

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH
CHAUHAN
AND
THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

Writ Petition (PIL) No. 58 of 2020
Writ Petition (PIL) No. 50 of 2020
Writ Petition (PIL) No. 51 of 2020
Writ Petition (PIL) No. 67 of 2020
Writ Petition (PIL) No. 70 of 2020

28th APRIL, 2021

Mr. Shiv Bhatt, the learned counsel for the petitioner in WPPIL No. 58 of 2020.

Mr. Dushyant Mainali, the learned counsel for the petitioner in WPPIL No. 50 of 2020.

Mr. D.K. Joshi, the petitioner, party-in-person in WPPIL No. 67 of 2020.

Mr. Abhijay Negi and Ms. Snighda Tiwari, the learned counsel for the petitioner in WPPIL No. 67 of 2020.

Mr. S.N. Babulkar, the learned Advocate General assisted by Mr. C.S. Rawat, the learned Chief Standing Counsel for the State of Uttarakhand.

Mr. Rakesh Thapliyal, the learned Assistant Solicitor General for the Union of India.

COMMON ORDER: (per Hon'ble The Chief Justice Sri Raghvendra Singh Chauhan)

Although these cases were slated to be listed on 10.05.2021, but due to the critical condition prevailing in the State with regard to the ongoing COVID-19 pandemic, a request was made by the

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learned counsel for the petitioners to prepone the date of hearing, and to take up these cases today. Consequently, these cases are listed today.

2. Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, and Mr. Sachin Kurve, the learned Secretary, Industrial Development have joined this Court through *video conferencing*.

3. This Court has asked Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, with regard to the steps being taken by the State Government for tackling the crisis of COVID-19 pandemic. He informs this Court that the State has taken certain substantial steps: firstly, for breaking the chain of infection of COVID-19, full curfew has been imposed on major cities and towns of the State. Secondly, the State Government has given sufficient discretionary power to all the District Magistrates to decide the extent and duration of the curfew to be imposed in their respective towns and cities. During the full curfew, only essential services and shops, which cater to the essential needs of the people, are

permitted to operate; the rest of the shops and services are closed.

4. Mr. Amit Negi, the learned Secretary, further informs this Court that the State is trying to increase the number of beds available in the hospitals run by the Medical Colleges. For example, in the Doon Medical College, the number of beds is being increased by forty, in the Himalayan Institute of Medical Sciences (popularly known as the Jolly Grant Medical College), the number of beds is increased by hundred, in the All India Institute of Medical Sciences at Rishikesh, the number of beds is increased by 150. Moreover, the State Government is trying its level best to turn its stadium, located in Dehradun, into a 400 bed hospital. According to Mr. Amit Negi, the concern of the State is the lack of ICUs and ICU beds, and the lack of medical staff for monitoring and supervising the large number of patients, who are pouring in. In order to solve the problem of dearth of medical staff, the State Government has already requested the UPNL to ensure that even retired Army doctors, and nurses could be

made available to the State Government in order to strengthen the medical staff.

5. Mr. Amit Negi further informs this Court that already the State Government has increased the number of Dedicated Covid Hospitals from five to twelve, and the number of Dedicated Covid Health Centres from twelve to sixteen. Therefore, according to him, the State Government is already trying to fight the pandemic on a war footing.

6. He further informs this Court that, since the State already has three units, which are producing oxygen tanks, there is no dearth of availability of oxygen tanks within the State. In fact, this is a State, which is supplying oxygen tanks to the other neighbouring states such as Uttar Pradesh and Delhi. However, as the distribution of oxygen tanks is being rationed by the Central Government, the share made available to the State may fall short of the demand. Therefore, the State is already in touch with the Central Government to ensure that sufficient number of oxygen tanks are, indeed, made available to the State.

7. He further informs this Court that the State is trying its level best to procure sufficient number of vials of Remdesivir Injection in order to ensure that sufficient number of medicines are available for public consumption.

