

CWPIL No.11 of 2020

24.11.2020 Present: Mr.B.C. Negi, Senior Advocate as Amicus Curiae with Ms.Shreya Chauhan, Advocate.

Mr.Ashok Sharma, Advocate General with Mr.Ajay Vaidya, Senior Additional Advocate General and Mr.Nand Lal Thakur, Additional Advocate General, for the respondents.

Mr.Sanjeev Bhushan, Senior Advocate with Mr.Rakesh Chauhan, Advocate.

Mr.B.C. Negi, learned Amicus Curiae, Mr.Sanjeev Bhushan, learned Senior Advocate and Ms.Shreya Chauhan, Advocate, have submitted that for the COVID test, the respondent-State has not provided sufficient machinery. For persons having symptoms, when visit the hospitals have to wait for 3-5 hours and during that period no accommodation to sit and other facilities are provided. Even the person, who visits hospitals for regular checkup will get infected by the persons who are already suffering with COVID virus. Hence, they pray that a direction be issued to the respondent-State to reduce the test timing.

2. Learned Advocate General submits that there are three types of tests, first is Rapid Test, which takes 30 minutes for result, second RTPCR, which takes 6-24 hours and the third is TrueNat, which takes 2½ hours and every steps are being taken for reducing the duration of tests. Under these circumstances, we direct the respondent-State to make arrangements by putting a new system to reduce the waiting time for test. A person infected, if he comes back waiting for result, during that time, possibility of

infection of the virus to the others cannot be ruled out, thus the respondents must give test results at the earliest.

3. With regard to the news items published in daily newspapers about the shortage of oxygen in DDU hospital, Shimla and the dedicated hospital in Dharamshala, learned Senior Advocates submit that more or less similar problems are being faced by the COVID patients in all the government hospitals in the State. In this regard, learned Advocate General submits that the Government hospitals are dedicated hospitals and at present there is shortage of oxygen. Even in new hospitals which are converted into dedicated hospitals, there is also shortage of oxygen and efforts are being made to ensure that there is no shortage of oxygen.

4. Mr. Sanjeev Bhushan, learned Senior Advocate further submits that in order to monitor the steps being taken by the Government, a Committee is required to be constituted to make periodical reports to this Court.

5. Mr.B.C. Negi, learned Amicus Curiae by relying upon the judgment of Hon'ble Supreme Court in **Pashim Banga Khet Mazdoor Samity and others vs State of W.B. and another, (1996) 4 SCC 37**, submits that right to health is a fundamental right under Article 21 of the Constitution and any lapse or delay amounts to violation of such fundamental right. Similar submissions have been made by Mr.Sanjeev Bhushan, learned Senior Advocate.

6. It is true that right to life is a fundamental right enshrined

under Article 21 of the Constitution, which includes providing medical attendance, care and treatment also. Looking at the progress made by the State during the last nine months, though the State has taken effective steps, but the same are not sufficient.

7. Under these circumstances, we direct the respondent-State to file an affidavit about the steps taken with regard to the availability of oxygen cylinder in all the dedicated hospitals; secondly, with regard to reduction of duration of COVID tests; and thirdly, with regard to creation of additional beds and other facilities.

8. In the light of the submissions made by learned counsel, we also deem it appropriate to direct the respondent-State to make available dedicated phone numbers to the public at large in all the possible ways to ensure that any person who suspects COVID-19 infection or wants to be tested for COVID-19 disease, is able to contact through these dedicated phone numbers.

Ordered accordingly.

List on 27.11.2020.

(L. Narayana Swamy)
Chief Justice

(Anoop Chitkara)
Judge

November 24, 2020 (vt)