

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/WRIT PETITION (PIL) NO. 42 of 2020
With
CIVIL APPLICATION (FOR DIRECTION) NO. 7 of 2020
In R/WRIT PETITION (PIL) NO. 42 of 2020
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 12 of 2020
In R/WRIT PETITION (PIL) NO. 42 of 2020
With
CIVIL APPLICATION (FOR DIRECTION) NO. 13 of 2020
In R/WRIT PETITION (PIL) NO. 42 of 2020
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 15 of 2020
In R/WRIT PETITION (PIL) NO. 42 of 2020
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 16 of 2020
In R/WRIT PETITION (PIL) NO. 42 of 2020
With
CIVIL APPLICATION (FIXING DATE OF EARLY HEARING) NO. 18 of 2020
In R/WRIT PETITION (PIL) NO. 42 of 2020
With
CIVIL APPLICATION (FOR DIRECTION) NO. 19 of 2020
In R/WRIT PETITION (PIL) NO. 42 of 2020
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 20 of 2020
In R/WRIT PETITION (PIL) NO. 42 of 2020
With
R/WRIT PETITION (PIL) NO. 64 of 2020
With
R/WRIT PETITION (PIL) NO. 63 of 2020
With
CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2020
In R/WRIT PETITION (PIL) NO. 63 of 2020
With
R/WRIT PETITION (PIL) NO. 65 of 2020
With
R/WRIT PETITION (PIL) NO. 67 of 2020
With
R/WRIT PETITION (PIL) NO. 69 of 2020
With
R/WRIT PETITION (PIL) NO. 70 of 2020
With
R/WRIT PETITION (PIL) NO. 71 of 2020
With
R/WRIT PETITION (PIL) NO. 80 of 2020**

With
R/WRIT PETITION (PIL) NO. 72 of 2020
With
R/WRIT PETITION (PIL) NO. 73 of 2020
With
R/WRIT PETITION (PIL) NO. 82 of 2020
With
R/WRIT PETITION (PIL) NO. 77 of 2020
With
R/WRIT PETITION (PIL) NO. 84 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 7347 of 2020
With
R/WRIT PETITION (PIL) NO. 83 of 2020
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2020
In R/WRIT PETITION (PIL) NO. 83 of 2020
With
R/WRIT PETITION (PIL) NO. 89 of 2020

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SUO MOTU
Versus
STATE OF GUJARAT & 2 other(s)

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Appearance:
SUO MOTU(25) for the Applicant(s) No. 1
for the Opponent(s) No. 1,2,3,5,6,7,8
MR NM KAPADIA(394) for the Opponent(s) No. 4

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CORAM: **HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**
and
HONOURABLE MR. JUSTICE J.B.PARDIWALA

Date : 19/06/2020

COMMON ORAL ORDER
(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

WRIT PETITION (PIL) NO.42 OF 2020

1 We started today's proceedings by taking cognizance of the report filed by the State Government on various issues discussed on 29.05.,2020 and also incorporated in the order

passed by this Court dated 29.05.2020. We take the report filed by the State Government on record. As the report is running in almost more than 60 pages, we deem fit to state only the important aspects of the report as under:

“1 At present, there are in all 19 private laboratories which are recognized by Indian Council of Medical Research and that therefore, are competent for carrying out COVID-19 testing in the State of Gujarat.

2 According to ICMR, there are set eligibility criteria / protocols for a laboratory to achieve, if it wants to be recommended for conducting COVID-19 tests. One of the requirements is to submit a copy of the NABL (i.e. National Accreditation Board for Testing and Calibration Laboratories) Accreditation Certificate and scope of accreditation for real-time PCR for RNA viruses.

3 The State Government does not have any register of such private laboratories, though it is the responsibility of private laboratories to apply for COVID-19 testing permission and if they fulfill the criteria laid down by ICMR, as referred to above, they would be recognized by ICMR and then, it is for them to apply to the State Government for permission for COVID-19 tests .As per the data available on the website of ICMR, no application is pending of any private laboratory from the State of Gujarat before ICMR for getting recognition to perform COVID-19 testing in the State of Gujarat.

4 Pathological tests / diagnosis may certainly be one of the facets of the right to health as embodied in Article 21 of the Constitution of India. However, just like the fundamental rights conferred under Article 19, this fundamental right under Article 21 of the Constitution is also not an absolute right and is subject to reasonable restrictions. It is always desirable to have a uniform central policy like ICMR policy, especially during pandemic situation like the present one, to be followed consistently by all the States in the country.

5 Directions in para 42:

[a] In the Civil Hospital, presently there is no shortage of manpower in all categories, viz. specialists, doctors, technicians, physiotherapists, nurses, ward boys, etc. Manpower position on duty has been indicated by the State authorities in extenso on Pages 7, 8 and 219 to 221 of Civil Application (For Clarification) No.14 of 2020 filed in the captioned proceedings.

[b] Different medical protocols for different categories of patients like - (i) mild symptomatic patients, (ii) moderately symptomatic patients, and (iii) severely symptomatic patients, are being followed carefully and strictly.

[c] it is not because of any negligence or lack of attention or proper care and treatment, that any of the COVID patients in Civil Hospital has lost the life. The

main reasons for the death of COVID patients are co-morbid condition and old age, who succumb to death despite having received sufficient care and treatment. Therefore, the unconfirmed reports so far published in the print and digital media in this behalf, should not be believed as gospel truth.

[d] The medical and para-medical staffs in the Civil Hospital are being provided essential articles viz. protective gadgets, consumables, PPE kits, etc. and the utmost care is being taken to see that they are not put to risk under any circumstances.

6 Directions in Paras 43 and 45

All necessary medical protocols for different categories of patients have been in place right from the inception and are being strictly adhered to prepare by an Expert Group consisting of Expert- Doctors from the Government and private sectors after reviewing world literature. Protocol released by the state government on 30.0.3.2020. Most of the recommendations contained in the said protocol are part of the protocol released by the All India Institute of Medical Sciences (AIIMS), New Delhi, released on 17.04.2020.

7 Private Hospitals

With 59 private hospitals in the city of Ahmedabad, necessary agreements have been executed, where under, these private hospitals have been designated / directed to

reserve 50% of their beds for the common man who may be referred by the concerned government authorities. Amongst the said private hospitals, presently there are in all 2077 reserved COVID beds and so far, 3292 COVID patients referred by the State Authorities have already been treated in the said private hospitals at the expense of the State Government.

8 If one starts COVID treatment at Sheth V. S. Gen. Hospital & Sheth Chinai Prasuti Gruh, one has to stop treatment of Non COVID patients. In this scenario, non COVID patients from middle and lower class of society have to face more difficulty for their treatment of Non COVID diseases.

9 Human Resource Management - Nursing Staff, PG Students, nursing students are allocated duty as per the guidelines as per roaster, PG Hostels and nursing hostels are also used. Accommodation is provided for the period of entire COVID-19 duty and quarantine period.

10 Medical safety:

[a] As per recommendation of ICMR, prophylaxis of Tab Hydroxychloroquine to all Health Care Workers involved in treatment of COVID 19 patients (even asymptomatic) is given.

[b] Till date, 24,974 HCWs have been given Tab Hydroxychloroquine. Total 52,50,291 tablets of

Hydroxychloroquine are available in state.

[c] Total 2,98,497 PPE kits and 3,71,072 N 95 masks are made available in hospitals.

11 Psychological Support: Toll-free helpline-1100, for providing psycho-social support for health care workers has been created by using suitable professionals including psychiatry department of Gujarat Mental Health Hospital.

12 Life Insurance Cover:

[a] Under Pradhanmantri Garib Kalyan Package, Rs. 50 lakh cover is given to all HCW and Doctors involved in duty of COVID 19 patient management.

[c] Government of Gujarat has also announced Corona Warriors Sanman Yojana, in which all HCWs will be given incentives according to their designation.

13 Human Resources Deployed:

In order to give a bird's eye view of the facts and figures, it is submitted that there are a total of 3058 specialist doctors in the State, 5954 MBBS doctors, 2065 Resident Doctors, 4442 Intern Doctors, 23523 Cl3 means staff nurses, laboratory technicians, pharmacists, X-ray technicians, ECG technicians, OT technicians etc and 18548 Cl-4 means Ward boys, Aaya, Support staff etc. across Government hospitals in the State.

14 *Training and Capacity Building:*

[a] A total of 139848 number persons trained in various themes on COVID-19 are there in the State, which include 23060 doctors, 43365 nurses and 33288 para medics.

[b] To ensure continuous and uninterrupted health services, Government has taken policy decision to recruit doctors on 11 month contract with an option to do private practice and remuneration without private practice. This would address the problem of vacancies at PHIs. Over 400 volunteers from College of Psychology, College of social work and NGOs are trained online and providing telephonic counselling to occupants of old age homes.

15 *Testing Policy*

[1] For testing healthcare workers, the State Government is following the latest ICMR Guideline dated 18.05.2020.

[2] The State Government also constituted an Expert Committee and as per its recommendations, the testing for the following persons is also facilitated on mere intimation, but without any prior authorisation of the concerned authority.

[i] All the symptomatic patients with clinical suspicion of COVID19 by a treating consultant.

[ii] Preoperative testing for patients undergoing surgery or any other instrumentation can be done as per the discretion of a treating consultant.

[iii] Emergency and lifesaving procedures may be carried out without waiting for COVID19 testing in the best interest of patients.

[iv] Patients receiving cancer chemo therapy, radio therapy and planned hemodialysis.

[v] All the pregnant women admitted in the hospitals located in containment area for delivery.

Latest circulars issued in this behalf by the State Government are dated 02.06.2020 and 11.06.2020.

[3] So far, 2,78,137 COVID 19 tests have been conducted till 12.06.2020, with wide network of testing laboratories, Government and Private across the State. The critical indicator of the same is tests per million populations, which is 4615 tests/millions of population of Gujarat. The pandemic disease's testing strategies put emphasis on more tests in high priority

areas, especially hotspots of the COVID 19 disease. In the State, Ahmedabad City is the most affected area and in Ahmedabad Municipal Corporation, total tests conducted are 86,158 till 12.06.2020, which is 13263.30 tests/millions population.”

2 We also take cognizance of the report filed by the Union of India through Mr. Devang Vyas, the Assistant Solicitor General of India. By our order dated 29.05.2020 we had raised few questions to be answered by the ICMR. Pursuant to the same, the report has been filed by the Union of India and the same is ordered to be taken on record. It reads thus:

“[1] The Hon’ble Court vide its order dated 29-05-2020 has been pleased to passed an order directing the respondent ICMR to submit the report on the aspects as mentioned in paragraph no. 30 of the afore referred order.

Para 30 : *We call upon the ICMR to answer the following questions:*

[1] What is the rationale behind its testing policy?

[2] In what manner the ICMR wants the private Hospitals / laboratories to get accredited? We would like to understand from the ICMR as regards the procedure which the private hospitals /laboratories need to undertake for the purpose of conducting the COVID19 test.