8. Speaking about the future plans of the State Government for strengthening the medical health care system, Mr. Amit Negi informs this Court that already the Government is contemplating the establishment of four Medical Colleges in different parts of the State such as Almora, Pithoragarh and Haridwar. Moreover, the State Government has already directed that ten percent of the District Planning Funding would be dedicated to the health sector. In total, the annual budget for the health sector for this year is Rs. 1,500 crores. Furthermore, in order to tackle the pandemic, the Hon'ble Chief Minister has already released Rupees Twenty Two Crores from the Chief Minister Relief Fund. Thus, according to him sufficient amount of money is being pumped in to strengthen the health care system, and for tacking the pandemic.

9. On the other hand, Mr. Shiv Bhatt, the learned counsel for the petitioner in Writ Petition (PIL) No. 58 of 2020, submits that the State has categorized the hospitals into the following five different classes: -

(i) Sub-Centres, which cater to a population between 3,000-5,000 persons. There are 1,765 Sub-Centres functioning in the State of Uttarakhand.

(ii) Primary Health Centres ("PHC" for short), which cater to a population between 20,000-30,000 persons. There are 239 PHCs functioning in the State of Uttarakhand.

(iii) Community Health Centres, which cater to a population between 80,000-1,00,000 persons. The number of Community Health Centres working in the State of Uttarakhand is unknown.

(iv) District Hospitals, which cater to a population of above 1,00,000 persons.

(v) Central Government Hospitals. There is only a single Central Government Hospital functioning in the State of Uttarakhand, namely All India Institute of Medical Sciences at Rishikesh.

10. Mr. Shiv Bhatt, the learned counsel, further submits that the pandemic crisis is devastating the entire State because of lack of preparedness of the State Government. There are still large numbers of samples, almost 29,000, which need to be tested, and the results need to be declared. The delay in declaring the test results is playing havoc with the lives of the people. Therefore, there is an urgent need to increase the number of clinics/laboratories, which would carry out the tests. The learned counsel suggests that the private hospitals should be roped in to carry out the tests.

11. Secondly, despite the fact that the Pradhan Mantri Jan Arogya Yojana/Ayushman Bharat Yojana entitles the people to receive E-cards, which can be used by them for seeking treatment at private hospitals, sufficient number of such E-cards have not

been issued by the State Government. Similarly, for the benefit of those, who are below the poverty line, the Deen Dayal Antyodaya Upchaar Yojana permits the issuance of E-cards to such persons for seeking treatment at private hospitals. However, large number of those, who are below the poverty line, do not have availability of such E-cards. Therefore, the Director General, Health should be directed to issue the said E-cards, in large numbers, for the benefit of the public at large.

12. Mr. Shiv Bhatt, the learned counsel, further submits that there are long queues at the cremation grounds, and the crematoriums are devoid of sufficient quantity of wood. Therefore, the State Government must make sufficient amount of wood available in the crematoriums, and the number of cremation grounds needs to be increased.

13. Learned counsel further submits that, according to the media reports, the dead-bodies of those, who have died due to COVID-19, are being received without body pack kits. According to the

learned counsel, such dead bodies further communicate the disease to others. Therefore, the State Government needs to ensure that dead bodies, being released from the hospitals, follow the SOPs for the release of such dead bodies. The dead bodies should be sent to the crematoriums in accordance with the SOPs issued by the ICMR, and by the Central Government. He further submits that, due to the large number of dead bodies, which need to be ferried to the crematoriums, the ambulances are overcharging the people. Therefore, this aspect needs to be examined by the Government.

14. Mr. Shiv Bhatt, the learned counsel, further submits that, due to the shortage of medicines and anti-viral injections, the black-marketing amongst the pharmacists has phenomenally increased. Therefore, the State Government should be directed to take concrete steps against such black-marketers.

15. Lastly, he submits that, although those, who are seeking vaccination, are required to register themselves online, in the hilly regions of the State,

connectivity is a big issue. Therefore, an alternate option needs to be given to the people for getting themselves registered for receiving the inoculation.

