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**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. 97 of 2019**  
**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**

**20<sup>TH</sup> MAY, 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. Abhijay Negi, the learned counsel for the petitioner in WPPIL No.97 of 2019.

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)

In compliance of the order dated 10.05.2021,  
Mr. Om Prakash, the learned Chief Secretary, Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, Mr. Dilip Jawalkar, the learned Secretary, Uttarakhand Tourism and, Mr. Vedprakash Mishra,

Director, Department of Pharmaceuticals, are present before this Court today through video conferencing.

2. Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare and, Mr. Amit Sinha, the Inspector General/Nodal Officer, Police Headquarter, have filed their respective affidavits. The same shall be taken on record.

3. On the other hand, Mr. Rakesh Thapliyal, the learned Assistant Solicitor General appearing for the Union of India, has submitted a series of documents along with miscellaneous application No.9013 of 2021. The same shall also be taken on record.

4. Similarly, Mr. Shiv Bhatt, the learned counsel for the petitioner in Writ Petition (PIL) No.58 of 2020, has submitted a series of documents, which shall be taken on record.

5. The affidavit submitted by Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, is a detailed report with regard to the compliance of the directions issued by this Court, by its order dated 10.05.2021. Mr. Amit Negi, the learned Secretary,

submits that, in compliance of the said order, the State has issued an "Expression of Interest", (EoI), inviting proposals from the interested ICMR and NABL accredited COVID-19 testing labs for providing mobile testing vans. However, despite the repeated attempts of the State to motivate all such labs to provide the mobile testing vans, so far, no headway has been made. Therefore, by letter dated 13.05.2021, the State has written to the Director General, ICMR, for providing details of interested mobile van based COVID-19 testing labs.

6. The State Government has also received letter dated 14.05.2021 from the Secretary, Government of India, Ministry of Science and Technology, suggesting to the State Government to deploy the first "Mobile COVID-19 Diagnostic Lab", built by the DBT AMTZ, Vishakhapatnam. Presently, the State Government is examining the said proposal.

7. He further submits that the State Government has increased the number of testing being done in different districts on a daily basis. In order to buttress this plea, Mr. Amit Negi, the learned

Secretary, has drawn the attention of this Court to the table provided in the affidavit. He further informs this Court that the Government has utilized 278 mobile testing teams for conducting the Rapid Antigen Tests, and for collecting samples for RT-PCR tests. The number of teams being mobilized in different districts has also been provided in the affidavit.

8. According to Mr. Amit Negi, the State Government has added one more Dedicated COVID Hospital (DCH). Presently, there are twelve DCHs. Moreover, there are ninety-seven Dedicated COVID Health Centres (DCHC), and 391 Dedicated COVID Care Centres (DCCC). Moreover, according to him, after 20.04.2021, the State Government has added seventy hospitals as DCHCs. Furthermore, in order to establish the DCHC at Ramnagar, the Government has already sanctioned a sum of Rs.2.50 crores to the Chief Medical Superintendent, RD Government Hospital, Ramnagar. Therefore, in the near future, a DCHC would be established at Ramnagar.

9. Mr. Amit Negi, has highlighted the difficulty of procuring oxygen tanks for the State. According to

him, the learned Chief Secretary had addressed a letter on 07.05.2021 to the Secretary, Ministry of Health and Family Welfare, Government of India, wherein it was suggested that the Uttarakhand State should be permitted to procure its quota of 183 MT from the locally produced centres within the Uttarakhand. According to Mr. Amit Negi, the State is granted a quota of merely 183 MT of oxygen by the Central Government. Out of this 183 MT, only 123 MT can be taken by the State from its local production unit. The remaining quota, i.e. 60 MT has to be imported from Jamshedpur in Chhattisgarh, and from Durgapur in West Bengal. Therefore, the suggestion that, instead of directing the Uttarakhand State to import its remaining quota of oxygen from Chhattisgarh and West Bengal, the remaining quota should also be permitted to be taken from the local oxygen production units within the State. According to Mr. Negi, so far, the Union of India has not responded to the said letter.