[3] *What are the guidelines of the ICMR with regard to the testing through the private laboratories?*

[4] *Whether the guidelines issued by the ICMR are statutory in nature?*

[5] *Whether such ICMR guidelines are binding upon the State Government or they are only recommendatory in nature?*

[6] *Whether without any prescription from any Physician, an individual can go to designated private hospital / laboratory for the purpose of testing?*

[2] *That in compliance of the afore referred order dated 09.05.2020, the ICMR respondent no. 8 herein submits its report stating as beneath;*

[3] *The Govt. of India has constituted a high level technical committee of public health experts known as national task force under chairmanship of Dr. Vinod Paul, member, NITI AYOJ and Co-Chairman Miss. Priti Sudan Secretary, Department of Health, Govt. Of India along with Prof. (Dr. Balram Bhargav) Secretary, Department of Health, research and director general, Indian council of medical research who are assisted by 14 different health experts who are all doctors having special expertise in the medical field which are as under;*

High Level Technical Committee of Public Health

Experts (National Task Force)

Chair: Dr. Vinod Paul, Member Niti Aayog

Co-Chairs: Ms. Preeti Sudan, Secretary, Department of Health, Govt of India and Prof (Dr) Balram Bhargava, Secretary, Department of Health, Research and Director General, Indian Council of Medical Research

- 1 Dr. Randeep Guleria, Director, All India Institute of Medical Sciences, New Delhi.
- 2 Dr. K. Srinath Reddy, President, Public Health Foundation of Health.
- 3 Dr. Rajan Khobragade, Additional Chief Secretary, Govt. of Kerala
- 4 Dr. J.V. Prasad Rao, Former Union Health Secretary, Govt. of India
- 5 Dr. Raman R Gangakhedkar Head, Division of Epidemiology, Communicable Diseases, ICMR
- 6 Dr. Navneet Wig Professor, Dept of Medicine, All India Institute of Medical Sciences, New Delhi
- 7 Dr. Shashi Kant, Professor, Dept of Community Medicine, All India Institute of Medical Sciences, New Delhi
- 8 Dr. Surjeet Singh, Director, National Centre for Disease Control, Delhi
- 9 Dr. Sanjay Pujari Director, Institute of Infectious Diseases, Pune
- 10 Dr. S Jana Sonagachi Research and Training Institute, Kolkata

- 11 Dr. Lalit Dar, Professor, Dept of Microbiology, All India Institute of Medical Sciences, New Delhi
- 12 Dr. Swarup Sarkar, Chair, ICMR
- 13 Dr. Manoj Murhekar, Director, ICMR-National Institute of Epidemiology, Chennai
- 14 Dr. Kiran Rade, NPO, WHO, India
- 15 Dr. Subhash Sulanke Public Health Foundation of India, Delhi
- 16 Dr. J.M. Deshpande, Former Director, Enterovirus Research Centre, Mumbai
- 17 Dr. Nivedita Gupta, Scientist F, ICMR, New Delhi
- 18 Dr. Tarun Bhatnagar, Scientist E, ICMR – National Institute of Epidemiology, Chennai

Over and above these task force, ICMR under rapid response team for Covid-19 has constituted a “National Task Force – Research Group for clinical research, diagnostics and bio markers, epidemiology and surveillance and operations researches consisting of approximately 12 to 15 doctors in each of the afore referred areas who are as under;

**National Task Forces – Research Groups
Clinical Research**

- 1 Dr. Randeep Guleria, AIIMS, New Delhi
- 2 Dr. Navneet Wig, AIIMS, New Delhi
- 3 Dr. RR Gangakhedkar, ICMR
- 4 Dr. Sanjay Pujari, Institute of Infectious Diseases, Pune
- 5 Dr. OC Abraham, CMC, Vellore,

- 6 Dr. Anup Agrawal, ICMR
- 7 Dr. Rajeev Suman, Hinduja
- 8 Dr. Atul Patel, Infectious Diseases Clinic, Ahmedabad
- 9 Dr. N. Kumaraswamy, YRG
- 10 Dr. DK Behra, PGIMER
- 11 Dr. Padma Priyadarshini, ICMR-NIRT
- 12 Dr. Pranab Chatterjee, ICMR

Diagnostics & Biomarkers

- 1 Dr. DA Gadhkari, NARI
- 2 Dr. Jagdeesh Deshpande, ICMR
- 3 Dr. Lalit Dar, AIIMS
- 4 Dr. Priya Abraham, ICMR-NIV
- 5 Dr. Pragya Yadav, ICMR-NIV
- 6 Dr. Madhuri Thakar, ICMR-NARI
- 7 Dr. Ira Praharaj, ICMR
- 8 Dr. Amita Jain, KGMU
- 9 Dr. Nivedita Gupta, ICMR
- 10 Dr. Sandhya Kabra, NCDC
- 11 Dr. Dinakar M. Salunke, ICGEB
- 12 Dr. Naveen Khanna, ICGEB
- 13 Dr. Neeraj Agrawal, ICMR

Epidemiology & Surveillance

- 1 Dr. DCS Reddy , BHU
- 2 Dr. JP Muliyl, CMC
- 3 Dr. Swarup Sarkar, ICMR
- 4 Dr. Naman Shah, JSS

- 5 Dr. Giridhara Babu, PHFI
- 6 Dr. Manoj Murhekar, ICMR-NIE
- 7 Dr. Sidhartha Giri, ICMR
- 8 Dr. Sujeet Singh, NCDC
- 9 Dr. Shashi Kant, AIIMS
- 10 Dr. RM Pandey, AIIMS
- 11 Dr. Sanjay Zopdey, PHFI
- 12 Dr. Kiran Rade, WHO India

Operations Research

- 1 Dr. N.K. Arora, INCLIN
- 2 Dr. Kiran Rade, WHO India
- 3 Dr. Rajan Khobragade, Govt. of Kerala
- 4 Dr. Subhash Salunke, PGIMER
- 5 Dr. Ravi Varma, ICWA
- 6 Dr. Beena Thomas, ICMR-NIRT
- 7 Dr. Sanjay Chauhan, ICMR-NIRRH
- 8 Dr. Sandip Mandal, ICMR
- 9 Dr. Sanket Kulkarni, IDSP
- 10 Dr. Arvind Pandey, ICMR
- 11 Dr. Rakhal Gaitonde, SCTIMST
- 12 Dr. Shalini Bharat, TISS
- 13 Dr. J.P. Narayan, WHO
- 14 Dr. Sumit Aggrawal, ICMR

[4] With regard to the aspect of the rationale behind the testing policy, it is submitted that these experts of national task force on Covid – 19 revised the testing policy from time to time. Expansion/revision of testing policy is based on the

evolving scenario of Covid -19 in India and duly considering to develop a policy which benefits all. The National Task Force also reviews the risks and benefits to each group included/excluded in testing and decides are taken accordingly depending on available data and experts opinions keeping in mind the other ground realities and checks as may be applicable.

[5] *With regard to the aspect of manner in which the ICMR wants the private hospitals/laboratories to get accredited, it is submitted the requisite information, as per proforma dated 18.03.2020, has to be submitted to ICMR by private laboratories interested in covid-19 testing. The guidelines laid down by Indian Council of Medical Research for COVID-19 testing in private laboratories in India (as annexed) is notified vide Clause (i) and (l) of sub-section 2 of Section 10 of DM Act, 2005 under the power delegated vide order F. No. 40-212020-DML (A): dated 11th March, 2020 for strict follow up and compliance. Copy of the proforma dated 18.03.2020, available on the ICMR's website, and annexed as **Annexure - "I"**. Thereafter, the Guidelines dated 21.03.2020, issued by the Ministry of Health and Family welfare, Government of India, has to be followed by the private Labs. Copy of the Guidelines dated 21.03.2020, available on the ICMR's website is annexed as **Annexure "II"**. The Mentor institutes have been identified for various states. These Institutes are mandated to review the requests for approving any new laboratory for covid-19. List dated 11.05.2020 of Mentor Institutes Along with Allocated States, available on ICMR's website, is annexed as **Annexure - "III"**.*

[6] With regard to the aspect of ICMR's guidelines for testing through the private laboratories, it is submitted that Strategy for COVID-19 testing in India (Version 5, dated 18-05-2020) are as under;

[A] All symptomatic (ILI symptoms) individuals with history of international travel in the last 14 days.

[B] All symptomatic (ILI symptoms) contacts of laboratory confirmed cases.

[C] All symptomatic (ILI symptoms) health care workers / frontline workers involved in containment and mitigation of COV-D19.

[D] All patients of Severe Acute Respiratory infection (SARI).

[E] Asymptomatic direct and high-risk contacts of a confirmed case to be tested once between day 5 and day 10 of coming into contact.

[F] All symptomatic ILI within hotspots/containment zones.

[G] All hospitalized patients who develop ILI symptoms.

[H] All symptomatic ILI amount returnees and

migrants within 7 days of illness.

[I] No emergency procedure (including deliveries) should be delayed for lack of test. However, sample can be sent for testing if indicated as above (1-8), simultaneously.

*The ICMR's "Strategy for COVID-19 testing in India (Version 5, dated 18.05.2020)", available on the ICMR's website, is annexed as **Annexure – "IV"**.*

[7] With regard to the issue whether the guidelines issued by the ICMR are statutory in nature or not?, it is submitted that the Guidelines dated 21.03.2020 issued by the Ministry of Health and Family welfare, Government of India vide File No. 2.28015/23I2020-EMR dated 21st March, 2020 under Disaster Management Act, 2005 are statutory in nature. It is submitted that other guidelines issued by ICMR are strategically and are recommendatory and advisory in nature. This guidelines are evolving periodically and amended time and again and the same is uploaded on website of ICMR and also website of Ministry of Health and Family Welfare (www.mohfw.gov.in and <http://icmr.nic.in>).

[8] With regard to the issue of binding nature of guidelines to the State Government or they are only recommendatory in nature?, it is submitted that the Guidelines dated 21.03.2020 issued by the Ministry of Health and Family welfare Government of India vide File No. z.2g015/23I2020-EMR dated 21st March, 2020 under

Disaster Management Act, 2005 are statutory in nature. Hence binding on the State Government. Rest of the other guidelines issued by the ICMR are recommendatory/advisory in nature as afore stated.

[9] With regard to the issue whether without any prescription from any physician, an individual can go to designated private hospital/laboratory for the purpose of testing?, it is submitted that laboratory tests should only be offered when prescribed by a qualified physician for COVID-19 tests. It has already been mentioned in the Guidelines dated 21.03.2020. It is submitted that in fact it is for the treating doctor / physician to ascertain the physical condition of every patient and the symptoms of every individual patient based on which the laboratory testing can be prescribed.”

3 We are glad to take note of one very positive development that has taken place over a period of time so far as the walled city of Ahmedabad is concerned. Initially, it is the walled city of Ahmedabad, more particularly, the places like Jamalpur, Khadia, Dariapur, Shahpur, Raikhad, Kalupur, Dudheshwar, Madhupura, Girdharnagar, Asarwa, Meghaninagar, Naroda Road, etc., were the hot spots of COVID-19. It appears from the figures that there is a drastic decline in the COVID-19 cases so far as the various areas of the walled city of Ahmedabad is concerned. The efforts put in by the special officers on duty appointed by the State Government have yielded positive and good results. Unfortunately, now the other parts of the city of Ahmedabad are badly affected, more particularly, the

areas like Bopal, etc. We are sure that with the same strategy and action plan like the one employed in the areas of the walled city, the other areas in the city of Ahmedabad should also come under control.

4 We thereafter called upon Mr. Kamal Trivedi, the learned Advocate General and Ms. Manisha L. Shah, the learned Government Pleader to give a fair idea as regards the conditions prevailing as on date in the Civil Hospital at Ahmedabad. Mr. Trivedi as well as Ms. Shah submitted that the Civil Hospital is doing quite well and appropriate medical treatment is being given to the COVID-19 patients. Both the learned counsel submitted that due care is being taken so far as the doctors, nursing staff, para-medicos, etc. are concerned. Both the learned counsel assured the Court that if there is any complaint or any problem at the end of the doctors, nursing staff, para-medicos, etc., the same shall be immediately taken care of.

5 Both the learned counsel further submitted that there shall be no complaint so far as the non-payment of salary etc. is concerned. We have been assured that the salary shall be paid to all the employees every month well in time. We also brought to the notice of both the learned counsel that in the past the State Government gave many incentives to its employees working at the Civil Hospital and other Government Hospitals, but unfortunately, it appears that the employees have not received such incentives till date. We may only say that if any incentives are declared or promised, the same should be fulfilled, otherwise, it will lead to serious heart-burning in this critical time. On the contrary, we are of the view that having regard to

the hard work which is being put in by all such employees as the main frontline warriors, they should be remunerated well with appropriate incentives.

6 We thereafter inquired with Mr. Trivedi as well as Ms. Shah as to whether the State Government is prepared for the worst days if God-forbid such days come in the form of steep increase in the COVID-19 cases. Mr. Trivedi and Ms. Shah pointed out that as on date 59 private hospitals and various other Government Hospitals are being utilized to treat the COVID-19 patients. There are almost 500 beds vacant in the Civil Hospital at Ahmedabad and the beds are also available in the private hospitals. As on date, there are sufficient beds to tackle the situation. We have been assured that the State Government is prepared even for the worst of the scenario.

6.1 At this stage, we take note of what has been pointed out to us by Mr. Brijesh Trivedi, the learned amicus curie assisting this Court. Mr. Brijesh Trivedi alleged that the beds are deliberately kept vacant in the Civil Hospital so as to ease the pressure and burden. According to Mr. Brijesh Trivedi, this should not happen. We may remind Mr. Brijesh Trivedi of what we observed in para 45 of our order dated 29.05.2020, which reads as under:

“45 Before we close today’s discussion on the topic of the hospital, we would like to make a note of something very disturbing, as pointed out by Shri Brijesh Trivedi, the learned counsel. It is bought to our notice that the Health Department is unable to withstand the pressure and in such

circumstances, they may start restricting the admission of the COVID-19 patients in the Civil Hospital. We are sure that the State Government will never do this. We want the Civil Hospital to function at its full strength. Not a single bed should be kept vacant. If the Health Department is not able to withstand the pressure, then it should immediately make necessary arrangements to increase the strength of the doctors, nursing staff, etc. We sound a note of caution in this regard, more particularly, to the Principal Secretary of the Health Department that in future, if we come to know that deliberately, the admission in the Civil Hospital is restricted with a view to cope up with the pressure of work, then we may have to take appropriate action in this regard.”

