

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
CHIEF JUSTICE AND ARAVIND KUMAR	WP 6435/2020	22/09/2020	<p>In paragraph 12 of the order dated 9th September, 2020, we had directed the Member Secretary of the State Level Committee to file a report about the actions taken by the State Level Committee so far with special reference to monitoring the availability of adequate equipment, medicines, maintenance of hygiene, quality of food served etc., in private COVID centers/hospitals in the State and in particular in Bengaluru. In response to the said direction, a report has been filed along with the written submissions filed by the State Government on 18th September 2020.</p> <p>2. It is not in dispute that the private hospitals for COVID-19 treatment which were notified by the State Government along with the order dated 20th June 2020 are receiving certain amounts from the State Government by way of reimbursement for treating the COVID-19 patients who cannot be accommodated in public hospitals.</p> <p>3. The data published by the State Government of the number of cases reported every day will show that the cases in the entire State and in particular, the city of Bengaluru are on the rise. We, therefore, expected that the State Level Committee which is appointed as per the directions of the Apex Court will play a very proactive role. There are District Level Committees constituted which are working under the supervision of the State Level Committee. The report submitted by the Member Secretary shows that the State Level Committee has not discharged its duties. It is reported that the Committee made four surprise visits to three hospitals through its Member Secretary. These hospitals are in the city of Bengaluru. From paragraph 4 of the report, it appears that none of the members of the Committee visited the hospitals, but the visit was by the Member Secretary. There is a vague statement made that the availability of various facilities stated in paragraph 4 were verified. The further paragraphs of the report would disclose that a review meeting with all the District Level Committees was convened. Paragraph 6 vaguely records that District team have visited hospital and submitted the report in cases</p>

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			<p>where deficiencies were noted in the first inspection. It is further stated that there were follow-up inspections and rectification of shortcomings was verified. In short, the report indicates that as far as the hospitals in Bengaluru are concerned, only four hospitals were visited by the Member Secretary and none of the experts forming part of the State Level Committee have visited any hospitals or have held any virtual meeting with the Authorities of the hospitals. The information about the work done by the District Level Committees is as vague as possible. In general, the report suggests that in terms of providing amenities and facilities, there are no deficiencies in any of the COVID-19 hospitals in the State. This tall claim made by the State Level Committee cannot be accepted for the simple reason that there is nothing placed on record that large number of hospitals in all the districts were visited with a view to ascertain whether adequate facilities are available.</p> <p>4. The law is well settled. Right to lead healthy life is a part of the fundamental rights guaranteed under Article 21 of the Constitution of India. A period of six months has gone by after the first case of COVID-19 was detected in the State of Karnataka. The situation is that the cases are on steady rise and in fact, in some areas, the same are multiplying. In the context of the fundamental right under Article 21 of the Constitution of India, it is the duty of the State Government to ensure that periodic checks are made in all the COVID hospitals recognized by the State Government. If the State Level Committee and the District Level Committees are not able to perform their duties, it is for the State Government to modify the constitution of the said Committees so that they become very active. The role which is expected to be played by the State Level Committee is already crystallized.</p> <p>5. It is pointed out across the Bar by the learned counsel appearing for the petitioner in W.P.No.6685/2020 that during the last two days, there is a shortage of supply of oxygen in the State and as a result, the prices of oxygen cylinders have skyrocketed. He submitted that some steps will have to be taken for price control inasmuch as if the cost of oxygen increases, the cost of treatment of COVID-19 will also increase.</p>

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			<p data-bbox="621 321 1974 602">6. The State Government will have to immediately take a call on activating the State Level Committee and the District Level Committees for ensuring that they perform their duties. The State Government must come out with a programme or scheme which will ensure that availability of adequate infrastructure and facilities in all the private COVID hospitals in the State is monitored regularly. Apart from the rights of the patients under Article 21 of the Constitution of India, there is some kind of a State funding to these hospitals. We direct the State Government to come with a concrete solution on this aspect by 28th September 2020.</p> <p data-bbox="621 737 1974 935">7. The State Government will also examine the data collected by the District Level Committees and will ascertain whether any serious attempt has been made at the District levels to inspect large number of COVID hospitals. The State Government will also respond on the status of availability of adequate oxygen in the State and the issue of escalation of price of the oxygen cylinders.</p> <p data-bbox="621 1070 1974 1398">8. In the written submissions dated 18th September 2020, in paragraph 4, the State Government has accepted that 27 Urban Local Bodies (for short 'ULBs') have not paid wages to the pourakarmikas. The list of ULBs has been annexed as Annexure-R153. In spite of passing large number of orders, as many as 27 ULBs have not paid full wages to the pourakarmikas. We direct the State Government to ensure that these 27 ULBs pay full wages up-to-date to the pourakarmikas within a maximum period of 15 days from today. If any of the ULBs fail to pay wages by this timeline, the State Government will have to step-in and ensure that full wages are paid to the pourakarmikas.</p>

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			<p data-bbox="621 199 1976 394">9. In paragraph 1 of the written submissions, it is recorded that 11 deaths of pourakarmikas have been reported in 9 ULBs across the State and instructions have been issued to the concerned ULBs to forthwith pay Rs.30 Lakhs compensation to the families of the deceased. The State Government shall ensure that the amount of Rs.30 Lakhs is released to the families of the deceased at the earliest and submit a report to the Court.</p> <p data-bbox="621 532 1976 857">10. It is pointed out in paragraph 2 of the written submissions that out of 11 pourakarmikas who have unfortunately died, one was deputed to Covid Care Centre duty and therefore, the legal representatives will be entitled to amount of Rs.50 Lakhs by way of insurance amount under Pradhana Mantri Garib Kalyan Yojana. It is stated that the payment of amount may take a longer duration as New India Assurance Company will have to process the payment. We make it clear that if the New India Assurance Company takes unreasonably long time, the State Government can move the Court so that an appropriate direction can be issued by this Court to the New India Assurance Company.</p> <p data-bbox="621 995 1976 1157">11. In paragraph 9, it is clarified that there is no State Policy regarding grant of leave to the persons above 50 years of age with co-morbidities. It is stated that only by way of precautionary measure, oral instructions were given to avoid assigning health personnel above 50 years of age with co-morbidities to work in intensive Covid institutions.</p> <p data-bbox="621 1287 1419 1320">12. The State Government to respond on I.A.No.16/2020.</p> <p data-bbox="621 1450 1976 1531">13. Bruhat Bengaluru Mahanagara Palike (for short 'BBMP') will respond to the grievances made in the memo dated 16th September 2020 filed by BBMP Pourakarmika Sangha.</p>

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			<p data-bbox="621 321 1251 354">Order on I.A.No.15/2020 in W.P.No.6435/2020</p> <p data-bbox="621 407 1976 561">14. We have perused the application. The issue raised by the applicant is as regards certain sanitary workers and it is claimed that they also fall in the category of pourakarmikas. We, therefore, allow intervention as prayed for. Accordingly, the application is allowed. The submissions of the intervenor will be heard on the next date.</p> <p data-bbox="621 699 1976 773">15. List all the petitions on the cause list for further hearing on 29th September 2020 at 2.30 p.m.</p>

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