10. Similarly, although by letter dated 13.05.2021, the Chief Secretary has written to the Cabinet Secretary, Government of India, to increase

the oxygen quota of the State from 183 MT to 300 MT, the letter is yet to elicit any response from the Central Government.

11. Likewise, by letter dated 10.05.2021, the Chief Secretary, Government of Uttarakhand had requested the Secretary, Medical Health and Family Welfare, Government of India, to supply 10,000 oxygen concentrators, 10,000 oxygen cylinders, 30 Pressure Swing Adsorption (PSA) oxygen plants, CPaP 200 Machines, 200 BiPaP Machines, and 1,00,000 Pulse Oximeters. However, this letter has gone unheeded by the Union of India. Therefore, Mr. Amit Negi, submits that without the cooperation of the Central Government, it may be difficult for the State Government to ensure constant supply of oxygen to the people of the State, especially, in the remote part of the State.

12. Speaking about the lack of medical staff, Mr. Negi, submits that constantly the State Government is endeavoring to fill up the vacant posts of nursing staff (both male and female), the vacant posts of technicians, and the vacant posts of doctors. By letter

dated 22.04.2021, 345 doctors have been appointed in various hospitals across the State. However, according to Mr. Negi, selection is a time consuming process. But the department is trying its level best to fill up as many posts as possible in the shortest time.

13. He further informs this Court that there are seventy-five CT scan machines operating in the State. While fifteen of these machines are functioning in the Government hospitals, sixty are functioning in private hospitals. A CT scan machine has been installed in the Coronation Hospital, Dehradun, and two CT scan machines, one in Pithoragarh and another at Rudrapur, are about to be installed.

14. In order to ensure the safety of the medical staff, about 50,000 PPE kits, 2,00,000 N-95 masks, and 5,00,000 triple layer masks have been procured by the State Government.

15. As far as the Standing Operating Procedure (SOP) for Char Dham is concerned, both Mr. Amit Negi, and Mr. Dilip Jawalkar, the learned Secretary, Tourism, assure this Court that SOP issued by the Char Dham

Devasthanam Prabhandhan Board is being followed scrupulously.

16. According to Mr. Amit Negi, the State Government has issued guidelines for handling, treatment and disposal of the medical waste generated during the COVID-19 pandemic. It has also issued a booklet containing guidelines for the safe disposal of the said bio-medical waste. In order to educate the public at large, number of advertisements are being published in the print media, informing the public, both about how to take care of the patients, which are in home quarantine, and how to deal with the medical wastage generated at home.

17. Speaking about the vaccination centres functioning at two DCHC in Haldwani, Mr. Amit Negi, submits that the Chief Medical Officer (CMO), Nainital, has informed him that the vaccination is being carried out about half a kilometer away from Dr. Sushila Tiwari State Medical College. As the same is being done in the Administrative Block of the College; steps have also been taken to ensure that the COVID-19 positive patients do not intermingle with the people coming for

vaccination. Moreover, the Secretary, Department of Medical Health and Family Welfare, has addressed a letter to the Director General, Medical Health and Family Welfare, to ensure that wherever vaccination centres are established, they are so established so as to isolate the general public from the COVID-19 positive patients.

18. On the other hand, Mr. Rakesh Thapliyal, the learned Assistant Solicitor General appearing of the Union of India, submits that it is difficult for the Union of India to concede to the request of the State Government to permit it to take its quota of oxygen from its local production centres. According to him, the Central Government has to balance the interest of all the State Governments.

19. On the other hand, Mr. Shiv Bhatt, the learned counsel for the petitioner in Writ Petition (PIL) No.58 of 2020, submits that there is a dearth of oxygen tanks. In case PSA oxygen tanks were to be established in the major hospitals throughout the State, it would resolve the difficulty being faced by the State with regard to the supply of oxygen.