7 We requested Mr. Trivedi and Ms. Shah to take up attention on the following issues with the State Government:

[a] To regulate the COVID-19 test charges so far as the private laboratories are concerned.

[b] To ensure that adequate number of ambulances and dead body vans are made available.

[c] The ambulance charges also should be regulated so that there may not be any extortion, etc.

[d] Appropriate facilities be made for cremation and burial so that there is no waiting for the authorities as well as for the bereaved families.

[e] Each of the private hospitals should be directed to display near the reception table the charges fixed by the State Government.

[f] Once there is such display right at the entry of the hospital somewhere near the reception table, then the same will not lead to unnecessary confrontation as regards the fees / charges.

In the last we also requested Mr. Trivedi and Ms. Shah to once again request the State Government to explore the possibility of utilizing the V.S.Hospital. We made such request keeping in mind that God-forbid if the situation in future gets worst, then the V.S.Hospital can provide almost 500 to 700 beds.

8 We thereafter brought to the notice of Mr. Trivedi, the learned Advocate General something very serious and important. It has come to our notice that the schools in the city of Ahmedabad have now started online teaching. We request the State Government to intervene and work out few modalities with the schools as regards the online teaching. The first thing we want the State Government to do is to regulate the timings. The timings should be uniform. We are saying so because say for instance there are three children in the family and if the teaching is online, then all the three children studying in different standards may not be able to utilize the computer or laptop for such purpose. A middle-class family may not afford to have more than one laptop or computer or television. In such circumstances, the other children in the family may be deprived

of the benefit of the online teaching. This problem appears to be very common, but at the same time needs to be looked into by the State Government in the larger interest of the students.

9 We also brought to the notice of Mr. Trivedi and Ms. Shah that the Government should consider whether online teaching so far as very small children are concerned would be advisable. We are saying so because a child studying in the nursery or in the first standard or second standard may remain exposed for a quite long time to the screen of the television or laptop or computer. This may affect not only the eyes of the small child, but also his overall health. The experts are also of the view that children below five years of age should not be imparted online education.

10 In the last, we direct that all those under-trial prisoners who have been released on bail upon the recommendations of the High Power Committee shall continue to remain on bail for further period of 75 days. The temporary bail stands extended from 15th June till 31st August, 2020.

11 Interim orders of the High Court and lower Courts as extended vide order dated 27.03.2020 shall stand extended upto 31.08.2020.

12 In the last we take notice of a very shocking and unfortunate incident that occurred at the Rajasthan Hospital at Ahmedabad as reported by the Times of India. The report reads as under:

“Man dies waiting for ventilator, hospital gets notice

Rajasthan Hospital Delayed Admission Up To 35 Minutes.

Times News Network

The Ahmedabad Municipal Corporation on Sunday issued a notice to Rajasthan Hospital, Shahibaug, after a patient died waiting for ventilator support.

The notice stated that Harish Kadiya had been shifted from Lifecare Hospital, Khanpur, to Rajasthan Hospital specifically because he needed the ventilator.

“The deputy health officer confirmed the availability of a ventilator at Rajasthan Hospital in advance,” the notice reads. It adds that when the patient was taken to the corona-patients’ gate of Rajasthan Hospital, the gate was not opened for approximately 20 minutes.

“After a huge tussle, when the gate was opened by the staff of your hospital, it took another 10 to 15 minutes to bring a stretcher,” the notice says.

“This is not only recorded in the incident report filed by the zonal deputy commissioner, but is also evident from CCTV footage.”

This is the third such notice sent to hospitals by the civic body in a fortnight. Earlier, the AMC had slapped a fine of Rs 5 lakh each on Bodyline Hospital in Paldi and Aartham Hospital in Panjrapole for denying admissions.

As for the Rajasthan Hospital case, the AMC notice states that on June 18 “...there was a serious lapse in duty by the hospital which resulted in the death of Covid-19 patient Harish Kadiya.”

The AMC used CCTV footage and the report from Dr Marish Kumar, the civic body's officer on special duty, to find the hospital accountable for the death.

The notice states that in the pandemic situation, it is vitally important that Covid patients get care expeditiously.

The notice also refers to a Gujarat high court order observing that in the critical situation of the pandemic, private hospitals must cooperate with the government. The court had also warned that patients must not be exploited.

The AMC has asked Rajasthan Hospital to explain why a criminal complaint should not be filed against it and its trustees under various provisions, including those of the Epidemic Diseases Act.

The AMC has also asked the hospital to show cause for not initiating appropriate legal proceedings for willful defiance and contempt of the high court order. Imposing a heavy penalty and cancelling the registration of the hospital are among the options available to the AMC.”

12.1 The aforesaid incident as reported is very painful and calls for the strictest of the action against all those persons at the Rajasthan Hospital responsible for the death of Shri Harish Kadiya. It appears that the deceased was admitted at the Life Care Hospital, Khanpur for the COVID-19 treatment. As his health deteriorated he had to be shifted to the Rajasthan Hospital so that he can be put on a ventilator. It is very shocking to note that when the ambulance carrying the patient in a critical condition reached at the main entrance of the Rajasthan Hospital, the door was not opened for almost a period

of 20 minutes. The entire episode has been recorded in the CCTV footage. Unfortunately, the man died because timely treatment could not be given to him. When any patient in a critical condition is brought to the hospital, the first thing that is expected of the hospital authorities is to admit the patient and start the treatment. Here is a case in which Shri Harish Kadiya was in need of a vendor. The first thing that was expected of the Rajasthan Hospital was to immediately shift the patient in the ICU and put him on the ventilator. All other formalities could have been taken care of at a later stage, including the requisite fees to be paid in advance.

12.2 It appears that the authorities concerned has issued notice to the Rajasthan Hospital seeking its explanation, but this is not a case in which mere explanation would suffice.

12.3 We direct the concerned authority to take strictest of the action against the responsible persons at the Rajasthan Hospital in accordance with law at the earliest.

13 Post the matter for further hearing on 17.07.2020 before this Bench.

14 The other issues shall now be discussed in accordance with the matters, which are on board today.

CA NO.7 OF 2020

1 Mr. Hirak P. Ganguly, the learned counsel appearing

for the applicant submits that this Civil Application may be disposed of in view of the order passed by this Court today in the Civil Application No.18 of 2020.

2 In view of such statement being made, this Civil Application stands disposed of.

CA NO.12 OF 2020

1 By this Civil Application, the applicants have prayed for the following reliefs:

[a] to permit the applicants to be joined as party respondent in the Writ Petition [PIL] No.42 of 2020;

[b] to permit the applicants to intervene and to make submissions in the Writ Petition [PIL] No. 42 of 2020;

[c] to dispense with the affidavit of the Petitioner on account of the prevailing pandemic and the resultant lockdown;

[d] to grant such other and further ad-interim, interim and other relief/prayer as may be deemed fit and proper in the interest of justice”.

2 Mr. Anand Yagnik, the learned counsel appearing for the applicants fervently urged before us that his clients would

like to be joined as the party respondents in the main matter i.e. the Writ Petition (PIL) No.52 of 2020 with a view to assist this Court on various issues, more particularly, the issues relating to the migrants. Mr. Yagnik pointed out that the issues with regard to migrants are being looked into by this Court in the main matter and various orders have been passed in this regard. However, he would like to further assist this Court so far as the issues relating to migrants are concerned.

3 Having heard Mr. Yagnik, the learned counsel for the applicants and having gone through the averments made in this application, we are of the view that we should permit the applicants to be joined as the party respondents / interveners in the main matter. We accordingly pass such order.

CA NO.13 OF 2020

1 By this Civil Application, the applicant claiming to be a public spirited citizen residing in Ahmedabad has prayed for the following reliefs:

“[A] That this Hon’ble Court may be pleased to admit and allow the present Application;

[B] That this Hon’ble Court, may if deemed fit, pass appropriate directions to the Respondents on the basis of the submissions made hereinabove and on the basis of the submissions made hereinafter and on the basis of the

suggestions set-out in paragraph 5 hereinabove;

[C] For interim and ad-interim reliefs in relation to the prayer (B) hereinabove;”

2 We heard Mr. Anshin Desai, the learned Senior Counsel assisted by Mr. Parth Contractor and Mr. V.H.Nangesh, the two learned counsel appearing for the applicant. Mr. Desai, the learned Senior Counsel vehemently submitted that the stance of the State Government that the right to health and life as enshrined under the Constitution of India is subject to reasonable restrictions is wholly unfounded. According to Mr. Desai, the right to live a dignified life and health is an absolute fundamental right well recognized by a plethora of judicial pronouncements. Mr. Desai submitted that with a view to restrict testing, the State Government cannot put forward the argument of reasonable restriction. It is argued by Mr. Desai that the reasonable restrictions could be imposed in the interest of sovereignty and integrity of India, the security of the State, friendly relations with foreign state, public order, decency and morality, or in relation to contempt of court, defamation or incitement to offence. According to Mr. Desai none of the aforesaid is applicable in the litigation on hand.

3 Mr. Desai in support his aforesaid submission seeks to rely on the following three decisions of the Supreme Court:

[a] Surjit Singh v. State of Punjab reported in 1996 2 SCC 336

Self-preservation of one's life is the necessary

concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable

[b] *Arjun Gopal v. UOI reported in 2019 13 SCC 523
Right to health is recognised as a facet of Article 21*

[c] *CESC Limited v. Subhash Chandra Bose & ors
reported in AIR 1992 SC 573*

4 Mr. Desai next invited our attention to the order dated 12.06.2020 passed by the Supreme Court in the Suo Motu Writ Petition (Civil) No.7 of 2020 on the issue of testing. The same reads thus:

*“...On 27th May 2020, the number of samples tested is 6018, on 9th June 2020, the number is 4670, on 11th June 2020, the total testing in Delhi is reported as 5077 whereas in the State of Maharashtra as 16,000 and in the State of Tamil Nadu as 17675. **The media reports indicate that there is an increase in the number of patients affected by Covid-19 every day in the entire country especially in Delhi, Maharashtra, Tamil Nadu, Chennai and Ahmedabad.** The number of patients increasing day by day is 10,000 or more per day. **We do not understand why the tests have gone down in State of NCT Delhi. Non-testing of the patients is not a solution to the problem rather increase in the testing facility is the duty of the State, so that people may come to know about their health status regarding Covid19 and they may***

take appropriate care and treatment of Covid-19.

We impress upon the States to ensure that there should be steep increase in the testing both by Government hospitals and private labs and whosoever desires for testing should not be denied on any technical ground or any other ground. The States may consider simplifying the procedure so that more and more tests be held to benefit the patients.

We have also noticed that apart from Delhi, there is a grim situation in the other States also, more particularly, in the States of Maharashtra, Tamil Nadu, West Bengal and Gujarat...”

5 Mr. Desai thereafter invited our attention to the order passed by the Supreme Court dated 19.06.2020, which is reproduced below:

“...5. We have come to know that the rates of the tests to be conducted in the private labs is substantially reduced by the Government of India for which orders have also been issued...”

...One of the guidelines, whose adherence was to be ensured, was that the patients are provided with the bed and are permitted to have one attendant and the attendant can remain in the hospital premises in the area earmarked by the hospital and no suspected Covid-19 patients shall be turned away from the hospital and details of indoor facilities

and advisory for OPD has also been noticed...

...The affidavit also noticed the decision taken in the meeting chaired by Hon'ble Home Minister on 14.06.2020 to increase the testing facility in Delhi...

...14. We have noticed above that one of the guidelines by the Union of India is to permit one attendant of covid-19 patient. In this regard, we issue following directions as direction No. (VIII) and (IX):-

[VIII] All Covid-dedicated hospitals shall permit one willing attendant of the patient in the hospital premise, who can remain in an area earmarked by the hospital.

[IX] All Covid dedicated hospitals shall create a helpdesk accessible physically as well as by telephone from where well-being of patients admitted in the hospitals can be enquired..."

6 Mr. Desai thereafter invited our attention to the report filed by the State Government today explaining the eligibility criteria / protocols for the private laboratories to carry out the COVID-19 test. This, according to Mr. Desai is in context with few vital issues raised by this Court vide order dated 29.05.2020. Mr. Desai pointed out that this Court called upon the ICMR as well as the State Government to clarify few issues including the requirement / protocols for the private laboratories to undertake the COVID-19 tests. Mr. Desai would submit that none of the private laboratories in the State

Government are aware of such requirements stated in the report. According to him, the State Government should publicize the requirements as stated in para 3 of the report (A to G). Mr. Desai suggested that the State Government should publish at regular intervals advertisement / notice in widely circulated daily newspapers in vernacular and English and should also inform the medical associations so that all interested laboratories can apply for the purpose of undertaking the COVID-19 test. He further submitted that the procedure should be undertaken by the NABL and ICMR within a time bound period not later than 7 working days from the date of receipt of the application by the laboratory so as to facilitate and ease the pressure on the State Government of testing the pandemic COVID-19.

