the data entry operator stationed at the laboratories will be augmented, he states that the Minutes of Meeting were approved only yesterday and needful shall be done in a couple of days. As for the interactive platform required to be identified, learned ASC submits that there is already a WhatsApp group created that includes officers from the Health Department, Delhi Government and the private laboratories. He further states that there is also interaction between the parties through virtual meetings. He assures the Court that difficulties faced by the private laboratories shall be adequately addressed by adopting the aforesaid modes.

3. Coming back to the averments made in the Status Report filed by the Delhi Government, it has been clarified that the authorization of phlebotomists in the office of one District in Delhi would be sufficient and they would not be required to be authenticated by multiple Districts merely because they are required to make on site visit in other Districts for sample collection.

4. In para 2 of the Status Report, it has been stated that the State has initially kept a target of undertaking 2000 Rapid Antigen Detection Tests (RAT) in each District. It is stated that between 18.06.2020 to 23.06.2020, total number of

68,041 samples have been collected for RAT test. During the same period, 41,155 samples were collected for RT-PCR based molecular testing. Thus, a total of 1,09,196 samples have been collected over the past 6 days with an average of 18,200 samples per day.

5. We may observe that on the last date of hearing, we had directed the learned counsel for GNCTD to file a tabulated statement, indicating the number of samples collected everyday through the RAT mode, the RT-PCR mode and the CBNAAT mode for a period of one week. The said information has not been furnished in the present Status Report. Learned counsel for the GNCTD shall ensure that a computed statement is prepared in the aforesaid manner commencing from 18.6.2020 to 30.6.2020 and the same is filed with the next Status Report.

6. Another annexure enclosed with the Status Report filed by the Delhi Government is the fresh Advisory dated 23.06.2020 issued by the ICMR wherein it is stated that besides the RT-PCR test which is treated as the gold standard test for detecting cases of COVID-19, the TrueNAT and CBNAAT systems have also been deployed to diagnose COVID-19 infection. In the effort to ramp up testing, ICMR has approved a total of 1000 COVID-19 testing labs across the country (730 public and 270 private sector) but the same is also not found to be sufficient due to the rising number of testing and a need is felt to increase the outreach of testing by introducing rapid point of care diagnostic test. With this in mind, the ICMR has recommended rapid point-of-care (PoC) Antigen Detection Test for diagnosis along with the existing tests i.e. RT-PCR for early detection of COVID-19 infection.

7. Ms. Acharya, learned ASG appearing for the ICMR explains that the IgG Anti Body test for COVID-19 has been recommended for surveillance purposes and not for diagnosis for detecting acute infection. The purpose of conducting

the said test is to know as to who has been infected in the past and has now recovered.

8. Mr. Satyakam, learned ASC states on instructions from Dr. Gautam, State Nodal Officer for Sampling and Labs that the Delhi Government is proposing to commence conducting Anti Body test across the city at the rate of 4,000 to 5,000 tests per day commencing from 27.06.2020.

9. In the next Status Report the Delhi Government shall indicate the manner in which it is proposing to ramp up the tests across Delhi, which has a population of 1.67 crores (approx.)

10. We may note that in the latest Advisory issued by the ICMR, it has permitted RAT to be used by all hospitals, laboratories and State Governments including COVID-19 private hospitals for which they will be required to register with the ICMR. The concerned institutions have been called upon to send a request to ICMR through e-mail for the said purpose. It has also been recommended by the ICMR that the RAT tests be used along with the gold standard RT-PCR test in all Containment zones or hot spots, all symptomatic influenza like illnesses; asymptomatic direct and high risk contacts suffering from co-morbidities. It has been clarified that asymptomatic patients include those who are hospitalized or seek hospitalization in certain categories which includes patients undergoing chemotherapy, patients suffering from HIV positive, patients suffering with malignant diseases, transplant patients and patients with low immunities. Besides the aforesaid categories of asymptomatic patients, those asymptomatic patients who are to undergo surgical/non-surgical interventions including elective/emergency procedures would also be permitted to undergo RAT test followed by the gold standard RT-PCR test, if required. The Delhi Government is directed to upload the latest Advisory dated 23.06.2020 issued by the ICMR on its website today itself for the information of the public at large.

11. Taking on record, the aforesaid Status Report, the GNCTD is directed to file a fresh Status Report indicating compliances of the Minutes of Meeting of the Committee constituted by the Lt. Governor, GNCTD. A tabulated statement indicating the number of tests in all categories undertaken by the State from 18.6.2020 to 30.6.2020, and the further action plan to ramp up the testing in Delhi be filed well before the next date of hearing. The said aspect is considered imperative in the light of the fact that as of yesterday, Delhi tops the entire country in the number of COVID-19 cases that have reached 3,788 persons.

12. List on 02.07.2020.

**HIMA KOHLI, J.**

**SUBRAMONIUM PRASAD, J.**

**JUNE 25, 2020**

a/rkb