20. Heard Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, Mr. Dilip Jawalkar, the learned Secretary, Uttarakhand Tourism, Mr. Ved Prakash Mishra, Director, Department of Pharmaceuticals, Mr. Rakesh Thapliyal, the learned Assistant Solicitor General appearing for the Union of India, and Mr. Shiv Bhatt, the learned counsel for the petitioner in Writ Petition (PIL) No.58 of 2020.

21. Tackling the COVID-19 pandemic is, indeed, a herculean task. But despite the difficulties, the State Government appears to be dedicated to the cause. Many substantive and concrete steps are being taken by the State to fortify the health care system which is presently in a poor state. However, it is trite to state that the health care system cannot be transformed miraculously overnight. Procuring machines and equipment, appointing the medical staff takes time. Moreover, to ensure that the machines are run by qualified technicians requires training. Therefore, Mr. Amit Negi is justified in claiming that much as the Government wants to better the health care system, it will still take some time to do so.

22. However, despite the best efforts of the State, there are still certain areas that require immediate attention of both the Central Government and the State Government.

23. A bare perusal of the table submitted in the affidavit (at Page No.9 of the compliance affidavit), showing the number of tests being done on a daily basis, clearly reveals that the number of tests is systematically being reduced. For example, in Dehradun district, on 07.05.2021, the number of tests carried out was 11,578, yet on 15.05.2021, the number of tests was reduced to 7,765. Similarly in Haridwar, on 07.05.2021, 5,823 tests were carried out, yet on 15.05.2021, the number of tests was reduced to 3,100. Likewise, in Nainital, on 07.05.2021, 3,406 tests were carried out, whereas on 15.05.2021, only 1,947 tests were carried out. There is no explanation offered by the State for decreasing the testing, especially, in the most crowded cities of the State.

24. It is rather surprising that, despite the reasonable request made by the State Government to

the Central Government, to permit it to lift its quota of oxygen from its own production centres within the State, in spite of the request of the State to increase its quota from 183 MT to 300 MT, and in spite of the request of the State to supply large number of oxygen concentrators, oxygen cylinders, PSA oxygen plants, the Central Government is maintaining a studied silence over all these issues.

25. In a quasi-federal country like ours, it is the constitutional duty of the Central Government to rush to the rescue of the State Government. Therefore, the least that is expected from the Central Government is to respond to the repeated letters being sent by the State Government. However, so far, the Central Government is yet to pay any heed to the request being made by the State Government.

26. As far as the SOP covering the Char Dham is concerned, this Court is not impressed by the assurance being given by Mr. Dilip Jawalkar, the learned Secretary, Uttarakhand Tourism. Although, he would have the Court believe that the SOP is being followed in letter and spirit, sufficient number of videos

on social media clearly reveal that there is no social distancing being maintained either at the Kedarnath temple, or the Badrinath temple. In fact, large numbers of priest are permitted to enter the sanctum sanctorum, and many of the priests are without masks. Therefore, concrete steps need to be taken by the State Government to ensure that Char Dham does not become a new breeding ground for the spread of COVID-19. More strict vigilance and surveillance for Char Dham is immediately called for by the State.

27. In spite of the fact that a booklet is prepared which contains the directions and instructions for managing the medical waste generated by the COVID-19 patients, and by institutions dealing with COVID-19 patients, the public needs to be informed, in a detailed manner, as to how to deal with the medical wastage.

28. Although, the affidavit filed by Mr. Amit Negi, claims that the recommendations made by the High Level Committee are being implemented, there is no evidence to support the said plea. Moreover, though, it is claimed that part of the T.B. Sanatorium at Bhowali, will soon be converted into a 100 oxygen bedded

COVID care centre, no timeline has been given in the affidavit.