7 Mr. Desai submitted that the lifting of lockdown has a direct nexus to the testing because people at large would become more aware if testing is encouraged. According to Mr. Desai, it would reduce the risk of rampant transmission of Coronavirus.

8 Mr. Desai submitted that there are only 19 laboratories in the State of Gujarat which have the recognition from the ICMR and approval from the State Government to conduct the tests for COVID-19. He would submit that there is no good reason why the other laboratories fulfilling the eligibility criteria prescribed by the ICMR should not be permitted to conduct the tests for COVID-19. In short, according to Mr. Desai, the testing must be encouraged. Mr. Desai seeks the following directions from this Court:

[a] The State of Gujarat, by way of notification and advertisement, should give publicity in the daily newspapers in vernacular and English and also inform the medical associations of the State of Gujarat as regards the eligibility criteria and procedure for the private laboratories to obtain the ICMR approval for conducting the tests for Covid-19.

[b] All such private laboratories, which fulfill the eligibility criteria, should be granted approval by the ICMR within a period of 7 days from the date of application. The NABL accreditation, if required, shall also be granted to an eligible private laboratory, within 7 days from the date of application.

[c] Any citizen keen and desirous to have himself tested, should have the liberty to approach any approved laboratory, and upon so approaching, such private laboratory should conduct the test for Covid-19, without any requirement of approval from the State authorities. The private hospital may intimate about the details of the person tested and outcome of the test to the State authority, by the end of the day on which the result of the test is received.

[d] The rates for conducting the tests, in the State of Gujarat, should be capped at Rs. 2,200/- per test.

[e] The Ahmedabad Municipal Corporation should maintain a real-time data of the vacant beds and occupied

beds, available in all the 59 private hospitals and all the government hospitals, for each category of beds and with a bifurcation of beds reserved for the AMC and the beds reserved for the private patients.

[f] Further, the real time data on the availability of ventilators should also be maintained.

[g] The aforesaid data should be uploaded on a real-time basis on the website of the Ahmedabad Municipal Corporation as well as on the website of the Ahmedabad Medical Association and the Association of Hospitals and Nursing Homes of Ahmedabad.

9 We also heard Mr. Kamal Trivedi, the learned Advocate General and Ms. Manisha L. Shah, the learned Government Pleader appearing for the State.

10 We invited the attention of the State Government to the order passed by the Supreme Court dated 19.06.2020. We are referring to this order as it contains few important observations with regard to regulating the rates so far as the COVID-19 test is concerned. The order reads as under:

“1 This Court issued notice on 12.06.2020 in this Suo Motu writ petition with object to notice deficiencies, shortcomings and lapses in patient care of Covid-19 in different hospitals in National Capital Territory of Delhi and other States. The object was to take remedial action by all concerned to redeem the plight of patients and other persons

who needs medical care.

2 In response to notice dated 12.06.2020, Union of India, Delhi Government and other States have filed their affidavits. Several applications for intervention have also been filed by different individuals, organisations highlighting one or other aspects of the issue.

3 The Union of India in its affidavit after noticing the aberration, which were highlighted by the Court in its order, have brought on the record remedial steps taken by Union of India. The affidavit mentions that on 14.06.2020, a high-level meeting was held by Hon'ble Home Minister with Lieutenant Governor of Delhi, Chief Minister of Delhi, Union Health Minister, Health Minister of Delhi, Mayors and Commissioners of Delhi's three Municipal Corporations to strengthen the strategy to fight the coronavirus. The affidavit enumerates certain action points which have emerged in the deliberation. In paragraph 13 of the affidavit, decision taken by the Union of India have been referred to. We may notice only few of such decisions which need to be specifically noticed. In paragraph 13(ii), following has been stated:-

“13. (ii) It has been further decided that a team of senior doctors from Central Government Hospitals in Delhi, GNCTD Hospitals, Municipal Hospitals and AIIMS shall visit all hospitals in Delhi, within 2 days, to study the arrangements made for patient care and treatment and suggest improvements to be done. The responsibility for implementation of the said decision

has been given to the Union Health Secretary to coordinate with Chief Secretary, GNCTD and Director, AIIMS, who would ensure implementation of the said decision.”

4 *In paragraph 13(iv), decision regarding increase of the testing per day in NCT of Delhi has been mentioned. It has been stated that by 20.06.2020, the tests shall be increased up to 18,000 per day. The decision also refers to the constitution of the Committee of Dr. V.K. Paul, Member, NITI Aayog, representative of the AIIMS and representative of GNCTD who has to report regarding reasonable rates of various covid related facilities/tests etc. for private hospitals, labs.*

5 *We have come to know that the rates of the tests to be conducted in the private labs is substantially reduced by the Government of India for which orders have also been issued. The affidavit also gives details of guidelines framed by the Union of India to ensure proper treatment of Covid-19 patients and dignified handling of the dead bodies in the hospitals as well as the guidelines framed by the Union of India pertaining to Covid-19 hospital management.*

6 *In paragraph 18, it has been stated that strict observance and adherence of guidelines shall be ensured. One of the guidelines, whose adherence was to be ensured, was that the patients are provided with the bed and are permitted to have one attendant and the attendant can remain in the hospital premises in the area earmarked by*

the hospital and no suspected Covid-19 patients shall be turned away from the hospital and details of indoor facilities and advisory for OPD has also been noticed.

7 The Government of NCT, Delhi has also filed affidavit of Smt. Padmini Singla, Secretary, Health and Family Welfare, Government of NCT of Delhi. Although affidavit gives the details of the Government hospitals of Delhi, Government designated Covid hospitals, name of an IAS officer who was deployed as a nodal officer in all Covid designated hospitals to monitor and supervise various aspects and functioning of the hospitals, providing for 24x7 Help desk at each hospital along with display board/LED Screen to inform the availability of beds to the general public, details of available manpower in LNJP hospital, details of public sector labs and private sector labs. The affidavit also noticed the decision taken in the meeting chaired by Hon'ble Home Minister on 14.06.2020 to increase the testing facility in Delhi.

8 We, however, noticed that in the entire affidavit, apart from general statement that all steps are being taken, the affidavit does not indicate any mechanism for proper supervision of the functioning of the hospital and steps for improvement. The affidavit tries to give an impression to the Court that everything in the Government hospital in NCT, Delhi is well and all steps are being taken by the Government of NCT of Delhi. When the Government does not endeavour to know any shortcomings or lapses in its hospitals and patient care, the chances of remedial action

and improvement becomes dim. Every organisation, every individual should be more than ready to know about shortcomings, lapses and it is only after knowing one's shortcomings and deficiencies, remedial actions can be taken.

9 *We impress upon Government of NCT of Delhi to be more vigilant in knowing about the deficiency and lapses in functioning of the hospitals and patients care and take immediate & remedial steps to redeem the miseries of patients, the public who needs medical care and help.*

10 *The necessary guidelines on all aspects of patients' care, hospital management, testing, infrastructure are in place as has been highlighted by Union of India in its affidavit. The main concern is the faithful and strict implementation of the said guidelines which can be only ensured by constant supervision, monitoring and taking remedial steps with regard to improvement of infrastructure, staff, facilities, etc. The most important aspect is continuous supervision and monitoring of Government hospital in Government of NCT of Delhi and other States.*

11 *As noted above, in the meeting dated 14.06.2020 chaired by Hon'ble Home Minister, one of the decisions taken was that a team of senior doctors from Central Government hospitals in Delhi, GNCTD hospitals, Municipal hospitals and AIIMS shall visit all hospitals in Delhi. One visit in all hospitals of Delhi is not enough. There has to be constant monitoring, supervision and management.*

12 We with the object of continuous supervision and monitoring of government hospitals, Covid dedicated hospitals and other hospitals taking care of covid management issue following directions Nos.(I) to (IV):-

[I] The Ministry of Health and Family Welfare, Union of India, shall constitute Expert Committees consisting of:

[a] Senior Doctors from Central Government hospitals in Delhi,

[b] Doctors from GNCTD hospitals or other hospitals of Delhi Government,

[c] Doctors from All India Institute of Medical Sciences,

[d] Responsible officer from Ministry of Health and Family Welfare.

[II] The Expert Committee shall inspect, supervise and issue necessary directions to all Government hospitals, Covid hospitals and other hospitals in NCT of Delhi taking care of Covid patients; The Expert Committees shall ensure that at least one visit in each hospital be done weekly.

[III] The above team may in addition to normal

inspection shall also conduct surprise visits to assess the preparedness of the hospitals. The expert team as indicated above after visiting may issue necessary instructions for improvement to the hospital concerned and also forward its report to the Government of NCT of Delhi and the Union of India, Ministry of Health and Family Welfare.

[IV] We further direct that all States shall also constitute an expert team of Doctors and other experts for inspection, supervision and guidance of Government hospitals and other hospitals dedicated to Covid-19 in each State who may inspect, supervise the hospitals in the State and issue necessary directions for the improvement to the concerned hospital and report to the Government. Chief Secretary of each State shall ensure that such Committees are immediately constituted and start their works within a period of seven days.

13 *An affidavit has also been filed by Director, LNJP hospital, Government of NCT of Delhi, where in paragraph 4, it has been stated that CCTV Cameras have been installed in all the wards. The installation of CCTV Cameras in all the wards is a welcome step which shall not only help the hospital management to immediately find out the requirement of proper care with regard to patients admitted in the wards but also ensure transparency in the patients care in the hospital. In this regard, we issue following*

directions as direction Nos. (V) to (VII):

[V] Footage from the CCTV Cameras shall be made available by the hospitals in NCT of Delhi to the inspecting/supervising expert team or to any other authority or body as per directions of the Union of India, Ministry of Health and Family Welfare for screening the footage and issuing necessary directions thereon.

[VI] In Government hospitals of GNCT, Delhi which are Covid dedicated hospitals, where CCTV cameras have not been installed, steps shall be taken to install CCTV Cameras in the wards.

[VII] The Chief Secretaries of other States shall also take steps regarding installation of CCTV Cameras in Covid dedicated hospitals where Covid patients are taking treatment to facilitate the management of such patients and for the screening of the footage by designated authorities or bodies so that remedial action may be suggested and ensured.

14 We have noticed above that one of the guidelines by the Union of India is to permit one attendant of covid-19 patient. In this regard, we issue following directions as direction No. (VIII) and (IX):-

[VIII] All Covid-dedicated hospitals shall permit one willing attendant of the patient in the hospital premise, who can remain in an area earmarked by the hospital.

[IX] All Covid dedicated hospitals shall create a helpdesk accessible physically as well as by telephone from where well being of patients admitted in the hospitals can be enquired.

15 In the supplementary affidavit dated 17.06.2020 filed on behalf of the Union of India, details of Covid-19 patients discharge policy of Union of India has been given. Copy of the revised discharge policy for Covid-19 dated 08.05.2020 has also been brought on the record. The revised policy dated 08.05.2020 brought on record does not indicate that necessary directions have been issued to all States/Union Territories to communicate it to the concerned dedicated Covid hospitals and other hospitals to uniformly follow the discharge policy. We are of the view that discharge policy framed by the Union of India has to be followed by all States/Union Territories uniformly to ensure discharge of the Covid patients uniformly and to achieve clarity in the minds of all concerned. We, thus, issue following direction in this regard:-

[X] The Union of India, Ministry of Home Affairs may issue appropriate directions in exercise of power under Disaster Management Act, 2005 to all States/Union Territories to

uniformly follow the revised discharge policy dated 08.05.2020 with regard to discharge of different categories of patients as categorised in the revised discharge policy.

16 We, in our order dated 12.06.2020 has observed:-

“We impress upon the States to ensure that there should be steep increase in the testing both by Government hospitals and private labs and whosoever desires for testing should not be denied on any technical ground or any other ground.....”