16. Mr. Dushyant Mainali, learned counsel for the petitioner in Writ Petition (PIL) No. 50 of 2020, submits that a large number of contractual workers are working at the Sushila Tiwari Government Hospital at Haldwani. These workers are working with COVID-19 positive cases. However, since there is lack of accommodation for them within the hospital campus, the contractual workers are forced to return back home. Since these workers are not being provided with the PPE kits, they themselves are exposed to the COVID-19 infection. Therefore, there is a grave possibility that such contractual workers may further infect their family members. Therefore, the State Government should be directed to immediately provide accommodation to these contractual workers.

17. He further submits that, although there are three different types of COVID-19 facilities earmarked for different types of patients i.e. Dedicated Covid Care

Centres for the mildly infected patients, Dedicated Covid Health Centres for the moderately infected patients, and Dedicated Covid Hospitals for the seriously infected patients, many a times, these Care Centres/Health Centres/Hospitals are not admitting their category of patients. Thus, people have to run from pillar to post in order to get their family members admitted. Hence, a procedure should be evolved by the State Government to ensure that persons with their respective symptoms are, indeed, admitted in the respective Care Centres/Health Centres/Hospitals. For this purpose, the learned counsel suggests that in every district there should be a Nodal Officer, who can act as a bridge between the people and the Care Centres/Health Centres/Hospitals. According to the learned counsel, the ICMR, in its guidelines dated 22.04.2021, has already advised the establishment of such a Nodal Officer for the benefit of the public at large.

18. Mr. Dushyant Mainali, the learned counsel, further informs this Court that Ramnagar happens to be the second largest city in Nainital district. Yet, there

are no Dedicated Covid Health Centres, or Dedicated Covid Care Centres available in Ramnagar. Consequently, those who are falling ill due to COVID-19 virus are rushing to the Sushila Tiwari Government Hospital at Haldwani. The influx of large number of patients from Ramnagar is playing havoc with the Sushila Tiwari Government Hospital at Haldwani. Therefore, the learned counsel suggests that the State Government should be directed to immediately establish Dedicated Covid Health Centres, or Dedicated Covid Care Centres in Ramnagar so that the local population can be taken care of in Ramnagar itself.

19. The learned counsel further submits that there is a lack of pre-screening tests of patients due to lack of staff. Presently, only MBBS students and nurses are being engaged for carrying out the pre-screening tests. However, there is availability of about 2000 registered dental surgeons of final year, who can easily be roped in for carrying out these pre-screening tests. Therefore, he submits that the Government should be directed to employ the registered final year dental surgeons for carrying out the pre-screening tests.

20. Lastly, Mr. Dushyant Mainali, the learned counsel, submits that there is a shortage of home collection of samples especially from the elderly population, who live in our towns and cities. Therefore, the home collection from such vulnerable section of the population should be increased so that proper medical cures can be applied for saving the lives of the senior citizens.

21. Mr. D.K. Joshi, the petitioner, party-in-person, in Writ Petition (PIL) No. 67 of 2020, submits that during the full curfew imposed by the Government, while most of the shops are closed, for reasons best known to the Government, the Government is not closing the liquor shops. According to him even these liquor shops should be closed.

22. Undoubtedly, the State is fighting a major war against the pandemic. Despite the substantial steps taken by the State Government, described by Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, still certain concrete steps need to be

taken by the State Government in order to protect the people from the onslaught of the pandemic. Therefore, this Court issues the following directions to the State Government :-

(i) Since there are no Dedicated Covid Health Centres, or Dedicated Covid Care Centres in Ramnagar, the State is directed to immediately establish such Health Centres/Care Centres in Ramnagar for the benefit of people of Ramnagar. Since the number of PHCs functioning in the State is only 239, the number of PHCs should be increased in the State to a reasonable number.

