

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A

WP(C)(PIL) No.09 of 2020

For Court on own motion : Mr. Somik Deb, Amicus Curiae.

For Respondent(s) : Mr. A.K. Bhowmik, Advocate General,
Mr. D. Bhattacharya, G.A.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE S. TALAPATRA

O_R_D_E_R

13/10/2020

(Akil Kureshi, CJ)

This public interest petition was instituted *suo motu* to examine the situation of the prevalence and handling of coronavirus in the State. The genesis of this litigation was certain newspaper reports suggesting shortcomings in the treatment of patients at the lone covid hospital in the State and in certain other areas. Our whole purpose was to examine the correctness of some of the complaints received, with a focus on improving the covid handling in the State in general and in the covid hospital in particular so that the public confidence in the dispensation of health treatment by the administration improves. With this purpose in mind we had, as the public interest petition proceeded along, passed orders from time to time which orders contained our queries, certain observations and suggestions as also specific directions to the State administration. We have noticed and appreciate that the Government has not treated this litigation as adversarial and has readily provided the data as and when called by us. We also notice that by and large the Government has accepted our suggestions and in particular for increasing

the testing and not letting up the pressure in the fight against corona virus. We notice that the government is also conducting regular drives for enforcing the directive of wearing face mask at public places. In the latest affidavit dated 12th October, 2020 filed by the Government the figures of the tests carried out between 7th October, 2020 to 11th October, 2020 have been provided. These figures do not indicate the number of positive cases detected on the particular date. We have gathered such figures from the official bulletin of the health department of the State Government and the figures of cases tested and those tested positive for the said period are as under :

Date	Sample tested	No. of positive cases
7 th October, 2020	2059	214
8 th October, 2020	2290	223
9 th October, 2020	2530	171
10 th October, 2020	2983	199
11 th October, 2020	1939	109

These figures do suggest a steady drop in the positivity rate, particularly from 9th October, 2020 onwards. From the starting of 7th October, 2020 when the positivity rate was more than 10%, on 11th October, 2020 it has dropped to a fraction over 5%. However, these figures should not lull us into overconfidence because the figures of reducing positivity are available only for 3 days. This period is too short to discern a systematic trend. The reasons can be many. The drop may be sporadic, not representing the true cross section on account of sampling errors. In any case we need to bring down the positivity rate further and cannot relax and rejoice the positivity rate of 5% of the tested

people. It would be a serious error to get euphoric on the basis of these figures. There is no scope for relaxing or letting our guards down. We must realize that unless and until the medical fraternity finds a permanent solution or cure, continues vigil and precaution by the administration as well as the people can only be our shield against further spread of the virus.

These remarks we have made with a definite purpose in mind. None other than the Hon'ble Union Minister of Health Dr. Harsh Vardhan has gone public stating that there is no scope for complacency and that the people must take extra care during the incoming festival session. He also stated that in the State of Kerala the onam celebrations without proper precautions, was one of the reasons for the spike in positive cases. The experts in the field also predict a possible further spike during colder months of winter.

The Durga Puja festivals are just round the corner. The State administration has already issued directives and guidelines for conduct of puja at public places. However mere issuance of the guidelines can hardly be sufficient. What we would impress upon the administration is to consider launching a campaign of awareness amongst the organizers of such puja gatherings, as well as the people. This could also include a constant dialogue with the principal stakeholders such as the clubs and pandal organizers, leading members of the communities and general public at large. Constant vigil by the administration during puja days to ensure that the directives and guidelines are

properly followed should also be thought about. We would request the Government to consider these aspects.

As noted this public interest litigation initiated because of the reporting by the press. The press has undoubtedly a very important and at times onerous duty to publish news which may also be sometimes critical of the administration. The press also has a public duty to carry a correct message and play a positive role in bringing awareness amongst the people about their social responsibilities. In the context of coronavirus we would expect the press to play a positive role and be a catalyst to spread the message of taking all necessary precautions, follow the Government guidelines in general and for holding puja ceremonies at public places in particular.

In our previous order dated 06.10.2020 we had highlighted certain aspects from the report of the central visiting team which had noticed several shortcomings of the administration in relation to coronavirus and made appropriate suggestions. We had accordingly requested the Government to give the details of the action taken on the suggestions and recommendations of the central team. In the affidavit dated 12th October, 2020 details have been provided regarding the action taken on those issues which we had highlighted in our order dated 06.10.2020. We notice that in the key areas the administration has made a fair progress and seems to have taken appropriate steps. For example it is pointed out in the said affidavit dated 12th October, 2020 that the Slice C.T Scan which was installed in the covid ward was not

functioning, which has now being repaired. The digital mobile X-ray machine had shown the sign of breaking down which defect has been removed. It is also pointed out that a radiography system was commissioned and installed in the covid ward on 10.10.2020. As a result, X-ray can be done with conventional portable X-ray machine also in the ICU and the covid ward. It is also pointed out that the dedicated donning and doffing areas have been created in the hospital and that the administration is also following the guidelines for waste disposal.

Learned Amicus Curiae Shri Somik Deb pointed out that though this affidavit covers all areas which were highlighted in the order dated 06.10.2020, there are other areas where the central team had, in its report made recommendations. The affidavit-in-reply of the Government dated 12.10.2020 is silent on these aspects of the matter. We expect that the administration would have taken measures to address the suggestions of the central team on all counts. In particular we notice that one of the observations of the central team was that the attendants of covid patients were found sometimes not wearing PPE Kits and masks etc. Measures may be taken promptly if not already taken to ensure that proper protective gears are worn by the staff attending the covid patients in the various hospitals.

We would post this petition after puja holidays. In the meantime, we would request the Government to create a dedicated e-mail address where any complaint with respect to coronavirus handling at any of the Government

hospitals or centres or any such similar complaint can be made directly by the citizens. Any person sending a mail on this address would be expected to reveal his identity and address. This centralized system would enable the Government to receive suggestions on any shortcomings that may have been noticed and take such measures as found appropriate.

We record our appreciation to the efforts put in by Mr. Somik Deb as Amicus Curiae and by the learned Advocate General and his legal assistants.

List the matter on *7th December, 2020*.

(S. TALAPATRA), J

(AKIL KURESHI), CJ



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