17 We have also noticed in this order that Union of India has constituted a Committee of Dr. V.K. Paul, Member, NITI Aayog, representative of the AIIMS and representative of GNCTD who has to report regarding reasonable rates of various Covid related facilities/tests etc. Government of India on the basis of a report from the said Committee has already taken a decision for reducing the amount of test in the NCT Delhi. **The Union of India may consider issuing uniform directions to all the States and Union Territories with regard to reasonable rates of various Covid related facilities/test for private hospitals/labs, which may be made applicable across the country.** If any variations to be made with regard to any particular State/Union Territory, the same shall be specifically provided for in the guidelines. We, thus, issue following direction in this regard:-

[IX] The Union of India may issue appropriate guidelines/directions to all the States/Union Territories with regard to prescribing reasonable rates of various Covid related facilities/test etc., which need to be uniformly followed by all concerned. In case, with regard to any particular State/Union Territory, there is any difference, the same may be specifically noticed and directed accordingly.

I.A Nos.55935 & 55936 of 2020

18 *Learned counsel for the applicant submits that the State of Maharashtra has issued an order that a positive report of the patient shall not be given to the patient or the relatives of the patient.*

19 *Mr. Tushar Mehta, learned Solicitor General conceded that when a report of the patient is positive, the same shall be given to the patient or his relatives.*

20 *We have no doubt that the States and all concerned shall supply a copy of the report of the patient to him or his relatives and the hospital.*

21 *A copy of the applications may also be given to the learned Solicitor General as well as learned counsel for the State of Maharashtra.*

22 *Learned counsel for the State of Maharashtra submits*

that the State of Maharashtra has already fixed the rate of testing as Rs.2200/- and Rs.2800/-, which we feel is welcome to step-up the number of testing in the State of Maharashtra. He further submits that every day more than 16000 tests are conducted in the State of Maharashtra. Learned counsel for the State of Maharashtra submits that he shall obtain instructions regarding non-giving of the report to the patient or his relatives. He shall advise the State to issue an appropriate order permitting handing of the report to the patient or his relatives and the hospital.

23 Learned counsel for various intervenors have submitted that their several suggestions have been included in the intervention applications. Learned counsel appearing for the intervenors may give a copy of the suggestions in writing to the learned Solicitor General as well as to learned counsel for the respective States for appropriate consideration.

24 A question was posed to Shri Sanjay Jain, learned Additional Solicitor General appearing for the Delhi Government about the status of construction of second trauma centre at Dwarka out of Rupees Sixty Crores deposited as a fine by the Ansal Brothers (Rupees Thirty Crores each) in Uphaar Cinema fire tragedy case – Criminal Appeal No. 597-598 of 2010 vide this Court's order dated 22.09.2015. Shri Sanjay Jain submitted that he will get back on this on the next date of hearing.

25 *List the matter in third week of July, 2020.”*

[emphasis supplied]

11 We are of the view that the directions as sought for and referred to in paras 8(a) and (b) deserve to be issued at the earliest in the larger public interest. We accordingly issue such directions in terms of para 8(a) and (b). So far as the other directions as prayed for by Mr. Desai are concerned, we seek the response of the State Government. The State Government shall file its response by the next date of hearing.

CA NO.15 OF 2020

1 The applicants pray for a draft amendment. The draft amendment as prayed for is granted. The same shall be carried out at the earliest.

2 Post this application for further hearing on 17.07.2020.

CA NO.16 OF 2020

1 Mr. Amit Panchal, the learned counsel appearing for the applicant submits that this Civil Application has become infructuous.

2 In view of such statement being made, this Civil Application stands disposed of.

CA NO.18 OF 2020

1 By this Civil Application, the applicant has prayed for the following reliefs:

“VIII The applicant herein with regards to the migrant issue of migrant workers humbly prays that:

[a] The State Authority be directed to set up a procedure for reimbursement of railway fare and submit the same in a period of 7 days before this Hon’ble Court.

[b] The State government be directed to collect data of migrant workers from the sources mentioned in aforementioned para no.7 and thereafter procedure for reimbursement of travel expenses shall be initiated by the State Government without any further delay.

[c] The State authority be directed to produce a list of registering officers and a list of registered establishments before this Hon’ble Court in period of the not more than 7 days.

[d] The District Legal Service Authority be directed to set up Legal Service Camps under the [i] Legal Services to the Workers in the Unorganized Sector Scheme, 2015; [ii] Para Legal Volunteer Scheme and [iii] Scheme For Legal Services To Disaster Victims so as to facilitate the payment of pending wages.

[e] This Hon'ble Court be pleased to direct the Collectors of respective Districts to ensure that the registration in future is maintained and the list provided by the Gram Sabha is regularly updated so that migrant workers can easily be identified and thereby benefits of the Central and State Government can actually be extended to the people entitled to it.

IV The applicant herein with regards to the Public Distribution System humbly prays that;

[a] The Hon'ble Court be pleased to direct the State Government to issue separate procedural guidelines in accordance with the Gujarat PESA Rules, 2017 with respect to all the entitlements.

IV The applicant herein with regards to the Schedule Area humbly prays that;

[a] This Hon'ble Court be pleased to direct the Tribal Development to issue appropriate guidelines for the Scheduled areas governed under The Gujarat Panchayats (Extension to Scheduled Areas) Rules, 2017 so as to enable the citizens of the scheduled areas to receive their entitlements under the schemes introduced by the Central and the State Government.

[b] This Hon'ble Court be pleased to issue directions to the state authorities so as to devise a plan for procurement of the minor forest produce and compensate the losses

incurred by the collectors of Minor Forest Produce who have had to sell the produce at lower than the market rate or have had to destroy the procedure as the same was not procured in proper time, and thereby compensate the losses to the farmers in a stipulated time period.

[c] This Hon'ble Court be pleased to issue directions to the District Collectors to issue an order to activate the District Implementation Unit under Van Dhan Yojana and in consonance with the "Guidelines for Mechanism for Marketing of Minor Forest Produce (MFP) Through Minimum Support Price (MSP) & Development of Value Chain for MFP" vide Notification F. NO.19/17/2018-Livelihood dated 26.02.2019 for procurement of Minor Forest Produce at Minimum Support price and making arrangements for transport of the same without hassle.

V The applicant herein with regards to the Role of Non-Governmental Organisations humbly prays that:

[a] The Hon'ble Court be pleased to issue directions to the State Government and specifically the Chief Secretary and the Additional Chief Secretary to comply with sections 4(2)(j), 5(2)(b), 12(1), 15(2)(e)(g), 24(1)(f) and 25(h) of the Gujarat Disaster Management Act, 2003.

[b] The Hon'ble Court be pleased to issue directions to the State Government to recognize the role of Non-Governmental Organizations / Stake Holders and thereby not limit the same only to the aspect of food and relief work, but also

involve them in effective multi stake holder engagement to assess the ground realities and best possible recovery plan that will be required in the phase pursuant to the lifting of lockdown.

[c] The Hon'ble Court be pleased to issue directions to the State Authorities for appointment of multi stake holder committee consisting of various experts in the field of Agriculture, General Economy, Labour Economy, Financial experts, etc. at State Level that should draw proper and appropriate guidelines for each district to adapt its existing Disaster Management Plan in consultation with local stake holders.

VI The applicant herein with regards to the Island Villages humbly prays that:

[a] This Hon'ble Court be pleased to direct the State Authorities to submit a list to make a list of island villages in the State of Gujarat.

[b] This Hon'ble Court be pleased to direct the State Government to provide information on the number of island villages and status of implementation of all entitlements / schemes introduced by the Central and the State Government in that area.

[c] The Hon'ble Court be pleased to issue directions to the State Government to provide appropriate food, drinking water and necessary medicines to the people of these island

villages.

[d] This Hon'ble Court be pleased to direct the State Government to file a detailed report as to provisions made and facilities available in these island villages with regards to COVID-2019 testing and treatment.

IV The applicant herein with regards to the Role of the Legal Services Authority humbly prays that:

[a] This Hon'ble Court be pleased to direct the state authorities in order to reduce the burden of the widows, senior citizen and disabled for whom these schemes are meant, it is needed that the bank and the DLSA organize service camps to resolve these issues.

[b] This Hon'ble Court be pleased to issue directions to the State Authorities for identification of cases where pension has not been released to be done at the earliest in coordination with local stake holders and Legal Service Authorities to implement schemes like [i] Legal Services to the Workers in the Urorganized Sector Scheme, 2015; [ii] Para Legal Volunteer Scheme and [iii] Scheme For Legal Services To Disaster Victims.

III the applicant herein with regards to the Role of the Legal Services Authority humbly prays that:

[a] This Hon'ble Court be pleased to issue directions to State Government to set up a High Power Committee to

consider such cases where the Migrant was simply trying to reach home, and quash the said cases so as to avoid trials and criminal proceedings.”

2 The learned counsel appearing for the applicant has raised the following issues:

[1] Problems and difficulties faced as on today by the inhabitants of island villages to the requirement of involvement of the Legal Services Authority to reduce the hardship of the inhabitants residing on the island villages.

[2] Procurement of minor forest produce.

[3] Involvement of the NGOs to ease the difficulties and problems faced as on date by the inhabitants of the island villages.

3 We seek response of the State Government as regards the aforesaid issues. Post this matter on 17.07.2020. We take notice of the fact that the present Civil Application although notified today on Board, yet the same is under office objections. The learned counsel shall take steps to see that the office objections are removed at the earliest.

CA NO.19 OF 2020

1 Mr. K.N.Marfatia, the learned counsel appearing for the applicant makes a statement that in view of the various orders passed by this Court in the main matter, this Civil

Application has become infructuous. In view of such statement made by the learned counsel appearing for the applicant, this Civil Application stands disposed of.

CA NO.20 OF 2020

1 By this Civil Application, the applicant, a practicing Advocate of this High Court has prayed for the following reliefs:

“[A] Be pleased to allow this civil application and be pleased to join as respondent in WP (PIL) No.42 of 2020, to assist this Hon’ble Court in true spirit.

[B] Be pleased to direct the opponent No.2 and 3 to DECLARE the adequate details of stock of TOCILIZUMAM INJECTIONS in various warehouses across the state and if there is scarcity or short supply of the same then with permission and direction of this Hon’ble Court proper mechanism can be adopted for sufficient supply to all the government and private hospitals.

[C] Be pleased to direct CENTRAL AND STATE GOVT TO issue appropriate guidelines manufacturers / sellers to TOCILIZUMAB INJECTIONS to change the maximum retail price at a reasonable rate or a concessional rate or alternatively Hon’ble Court may also direct the connected manufacturers (Govt. can provide list of the same).

[D] Be pleased to direct the authorities to convert maximum hotels / stadium / guest house / circuit house

also in to COVID 19 hospitals so that patients of one city should not travel to another city for treatment and can easily get bed in their own city without any influence or favours.”

2 We are of the view that the issues raised in this Civil Application are quite important and we seek the response of the State Government in this regard. The State Government to respond accordingly.

3 Post the matter for further hearing on 17.07.2020.

WRIT PETITION (PIL) NO.64 OF 2020

1 By this writ application under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“(a) Your Lordships may be pleased to issue a Writ of Mandamus or any other appropriate Writ directing the Respondents to issue order/guidelines/directions with respect of fees/hygiene to all the Private Schools across the State as under:-

i. No fee such as transportation, sport, term, meal, medical, SMS, IT & other curriculum activity etc., except Tuition fee, shall be charged from the parents for the month of April, May and June, 2020 till the schools get reopen under Section 2 of the Epidemic Disease Act, 1897;

ii. To remit/return the advanced fee taken from the parents, except Tuition fee, to the parents;

iii. Heads of the schools shall not demand and collect the Tuition fee from the parents/students on quarterly basis. The fee shall be collected on monthly basis only. Schools should not demand a consolidated fee, without distinguishing the various heads i.e., tuition fee, co-curricular activities fee etc.;

iv. Not to increase any fee in the academic session 2020-21 till further specific directions of the State Government/Union of India irrespective of the fact whether or not the school is running on the private land or the land allotted by Government;

v. Shall ensure to provide the access of Online Education/material/classes to all students, without any discrimination, by providing them ID and Password immediately to get them online education facility.

vi. Heads of the schools shall, in no case, deny ID and Password to those students / parents for getting online access of educational facilities / classes / materials etc. to those students who are unable to pay the school fee due to financial crisis arising out of closure of business activities in the ongoing lockdown condition.

vii. *Managing Committee of the schools/Heads of the schools shall not put extra financial burden by creating any new head of fee.*

viii. *Shall neither stop payment of monthly salary nor reduce the existing total emolument to the teaching and nonteaching staff of their schools in the name of non-availability of funds and arrange the funds in case of any shortfalls from the Society/Trust running the school or reserve fund.”*

ix. *If there is any specific complaint against any particular school, the parents concerned would be entitled to bring the same to the notice of the Respondent authorities, which shall take steps in accordance with law;*

x. *Head of all private schools shall makes sure that proper sanitization is done in the school premises and the schools provide masks to children, teacher and other school staff and make sure that everyone in the school establishment use them as a post-COVID19 measure at least for 6 months ensure the availability of hygiene equipment's i.e. hand sanitizers, face masks, paper napkins, dustbins in school;*

(b) Pending admission, hearing and final disposal of this Petition, Your Lordships may be pleased to direct the Respondents in the interregnum to issue order/guidelines/directions with respect of fees/hygiene to

all the Private Schools across the State as enumerated herein above in prayer clause (a) and further be pleased to grant ad-interim ex parte stay against demands of fees raised by private schools till above guidelines / order / directions permanently passed / implemented by the Respondents by way of resolution or notification in context of this serious issue in the State and no coercive steps will be taken against the students/parents till further orders and be pleased to pass interim-relief immediately since parents are getting intimating/threatening calls from the school authorities that if they will not deposit the fees consequences may follow penalty charges will be levied or other coercive steps will be taken against the student by not allowing them to take online classes;

(c) Ad-Interim relief in terms of paragraph (b)

(d) Your Lordships may be pleased to grant any other relief or reliefs' as this Hon'ble Court may deem just, fit and expedient be granted in favour of the Petitioners;"

2 Mr. Vishal J. Dave, the learned counsel has filed a note in writing raising the following issues:

"[1] The Petitioner, Mr. Naresh Shah, is the President of Unregistered All Gujarat Vali Mandal. He had given a representation on behalf of parents dated 07.04.2020 addressed to the Secretary of the Education Department of State of Gujarat requesting that since 21 day lock-down has been declared by the Prime Minister of India, an Order to the

effect that all school managements should not charge any fees for the next three months be issued by the Government.