(ii) The Director General, Health is directed to immediately examine the number of E-cards, which have been issued to the people under the Pradhan Mantri Jan Arogya Yojana/Ayushman Bharat Yojana, and to also consider ways and means of increasing the disbursement of such E-cards to the particular category, which is entitled to the said E-cards. Similarly, he is also directed to ensure that E-cards issued under the Deen

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Dayal Antyodya Upchaar Yojana are increased to the largest extent possible so as to give benefit of these E-cards to those, who are living below the poverty line. The Director General, Health should also ensure that private hospitals permit the people to take advantage of such E-cards, and the private hospitals should treat those persons, who carry such E-cards.

(iii) Considering the large number of samples, which still need to be tested, and the results need to be declared, this Court directs the State Government to involve all the private hospitals/clinics/laboratories to carry out the Rapid Antigen Test (RAT)/RT-PCR/TrueNat tests. As directed earlier, the number of samples that need to be taken in the large cities like Dehradun, Haridwar and Haldwani should be increased to anywhere between 30,000-50,000 per day. Keeping in mind the need for collecting the samples, the facility of home collection needs to be increased phenomenally. Until and unless the senior citizens are tested, the extent of the illness

amongst the senior citizen population cannot be known.

(iv) Since there is a dearth of staff, who can carry out these tests, the Government should seriously consider employing the registered final year dental surgeons in order to supplement the MBBS and nurses, who are employed, or who are carrying out the pre-screening tests.

(v) It is imperative that the medical staff should be provided with the protective gears. Moreover, considering the fact that the contractual employees at the Sushila Tiwari Government Hospital at Haldwani, who deal with COVID-19 patients, should be prevented from going back home, the Government must consider providing them accommodation within or near about the campus so as to prevent the spread of the COVID-19 virus amongst their family members.

(vi) In accordance with the ICMR notification dated 22.04.2021, the Government shall appoint a

Nodal Officer who will act as a bridge between the people and the hospitals, and will resolve the problems of the people in getting admission in Covid Care Centres/Health Care Centres/Hospitals. For this purpose, sufficient number of helplines should be established at the district level, and the helpline numbers should be publicized by each District Magistrate immediately through electronic and print media.

(vii) All the District Magistrates are directed to ensure that complaints of black-marketing of medicines/essential commodities are immediately enquired into. In case black-marketing of medicines/essential commodities is discovered, the District Magistrates are directed to take strict action against such black-marketers in accordance with law.

(viii) All the District Magistrates are also directed to inquire into the overcharging of amount by the ambulances for ferrying the dead-bodies to the crematoriums. If such overcharging

is discovered, immediate action should be taken against the owners of such ambulances in accordance with law.

(ix) The Hospitals are directed that before releasing a dead body, where the person had died due to COVID-19, the dead body is wrapped in a body pack kits, and the SOP for disposal of such a dead body is adhered to by the hospital staff, and by the family members of the deceased.

(x) Since media reports indicate that there are long queues of dead bodies waiting to be cremated, the Government is directed to increase the number of cremation grounds by declaring certain areas to be temporary cremation grounds. The State Government is further directed to ensure that sufficient quantity of wood is available in each of such cremation grounds.

(xi) The State Government is also directed to look into the issue of registration for vaccination especially for those, who are eighteen years and

above. According to the State Government, the vaccination would commence from 01.05.2021 for the said age group. Since people are required to register for the vaccination online, and since there is a difficulty of connectivity in the hilly regions of the State, the State Government is directed to create an alternate method for such registration with the help of the health authorities.

(xii) Due to the influx of patients in the hospitals and large number of patients who are quarantined at home, the problem of disposal of bio-medical waste, both in the hospitals and homes, has emerged as a major problem within the State. Therefore, the State is directed to issue guidelines for the disposal of the said bio-medical waste, both by the medical hospitals, and by the individuals at home. Until and unless the bio-medical waste is disposed-off in a proper manner, it may itself lead to a wider infection of the disease.

23. Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, is directed to submit a report on or before 07.05.2021 with regard to the implementation of the directions issued by this Court today, and with regard to the directions issued by this Court by its order dated 20.04.2021.

24. List this case on 10.05.2021.

RAGHVENDRA SINGH CHAUHAN, C.J.

ALOK KUMAR VERMA, J.

Dt: 28th April, 2021
RAHUL