29. As far as the supply of *Remdesivir*, the anti-viral injection is concerned, this Court is informed that recently, the Central Government has increased the State quota from 74,000 to 1,24,000 vials. On the earlier occasion, it was pointed out that some of the companies are defaulting in the schedule of supply of *Remdesivir*. It is hoped that the Central Government will take action against such defaulting companies, and would ensure that the total supply of 1,24,000 vials is supplied to the State.

30. Therefore, keeping in mind the facts mentioned hereinabove, this Court issues the following directions to the State and the Central Government:-

- (i) The number of testing being carried out throughout the State needs to be substantially increased, especially, keeping in mind the constant refrain of the Central Government, and the ICMR. Therefore, the State should not decrease the number of daily testing.

(ii) The Central Government is directed to seriously consider the request of the State Government to increase its quota of oxygen from 183 MT to 300 MT. After all, the number of cases of COVID-19 is skyrocketing in the State. Moreover, considering the fact that more than half of the State consists of mountainous terrain, considering the fact that the scattered villages and towns throughout the mountainous terrain lack the constant supply of oxygen, the request of the State Government to provide 10,000 oxygen concentrators, 10,000 oxygen cylinders, 30 Pressure Swing Adsorption (PSA) oxygen plants, CPaP 200 Machines, 200 BiPap Machines, and 1,00,000 Pulse Oximeters, should be seriously considered by the Central Government.

(iii) Similarly, the other requests made by the State Government in its letter dated 10.05.2021, need to be considered by the Central Government. Likewise the request made by the State Government to permit it to lift its quota from its own local production units within the State,

needs to be discussed and, if possible, conceded too. For, such request is rather reasonable one. Therefore this Court directs the Central Government to take a decision on these issues within a period of one week from the date of receipt of a certified copy of this order.

(iv) This Court directs the State Government to deploy sufficient number of persons at the Char Dham to ensure that the SOP issued by the Char Dham Devasthanam Prabhandhan Board is complied with both in letter and spirit. The persons, so deployed, should ensure that not just the pilgrims visiting the temples, but, more importantly, the priests and the staff of the temples, constantly wear masks, and maintain social distancing from each other. Strict action should be taken against those who defy the SOP under Regulation 19(A)(1) and Regulation 19(A)(2) of the Uttarakhand Epidemic Diseases COVID-19 Regulations, 2020. This Court shall be informed about the number of cases charge-sheeted against the offenders in the Char Dham,

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by Mr. Amit Sinha, the Inspector General and the Nodal Officer, to this Court.

(v) This State Government is directed to produce sufficient evidence to establish the fact that the recommendations made by the High Level Committee are, indeed, being implemented throughout the State.

(vi) The State Government is further directed to expedite the setting of 100 oxygen-bedded COVID Care Centre at T.B. Sanatorium at Bhowali.

(vii) Both the Central Government and the State Government are directed to ensure that the quota of 1,24,000 vials of *Remdesivir* are, indeed, supplied to the State in a regular, and systematic manner.

(viii) Mr. Rakesh Thapliyal, the learned Assistant Solicitor General appearing for the Union of India, is directed to ensure that the competent person from the Central Government is present, who would be in a position to explain to this Court

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the reasons as to why the Central Government is not willing to concede to the request of the State Government for lifting the oxygen quota, supplying of oxygen tanks, and the oxygen concentrators etc.

31. Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare and, Mr. Rakesh Thapliyal, the learned Assistant Solicitor General appearing for the Union of India, are directed to submit their reports with regard to the implementation of the directions given hereinabove by the next date.

32. Mr. Om Prakash, the learned Chief Secretary, and Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, are directed to appear before this Court on the next date i.e. 09.06.2021.

33. List this case on 09.06.2021.

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**RAGHVENDRA SINGH CHAUHAN, C.J.**

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**ALOK KUMAR VERMA, J.**

Dt: 20<sup>th</sup> May, 2021  
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