[2] Although, the regulation of fees of self-financed schools comes under the Fee Regulatory Committees, the Hon. Minister Education summoned the representatives of School Managements from across the State and held discussions with them on the above request of the Petitioner.

The School Management posed following issues faced by them :

[i] Many of the Parents have not deposited the last quarterly fees of the schools since the schools were closed.

[ii] 70% of the amount received as fees goes in the salary of teachers and other non-teaching staff.

[iii] Schools have to pay the salary of all staff for the lock-down period also, which is a burden on the school management.

[iv] Even when the schools are not working/closed, they have to pay at least minimum electricity bills, maintenance of school buses, loan instalments of buildings or rent of the building etc. Thus, they have to incur other expenses also.

[3] Since, it is the matter between two different entities

viz. (i) the self financed Schools and (ii) the Parents, who in a way, enter into contract with each other, the interference by the State Government might jeopardize interest of either of the two. Yet, the State Government, on behalf of the Parents, requested the school management to give some positive response on the representation of the Petitioner. Consequently, the Self-Financed School Management Federation-Gujarat agreed on following points and accordingly issued a communication dated 14.04.2020 to its member schools across the state.

[i] If the fees of March-April-May 2020 is not paid by any student, the parent should be contacted and the fees may be collected in instalments spread up to November-2020.

[ii] No late-fee or penalty should be charged from the parents. After contacting the parent and assessing his economic condition appropriate reduction or rebate may be given on humanitarian ground.

[iii] The date of next academic session is not decided yet. So, it is inappropriate to demand fees for the same. When the next session starts, steps to boost the morale of students and teachers should be taken. Audio-visual methods should be utilized to create awareness among them and motivate all and one to face the crises.

[iv] A positive letter in polite language asking for fees should be issued only after a week from the starting of next academic session. Before issuing such letter data of all parents should be prepared. Based on the class of work of parents such as : a government employee/officer; some businessman; is a worker in some factory/industry, appropriate dates should be fixed for payment of fees so that all can have enough time to manage the payment. Approx. 60-65% of parents are economically capable of paying the fees in time. 15-20% belong to middle class and 20% are from poor segment including the admission given under the RTE Act. Thus, after such categorization only, fees should be demanded. In present situation if some parents is not earning and is facing economic crises, the school management should continue imparting education to such students and if possible may waive the fees.

[v] No fees should be raised for 2020-21 academic session and fees as per 2019-20 should only be charged. The order of Fee Regulatory Committee may be awaited in this regard.

[vi] Considering the situation of pandemic, the penalty, late fee or pressure tactic for fees should be avoided.

[vii] The salary of academic and non-academic staff should be paid regularly. If it is not possible the

salary should be paid in instalments.

[4] *Even when the school is closed for the time being, burden of some regular expenses such as electricity bill, maintenance of school buses and payment of their drivers, salary of academic and non-academic staff, building maintenance, instalments of loan (if any) is always existent. It cannot be conceived that parents giving admission in self-financed schools do not have any savings to pay the fees of their kids. Moreover, as stated earlier, the School management has already agreed to give fullest cooperation to the parents.*

[5] *As per the provisions of the Gujarat Self financed (School fee)Regulation Act and Rules, 2017, the fees is determined by the respective Fee Regulatory Committee, headed by retired High Court Judges. So far as the Schools are concerned, they are unaided private institutions and the Government cannot interfere directly in the working of the FRC.*

[6] *On line teaching also requires various applications to be prepared and appropriate material to be converted into technically feasible format. Thus, it involves expenditure on hardware as well as on software. The teachers in fact, may require more time and resources to do this than in traditional class-room teaching.*

[7] *The schools are liable to observe the rules/guidelines issued by respective Ministry of the Central Government and*

the State Government from time to time during the pandemic situation. Currently schools are closed. When the schools re-open they are liable to follow relevant orders pertaining to the pandemic situation. Moreover, C.B.S.E. Bye-laws are not applicable to all schools which is pertinent to note. The State Government does NOT give rebate in any form in the name of education to any trust/society.”

3 We request Mr. Kamal Trivedi, the learned Advocate General to take up the aforesaid issues with the State Government at the earliest. We request Mr. Trivedi to ensure that the private schools do not cancel the admissions of those students, who are not able to deposit the fees by 30.06.2020. We are conscious of the fact that the State Government may not like to involve itself with the administration of the private schools, but in the wake of the current scenario, we request the State Government to work out some modalities with all the private schools across the State of Gujarat so far as the issues raised in this writ application are concerned. We seek response of the State Government in this regard.

4 Post this writ application on 17.07.2020.

WRIT PETITION (PIL) NO.63 OF 2020 WITH CA NO.1 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[A] YOUR LORDSHIPS may be pleased to admit this Public Interest Litigation and may further be pleased to quash and set aside the Order dated 18.4.2020 passed by respondent No.3 (Annexure A) and further be pleased to direct the respondents to forthwith open all the closed / blocked roads of District: Amreli and put the roads functional into their original position and consequently be pleased to direct the respondents not to restrain the movements of medical emergency, ambulances, farmers, farm labourers, cattle-breeders, etc. who are exempted as per the Consolidate Revised Guidelines issued vide Order dated 15.04.2020;

[B] Pending admission and final disposal of this petition, YOUR LORDSHIPS may be pleased to stay the execution, operation and implementation of the Order dated 18.04.2020 passed by the respondent no.3 (Annexure A) and further be pleased to direct the respondent authorities to forthwith open the closed / blocked roads of District: Amreli and not to restrain the movement of the people in contravention of Consolidated Revised Guidelines issued vide Order dated 15.4.2020 by the Government of India;

[C] YOUR LORDSHIPS may be pleased to award the costs and expenditure for the restoration of the roads and also be pleased to award the costs of this petition from the pocket of the erring officer;

[D] YOUR LORDSHIPS may further be pleased to grant any other and further relief that may deem fit in the lights of justice, equity and good conscience.”

2 The response of the State is as under:

[1] As per the notification of the Ministry of Home Affairs dated 15.04.2020, all movement except as permitted by the Government, is prohibited. In consonance, with the said circular, a total of 39 roads have been kept open for entry into Amreli district for the passage of persons and vehicles.

[2] Till now, the total number of people who have entered Amreli District from other States and other districts of Gujarat is 1,09,532. Out of such 1,09,532 persons, 53,749 persons have entered Amreli District using the 39 entry points. This means that the remaining 55,783 persons have entered Amreli District in an unauthorised manner. Most of these persons have come from Surat, Ahmedabad, Rajkot, Bhavnagar, Vadodara, Junagadh and Botad. All such areas have been notified as COVID-19 Hot Spots. In the district Amreli, from amongst the number of people who have entered it inter-district/inter-state, in all, 8,698 families have been home quarantined. In order to stop the unauthorised entry of people in the District and in order to ensure that the COVID-19 suspected persons do not enter, the district Administration has closed certain kaccha roads, temporarily as well.

[3] Police personnel, as well as officers from the Health Department have been deployed at the 39 Check posts that are there in the District. All persons who are entering the district are required to go through a medical check-up and

only after such check-up, they are permitted to enter the district and the records of all such persons are also maintained. On account of the shortage of staff of the police personal as well as that of the health/medical officers, it is not possible to deploy all officers on all the roads or that to have check posts on all the roads and as the public demanded that all the persons entering the district should be checked medically, considering the total strength of the police personal as well as of the health/medical officer, total 39 check posts have been put up and the same are functioning properly, as mentioned above.

[4] The check-up of the persons who enter the district in a unauthorised manner, can be carried out, on receipt of the information regarding such entry by the health or police officials, or after conducting a total survey. It is only then that the district administration is made aware of the presence of such persons in the district and therefore, the possibility of the spread of COVID 19 is higher.

[5] No prohibition of movement is imposed upon the persons/entities who have been exempted vide the notification of the Ministry of Home Affairs and the district Administration permits the movement of such persons/entities. Moreover, as indicated in the notification, the relaxation/exemption is given to the persons engaged into agriculture/animal husbandry and other persons engaged in essential services and the district Administration has permitted free movement of such persons/entities.

[6] It is pertinent to note that the roads that have been closed by the district. Administration are **inter-district** roads and not **intra-district** roads. No road inside the district has been closed and therefore, no difficulty or obstacle arises for the movement for the persons engaged in agriculture/animal husbandry and other person engaged in essential services.

[7] For the purpose of entry and exit from the district, a total number of 1480 passes have been issued (1152 Vehicles, 317 industries & 11 Market Yards). Such entities can exit the district through the 39 check posts that have been placed by the district Administration.

[8] Despite all precautions, one person who was in contact with another person who had been tested positive in Botad district unauthorisedly entered Amreli district and on coming to know of the same, the district administration has taken the requisite steps for the same.

[9] Instructions have been issued to all officers/employees working in the district administration, banks, other offices, for operating and functioning only through their headquarters. Care is also being taken to ensure that interaction with persons coming from other districts is limited.

[10] Till date, no positive case has been declared in Amreli district and that is due to the attention paid by the district administration to the minute details and having taken all

steps necessary to that end.

[11] *The population of Amreli district is 15,00,000 and there are 615 Gram Panchayats in the district. Out of such Gram Panchayats, no representation, oral or written, has been received by the district administration against the temporary closure of the roads. On the contrary, there have been many recommendations/ opinions for closure of roads to prevent unauthorised entry of persons.*

[12] *The movement of vehicles (Government Ambulances, private vehicles) for medical assistance is permitted by the district administration from Ahmedabad, Rajkot, Bhavnagar, Unah etc. It is pertinent to note that such movement is permitted with or without, prior permission. In addition to this, market yards for the sale of agriculture products for farmers have been kept operational and there is no prohibition on the movement of vehicles for transport of such agriculture products.*

[13] *In Savarkundla Taluka, the Kedariya - Katrodi Aatar Dist. Road is closed. However, an alternative rout is available to the farmers to access their farm lands.*

[14] *In case the temporary closed roads are opened, the population of 15 Lac of Amreli Dist. shall be put to risk of COVID 19.”*

3 Having regard the response of the State Government referred to above, Mr. Bhaumik Dholariya, the learned counsel

appearing for the writ applicant submits that the writ application may be disposed of accordingly. We clarify that if there is any further difficulty, it shall be open or the writ applicant to approach the respondents Nos.3 to 5 respectively.

4 In view of the above this writ application stands disposed of.

The connected Civil Application also stands disposed of.

WRIT PETITION (PIL) NO.65 OF 2020

1 When this matter was called out Mr. Suraj A. Shukla, the learned counsel for the writ applicant failed to join the videoconference.

2 Stand over to 17.07.2020.

WRIT PETITION (PIL) NO.67 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[a] Your Lordships may be pleased to kindly admit and allow the present petition.

[b] Your Lordships may be pleased to kindly issue an appropriate Writ, direction(s) and/ or order(s) to the present respondents to the effect that the temporary bail or parole or

furlough whichever is granted to the undertrials or any other prisoner's may kindly be extended for a period of 1 month as prayed for in paragraph no. 14 of the Petition."

2 Mr. Sikander Saiyed, the learned counsel appearing for the writ applicant submits that in the wake of various orders passed by this Court in the main matter, this writ application may be disposed of.

3 In view of such statement being made, this writ application stands disposed of.

WRIT PETITION (PIL) NO.69 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[A] YOUR LORDSHIPS BE PLEASED TO admit this petition;

[B] YOUR LORDSHIP BE PLEASED TO *allow this petition by way of is issuing writ in the nature of mandamus or any other appropriate writ, order or direction against the respondent authorities directing them to give appropriate time and alternative remedy before passing such orders and It should not be sudden Implementing In nature; FURTHERMORE YOUR LORDSHIP BE PLEASED TO quash and set aside the order dated 06/05/2020 passed by the respondent no. 2 (Annexure-A) and liberty may be reserved*

to pass fresh order after giving sufficient time and opportunity to people at large for making necessary arrangement and storage of essential food items (Vegetables / groceries / fruits etc.) during operation of such order.

[C] YOUR LORDSHIPS BE PLEASED TO hold and declare that the respondent authorities more particularly respondent no.2, shall solely be liable of the resultant spread of Coronavirus or Covid-19 virus which would have or will spread due to large crowd gathering in different part of city due to unnecessary and arbitrary order dated 06/05/2020 passed by the respondent authorities without giving sufficient time to people to get essential and necessary food items (Vegetables/fruit/groceries etc);

[D] YOUR LORDSHIP BE PLEASED To direct the respondent authorities to create sufficient medical facilities as well as testing facilities for the people suffering from coronavirus or Covid-19 virus or having some symptoms of the same.

[E] YOUR LORDSHIP BE PLEASED TO direct the respondent authorities to restraint the police personnel in using physical violence or inflicting lathi blows upon innocent people that too while people were in search of necessary food items, grocery etc since the order of respondent no.2 was to come into execution within short span of time after which the essential commodities were to be made unavailable in market.

[F] YOUR LORDSHIP BE PLEASED TO direct the respondent authorities to register offence and to take appropriate action against the erring police personnel who are keeping weapon like lathi with them though they are in the category of unarmed police during the implementation of weapon prohibition proclamation of collector;

[G] YOUR LORDSHIP BE PLEASED TO dispense with the affidavit of petitioner since the present petition is filed by e-filing. However, the petitioner undertakes to file appropriate affidavit after the situation becomes normal;”

2 We dispose of this writ application in terms of our order dated 13.05.2020 passed in the Writ Petition (PIL) No.68 of 2020.

WRIT PETITION (PIL) NO.70 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[A] Your Lordships be pleased to direct the respondent state authorities to forthwith commence plying state transport buses free of charge for inter-state movement / ferrying of the stranded migrant labourers in the State of Gujarat.

[B] Your Lordships be pleased to direct the respondent State Authorities to forthwith commence plying state

transport buses free of charge for intra-state movement / ferrying of the stranded migrant labourers in the State of Gujarat.

[C] During the pendency and/or final disposal of the present petition Your Lordships be pleased to direct the respondent State authorities to commence plying state transport buses free of charge for inter-state movement / ferrying of the stranded migrant labourers in the State of Gujarat rather than plying private run buses charging exorbitant fares.

[D] During the pendency and/or final disposal of the present petition Your Lordships be pleased to direct the respondent State authorities to commence plying state transport buses free of charge for intra state movement / ferrying of the stranded migrant labourers in the State of Gujarat rather than plying private buses charging exorbitant fares.

[E] Your Lordships be pleased to hold and declare that charging of fares from the MIGRANT labourers for facilitating their movement / ferrying to their native is illegal, arbitrary, violative of fundamental rights of the migrants and hence unconstitutional and be further pleased to restrain the respondent state authorities from charging fares for transportation and repatriation of the migrants to their native.”

2 We seek response of the State Government by the next date of hearing.

3 However, we clarify that if any group of migrant labourers would like to go back to their respective native state, then it shall be open for them to approach the Collector of the District. It shall be open for the migrants to even make a request to the authority concerned to make necessary arrangement for transport through any other charitable institution or NGO. We expect the State Government to render necessary help in this regard. In fact, this issue is now been looked into by the Supreme Court. Still, if any migrants are left behind in the State of Gujarat and are willing to go back to their native states then they shall get themselves registered accordingly. If any such request comes for transport, the State Government shall look into the same at the earliest and make the necessary arrangements. The Gujarat State Road Transport Corporation is directed to ply its buses for transport of such migrants even outside the State of Gujarat if required by the State.

4 Post this matter for further hearing on 17.07.2020.

WRIT PETITION (PIL) NO.71 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[A] Hon’ble Court may be pleased to direct the respondent

no.2 to order all contractors to daily upload videos of process of collecting Garbage from the residence of COVID-19 patients including the people who came from foreign countries, quarantine homes and quarantine centers set up by the respondent no.2 complying the guidelines issued by the respondent no.2 while issuing work order on official website of respondent no.2.

Alternatively

Hon'ble Court may be pleased to direct the respondent no.2 to appoint surveillance officers in each zone for effective compliance of guidelines issued by the respondent no.2 by the contractors while collecting Garbage from the residence of COVID-19 patients including the people who came from foreign countries, quarantine homes and quarantine centers set up by the respondent no.2;

[B] Grant such other and further relief/s in terms of prayer clause (A) above;

[C] Hon'ble Court may further be pleased to order the respondent no.2 to submit the account before this Hon'ble Court showing bill amount disbursed for collecting Garbage from the residence of COVID-19 patients including the people who came from foreign countries, quarantine homes and quarantine centers set up by the respondent no.2 in view of issued issuing work contract and further direct the respondent no.2 to take proper action to get back the disbursed amount from the contractors who have not

complied with the said guidelines and taken bill amount from the respondent no.2;

[D] That the Hon'ble Court direct the respondent no.2 to cancel the contract of collecting Garbage from the residence of COVID-19 patients including the people who came from foreign countries, quarantine homes and quarantine centers set up by the respondent no.2 from the defaulted Contractors and blacklist them and further impose heavy penalty upon such contractors for not adopting safety measurements and not complying with safety guidelines issued by Respondent No.2 while issuing work contract in this pandemic COVID-19 position.

[E] Hon'ble Court may further be pleased to direct the respondents to see that safety guidelines issued by respondent no.2 in work order are strictly comply in relation to collection of garbage from the residence of COVID-19 patients including the people who came from foreign countries, quarantine homes and quarantine centers set up by the respondent no.2.

[F] Hon'ble Court may be pleased to direct the respondents to file criminal complaint as provided under the Epidemic Diseases Act, 1897 Act or under section 188 of the Indian Penal Code against the person violating the orders and further legal actions be taken against them as prescribed under the said Act;"

2 It appears from the pleadings and the reliefs prayed for that the writ applicant has raised the issues relating to the garbage collectors. The writ applicant wants the State Government to protect the garbage collectors from getting infected with COVID-19. We seek the response of the State Government in this regard by the next date of hearing.

3 Post the matter on 17.07.2020.

4 We direct the learned counsel appearing for the writ applicant to file a fresh affidavit pointing out the status of the garbage collectors as on date.

WRIT PETITION (PIL) NO.80 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs: सत्यमेव जयते

“12.1. Your Lordships may be pleased to formulate guidelines carving out exceptions for not exercising powers by the State Government conferred on them, vide Sec 432 and 435 of Cr P C for suspending sentence of the convict prisoners in prisons of Gujarat on account of the outbreak of covid-19 and oblige.

12.2. Your Lordships may be pleased to direct state government to exercise powers conferred on them vide Sec 432 and 435 of Cr PC and suspend sentence of the convict prisoners in prisons of Gujarat who are not falling in

category of exception as stipulated in prayer (a) above till the outbreak of covid-19 is in control and oblige.

12.3. Your Lordships may be pleased to pass orders setting criteria for not extending benefit of temporary bail for under trial prisoners who are in judicial custody in various prisons of Gujarat on account of outbreak of covid-19 and oblige.

12.4. Your Lordships may be pleased to pass orders for release of under trial prisoners not falling within criteria set out in terms of prayer (c) above and who are in judicial custody in various prisons of Gujarat on interim bail till the outbreak of covid-19 is in control and oblige.

12.5. Your Lordships may as interim relief direct release on temporary bail on self bond for two months of all convict prisoners who are sentenced exceeding seven years if they have completed 25 % of the sentence awarded to them and are not falling in category of exception at para 6(III) of minutes of meeting of the High Power Committee.

12.6. Your Lordships may as an interim relief direct to release on temporary bail on self bond for two months all undertrial prisoners who are facing charges for offenses attracting more than seven years imprisonment but not falling in exceptions at Para 6(I)(b) to 6(I)(k) of the minutes of meeting of the High Power Committee and oblige.

12.7. Your Lordships may be pleased to any other and further orders in the facts and circumstances of the current

situation which are deemed necessary, proper and fair in the interest of justice and oblige.”

2 We seek response of the State Government as regards the reliefs prayed, which are referred to as above.

3 Post this matter on 17.07.2020.

WRIT PETITION (PIL) NO.72 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[A] Your Lordships may be pleased to allow the present writ petition (P.I.L.);

[B] Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ / order / direction and to hold that new revised discharge policy dated 08.05.2020 issued by ICMR whereby the respondent authorities have revised the discharge policy, which is contrary to the guidelines issued by WHO, earlier policy issued by ICMR, Guidelines for quarantine facilities and also the guidelines for clinical management of COVID 19 patients and therefore it is violative of article 14 and 21 of the Constitution of India and direct that no patient, once found to be positive for Corona virus is discharged without confirmation by RT-PCR test to that he/she is no more

positive for the virus and he is not a risk for other persons in the community.

[C] Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ/order/direction to quash and set aside the revised discharge policy dated 08.05.2020 issued by ICMR and further be pleased to direct the respondent authorities to ensure that the patient of COVID 19 is negative by conducting necessary tests as prescribed by WHO on 21.04.2020 in the interest of justice.

[D] Your Lordships may be pleased to issue suitable order / direction to the respondent authorities that no patients can be discharged without confirmation by RT-PCR prescribed by WHO by way of interim relief.”

2 We seek response of the State Government as regards the discharge policy of the COVID-19 patients prevailing as on date. We would like to understand from the State Government whether it would be in the larger interest of the people that the patients are tested for one last time before their actual discharge from the hospital.

3 Post the matter on 17.07.2020.

WRIT PETITION (PIL) NO.73 OF 2020

1 Ms. Renu Verma, the writ applicant appearing in person seeks permission to withdraw this writ application. The writ application is rejected as withdrawn.

WRIT PETITION (PIL) NO.82 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[a] YOUR LORDSHIPS BE PLEASED to issue a writ of mandamus or any other appropriate writ, order or directions, by granting temporary bail of two months to the prisoners within the state, who are facing trial / convicted for the offences punishable upto 7 years or less, without or without fine in the interest of justice;

[b] YOUR LORDSHIPS BE PLEASED to issue a writ of mandamus or any other appropriate writ, direction or order to direct the Respondent No.3 to take a decision with regard to release of the under trial prisoners in the light of the directions issued by the Hon'ble Supreme Court in the interest of justice;

[c] YOUR LORDSHIPS BE PLEASED to direct the Respondent No.1 to consider the case of those undertrial prisoners who are aged i.e. above the age of 60 years OR/AND suffering from underlying disease for releasing them from the prison in the interest of justice;

[d] YOUR LORDSHIPS BE PLEASED to direct the Respondent No.1 to release the prisoners on temporary bail

for two months, who are facing trial / convicted for the offences punishable upto 7 years or less, without or without fine pending admission, hearing and final disposal of petition in the interest of justice;

[e] YOUR LORDSHIPS BE PLEASED direct the Respondent No.1 to release the prisoners on temporary bail for two months, who are above 60 years of age or/and suffering from underlying disease pending admission, hearing and final disposal of petition in the interest of justice;”

2 It appears from the pleadings that the writ applicant has taken up the cause of the prisoners confined in different jails across the State of Gujarat. We seek the response of the State Government in this regard.

3 Post the matter on 17.07.2020.

WRIT PETITION (PIL) NO.77 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[A] Your Lordships may be pleased to allow the present Writ Petition (P.I.L.);

[B] Your Lordships may be pleased to issue any appropriate writ/ order/ direction to all the Respondents and the instrumentalities falling under their jurisdiction to

declare the present lockdown unconstitutional and ultra vires on account of it being illegal, arbitrary, unjust, and bad in law and same may be struck down in the interest of justice;

[C] Your Lordships may be pleased to issue any appropriate writ/ order/ direction to all the Respondents and the instrumentalities falling under their jurisdiction to declare that the restriction on testing for positivity to be done only after prior approval is illegal and violative of Article 19 and further direct that individual patients may get testing done at a place of their choice and at a time of their choice in the interest of justice;

[D] Your Lordships may be pleased to issue any appropriate writ/order/direction to the Respondents and the instrumentalities falling under their jurisdiction to forthwith and without any delay implement EDA and MDA in letter and spirit in the interest of justice;

[E] Your Lordships may be pleased to issue any appropriate writ/order/direction to the Respondents and the instrumentalities falling under their jurisdiction to declare the orders of the virtual curfew imposed by notification dated 24.03.2020 and all subsequent notifications as unconstitutional, without authority of law, illegal and to forthwith and without any delay rescind the same in the interest of justice by way of interim relief;

[F] Your Lordships may be pleased to issue any appropriate writ/order/direction to the Respondents and the instrumentalities falling under their jurisdiction to uphold Articles 14, 19 and 21 of the Constitution of India in letter and spirit and not discriminate against senior citizens above 65 years of age by way of interim relief;

[G] Your Lordships may be pleased to issue any appropriate writ/order/direction to the Respondents and the instrumentalities falling under their jurisdiction to uphold the laws of the land in letter and spirit and further declare the restrictions imposed on automated, motorised vehicles, such as disallowing more than one person on a 2-wheeler or more than two persons in a car, etc. as arbitrary and the same as being without authority of law and to rescind the same, by way of interim relief;

[H] Your Lordships may be pleased to issue any appropriate writ/order/direction to the Respondents and the instrumentalities falling under their jurisdiction to stay the further implementation, execution and operation of the orders fixing the time limits for shops and other establishments by way of interim relief;"

2 We heard Mr. Percy Kavina, the learned Senior Counsel assisted by Mr. K.R.Koshti, the learned counsel appearing for the writ applicant. Essentially the following issues have been raised in the present writ application filed in public interest:

[1] The legality and validity of the lockdown. In other words, whether the Union of India has the legislative competence to impose lockdown in the State of Gujarat.

[2] The issues with regard to testing.

3 It is argued that although the State Government has accepted the testing to be a fundamental right of a citizen yet the stance of the State Government is that it is within its power to impose reasonable restrictions in this regard. According to the learned Senior Counsel, the stance of the State Government is quite contrary to the settled position of law. It is argued that there should not be any restriction on testing. It is also argued that the restrictions imposed by the State Government in the form of curfew after 9 p.m. is not reasonable and serves no good purpose. It is also argued that the condition that the pillion rider on a two-wheeler should be related to the person riding the two-wheeler is also unreasonable.

4 We seek response of the State Government on the aforesaid issues.

5 Post the matter on 17.07.2020.

WRIT PETITION (PIL) NO.84 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[A] YOUR LORDSHIPS be pleased to issue appropriate writ, order or directions against respondents for passing appropriate resolution/ notification/ order for providing financial assistance and/or food to the cows and calves in various Panjarapole/Gaushala across Gujarat, in the interest of justice;

[B] YOUR LORDSHIPS be pleased to issue appropriate writ, order or directions against respondents for setting up an independent committee or commission to look after the health and welfare of cows and calves in various Panjarapole/Gaushala across the State of Gujarat, in the interest of justice;

[C] YOUR LORDSHIPS be pleased to interim order directing immediate relief by way of food or financial aid to various Panjarapole/Gaushala across the State of Gujarat pending admission, hearing and final disposal of this petition;

[D] YOUR LORDSHIPS be pleased may be please to dispense with the filing of affidavit with this petition on account of ongoing lockdown guidelines in the interest of justice;”

2 We have heard Mr. Pratik Thakkar, the learned counsel appearing for the writ applicant and Ms. Manisha L. Shah, the learned Government Pleader appearing for the State respondents. Ms. Shah, the learned Government Pleader pointed out that due care is being taken of all gaushalas /

panjrapoles across the State and almost Rs.30 crores has been sanctioned and disbursed till this date for the maintenance of the gaushalas / panjrapoles. It is sought to be argued by the learned counsel for the applicant that the State Government has sanctioned Rs.25 per day per cattle. This according to the learned counsel is not sufficient. This issue can be looked into by the State Government and do the needful.

With the above, this writ application stands disposed of.

SPECIAL CIVIL APPLICATION NO.7347 OF 2020

1 On 09.06.2020 this Court passed the following order:

“1 The petitioner – Indian Medical Association is before this Court seeking the following reliefs:-

“(A) Your Lordships may be pleased to admit and allow the present petition;

(B) Your Lordships may be pleased to issue writ of mandamus or any other appropriate writ, order or direction for quashing and setting aside the resolution/circular dated 02.06.2020 which postulates prior approval for conducting RT-PCR test for asymptomatic frontline healthcare workers;

(C) Your Lordships may be pleased to issue writ of mandamus or any other appropriate writ, order or direction to Respondents to test the asymptomatic frontline health workers such as Doctors, Nurses, Paramedical Staff,

Pharmacist and other supportive staff of medical colleges/hospitals/clinics working in the hospitals and the containment as well as micro containment zones declared by the Respondent Authorities without seeking any prior or any other kind of approval / permission of the CDHO or DHO from GMERS, Sola Civil Hospital.

(D) Your Lordships may be pleased to issue writ of mandamus or any other appropriate writ, order or direction to the Respondents to conduct regular tests for Covid-19 diseases of all the asymptomatic frontline health workers without any prescription and any approval from any authority;

(E) Pending the hearing, and final disposal of the petition, this Hon'ble Court may be pleased to stay further implementation, execution and operation of resolution/circular dated 02.06.2020 in so far as it mandates prior approval for conducting RT-PCR test for asymptomatic frontline healthcare workers;

(F) Pending the hearing and final disposal of the petition, this Hon'ble Court may be pleased to allow the frontline health workers such as Doctors, Nurses, pharmacist, paramedical and other supportive staff to conduct COVID-19 test at their own volition;

(G) Grant such other and further relief/s as may be deemed fit and proper in the interest of justice.”

2 The Court, on hearing learned advocate Mr. Mitul Shelat appearing with learned advocate Mr. Rohan Shah and also on perusal of the material, deems it appropriate to issue Notice making it returnable on 19.06.2020. Learned AGP Ms. Jyoti Bhatt waives service of notice for and on behalf of the respondent nos. 1 and 2. Learned advocate Mr. Vyas waives service of notice for and on behalf of the respondent no.3.

3 Considering the urgency on the part of the petitioner, who are the frontline health workers including the doctors and nurses etc., while directing the office to tag this petition with Public Interest Litigation (PIL) No. 142 of 2020, learned advocate for the petitioner is permitted to make a mention before the Hon'ble the Chief Justice for early hearing of the matter.”

2 Mr. Mitul Shelat, the learned counsel assisted by Mr. Rohan Shah, the learned counsel appearing for the petitioner – Association made the following submissions:

“[1] It is submitted that the Government of Gujarat has issued guidelines dated 11.06.2020. In terms of the said guidelines, the State Government has done away with the requirement of hospitalization of asymptomatic and suspect Covid-19 patients, pre-operative patients and pregnant women. It has, however, been provided that persons seeking such test shall have to produce a prescription by a physician (MD). **(Page No. 61 of the Report)**

[2] It is submitted that the Front Line Medical Workers are all High Risk Persons having regard to the nature of the duties which is to examine and treat unwell persons. They form a separate class by themselves. In the course of their duties they are likely to be exposed to the patients who may be asymptomatic, pre- symptomatic and symptomatic.

[3] It is submitted that Hon'ble Apex Court, in *Suo Moto Writ Petition (Civil) No. 7 of 2020*, has emphasized the urgent need for increase in testing. The Court has held that any person, who desires testing, must be tested. Relevant extracts of the order are reproduced herein below:

"We impress upon the States to ensure that there should be steep increase in the testing both by Government Hospitals and Private Labs and whosoever desires for testing should not be denied on any technical ground or any other ground." (Refer Page No. 4 of Affidavit dated 15.06.2020 of the Petitioner)

[4] It is submitted that the Honourable Supreme Court has in repeated orders emphasized the need to protect the Health Workers and has compared them with soldiers who are at War. In more than one orders it has been directed that their health and well being needs to be protected. Order in the matter of *Jerry Banait versus UOI*, reported in 2020 SCC Online 357.

[5] *The objective of Testing has been explained in the matter of Re-Contagion of COVID 19 Virus in Children Protection Home , reported in 2020 SCC Online 354.*

[6] *It is submitted that while it may be the policy of the State to require a prescription for Testing of Patients, which requires the existence of a visible symptom as a basis of testing, the same policy cannot be applied in respect of Medical Practitioners and Front Line Health Workers which form a separate class having regard to the duties being discharged by them.*

[7] *It is the single most affected class of persons which are infected by the virus having regard to the discharge of the duties. The statement indicating the number of Doctors affected by the Virus is at Page 9-14 of the affidavit **dated 15.06.2020 of the Petitioner .***

[8] *It is submitted that at all points of time a Medical Practitioner, Health Worker needs to be sure that he or she is not infected by the Virus. This confidence is as much important for the medical practitioner as also for their family members. The Medical Practitioner is likely to see patients every day and sans testing is capable of being a super spreader either during the course of medical practice or in domestic environment. Once the Apex Court has declared that any one who desires should be permitted to be tested, the State Government is bound to implement the same more particularly in respect of Medical Practitioners and Front Line Health Workers.*

[9] The Bombay High Court, Nagpur Bench has therefore directed that all Front Line Health Workers should be tested at regular intervals by the State Government at the cost of the Government. (See Page 117 : the self same argument of the state was considered @ 130 and rejected @ 134 to 138; the directions were issued at page 147). The directions have been incorporated in Page 13 of the memo of the Petition.

[10] It is submitted that in the aforesaid circumstances the policy of the State requires to be reviewed and testing at volition of all medical practitioners and frontline health workers(without the need for any prescription) should be permitted.

[11] The State Government or ICMR has not filed any affidavit to the proceedings yet. The Report refers to the SCA but does not respond to any of the contentions raised.”

3 The issues raised as referred to above are quite important and we seek response of the State Government on each of the issues.

4 Post this matter for further hearing on 17.07.2020.

WRIT PETITION (PIL) NO.83 OF 2020 WITH C.A. NO.1 OF 2020

1 Having heard Mr. Amit Panchal, the learned advocate, appearing in person, we direct the registry to detach this petition from the Writ Petition (PIL) No.42 of 2020.

2 Post this matter for further hearing on 13.07.2020.

3 Civil Application No.1 of 2020 preferred by Mr. Dakshesh Mehta, a practicing advocate shall be heard on 13.07.2020.

WRIT PETITION (PIL) NO.89 OF 2020

1 By this writ application, under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

“[A] Issue an appropriate writ, order or direction by directing the respondent authorities to issue specific circulars / notifications / guidelines/ regulations, [i] To waive off school fees / tuition fees for the lockdown / shutdown period in order to avoid economic burdens of the parents of the students during the lockdown / shut down period on account of pandemic Novel Corona Virus, Covid-19, [ii] to prohibit all private aided and unaided schools from charging / collecting full amount of school / tuition fees from the parents of the students on the guise of Online Education and to fix the amount of school / tuition fees which is reasonable in nature (excluding other miscellaneous fees such as transpiration, maintenance, curriculum activity charges etc.) in order to minimize the burdening and hardships to the parents of students at large for online classes until the private aided and unaided schools are resume physical functioning considering the grave situation

like pandemic of Novel Corona Virus, Covid-19, [iii] To remit / refund and/or adjust the difference of amount of school / tuition fees already paid up by the parents of the students to the private aided and unaided schools for the lock down / shut down period commencing from March-2020 and till the schools resume physical functioning; [iv] To ensure to provide the access of online education / material / classes to all the students of all the private aided and unaided schools, irrespective of payment of school / tuition fees till the schools resume physical functioning; [v] To prohibit the Private Unaided and Aided Schools from collecting tuition fees, which are not conducting online classes as well as from the students who are not availing online classes facility;

[B] Pending admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct the respondent authorities to issue direction / guideline / circular to all the private aided and unaided schools within the state of Gujarat for not to coerce / force / pressurize / threat the parents of the students to pay amount of school / tuition fees till further orders and allow the students to take part in online education without any interference."

2 We seek response of the State Government on the various issues raised in this writ application filed in public interest. We request Mr. Kamal Trivedi, the learned Advocate General to take up the aforesaid issues with the State Government and see to it that the private schools across the State of Gujarat do not proceed to cancel the admission on

failure of the parents to deposit the fees by 30.06.2020.

3 Post the matter on 17.07.2020.

(VIKRAM NATH, CJ)

A. B. VAGHELA

(J. B. PARDIWALA, J)

