

- A IN RE : THE PROPER TREATMENT OF COVID 19 PATIENTS AND DIGNIFIED HANDLING OF DEAD BODIES IN THE HOSPITALS ETC.

(Suo Motu Writ Petition (Civil) No. 7/2020)

JUNE 19, 2020

- B [ASHOK BHUSHAN, SANJAY KISHAN KAUL AND M. R. SHAH, JJ.]

- Public Health – Covid-19 pandemic – Lapses in care of Covid-19 patients in different hospitals in National Capital Territory of Delhi and other States – Suo motu writ petition – Held: Directions issued for continuous supervision, monitoring of government hospitals, Covid dedicated hospitals and other hospitals taking care of Covid management – Directions also issued w.r.t Union of India's guidelines permitting one attendant of Covid-19 patient and discharge policy – Further, Union of India may consider issuing uniform directions to all the States and UTs w.r.t. reasonable rates of various Covid related facilities/test for private hospitals/labs, which may be made applicable across the country – Any variations to be made with regard to any particular State/Union Territory be specifically provided – Direction issued – Disaster Management Act, 2005.*

**Issuing directions, the Court**

- HELD: 1.1 With the object of continuous supervision and monitoring of government hospitals, Covid dedicated hospitals and other hospitals taking care of covid management following directions are issued -**

- (I) The Ministry of Health and Family Welfare, Union of India, shall constitute Expert Committees consisting of: a) Senior Doctors from Central Government hospitals in Delhi, b) Doctors from GNCTD hospitals or other hospitals of Delhi Government, c) Doctors from All India Institute of Medical Sciences, d) Responsible officer from Ministry of Health and Family Welfare. (II) The Expert Committee shall inspect, supervise and issue necessary directions to all Government hospitals, Covid hospitals and other hospitals in NCT of Delhi taking care of Covid patients; The Expert Committees shall ensure that at least one visit in

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each hospital be done weekly. (III) The team may in addition to normal inspection shall also conduct surprise visits to assess the preparedness of the hospitals. The expert team after visiting may issue necessary instructions for improvement to the hospital concerned and also forward its report to the Government of NCT of Delhi and the Union of India, Ministry of Health and Family Welfare. (IV) All States shall also constitute an expert team of Doctors and other experts for inspection, supervision and guidance of Government hospitals and other hospitals dedicated to Covid-19 in each State who may inspect, supervise the hospitals in the State and issue necessary directions for the improvement to the concerned hospital and report to the Government. [Para 12][849-F-0H; 850-A-D]

1.2 The installation of CCTV Cameras in all the wards is a welcome step which shall not only help the hospital management to immediately find out the requirement of proper care with regard to patients admitted in the wards but also ensure transparency in the patients care in the hospital. Following directions are issued- (V) Footage from the CCTV Cameras shall be made available by the hospitals in NCT of Delhi to the inspecting/supervising expert team or to any other authority or body as per directions of the Union of India, Ministry of Health and Family Welfare for screening the footage and issuing necessary directions thereon. (VI) In Government hospitals of GNCT, Delhi which are Covid dedicated hospitals, where CCTV cameras have not been installed, steps shall be taken to install CCTV Cameras in the wards. (VII) The Chief Secretaries of other States shall also take steps regarding installation of CCTV Cameras in Covid dedicated hospitals where Covid patients are taking treatment to facilitate the management of such patients and for the screening of the footage by designated authorities or bodies so that remedial action may be suggested and ensured. [Para 13][850-E-H; 851-A]

1.3 One of the guidelines by the Union of India is to permit one attendant of Covid-19 patient. Directions- (VIII) All Covid-dedicated hospitals shall permit one willing attendant of the patient in the hospital premise, who can remain in an area earmarked by the hospital. (IX) All Covid dedicated hospitals

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- A **shall create a helpdesk accessible physically as well as by telephone from where well being of patients admitted in the hospitals can be enquired. [Para 14][851-B-C]**
  - 1.4 (X) The Union of India, Ministry of Home Affairs may issue appropriate directions in exercise of power under Disaster Management Act, 2005 to all States/Union Territories to uniformly follow the revised discharge policy dated 08.05.2020 with regard to discharge of different categories of patients as categorised in the revised discharge policy. [Para 15][851-F-G]**
  - 1.5 (XI) The Union of India may issue appropriate guidelines/directions to all the States/Union Territories with regard to prescribing reasonable rates of various Covid related facilities/test etc., which need to be uniformly followed by all concerned. In case, with regard to any particular State/Union Territory, there is any difference, the same may be specifically noticed and directed accordingly. [Para 17][852-D]**
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CIVIL ORIGINAL JURISDICTION: **Suo Motu Writ Petition (C) No. 7 of 2020.**

By Court's Motion.

- E Tushar Mehta, SG, K.M. Nataraj, ASG, Sanjay Jain, ASG, Jayanth Muthuraj, AAG, Ms. Manisha Lavkumar, Gurukrishna Kumar, Sr. Advs. Rajat Nair, Kanu Agrawal, Saurab Mishra, B.V. Balram Das, Gurmeet Singh Makker, Aniruddha P. Mayee, Pukhrambamb Ramesh Kumar, Ms. Anupama Ngangom, Karun Sharma, M. Yogesh Kanna, Shivam,
- F Talha Abdul Rahman, Anish Kumar Gupta, Ms. Archana Preeti Gupta, Chandra Shekhar Suman, Avdhesh Kumar Singh, Suhaan Mukerji, Vishaal Prasad, Amit Verma, M/S. Plr Chambers And Co., Chirag M. Shroff, Sachin Patil, Rahul Chitnis, Abhimanyu Tewari, Ms. Eliza Bar, Subhash Chandran K.R., Biju P Raman, and Shashank Deo Sudhi, Advs. for the appearing parties.
- G Udian Sharma (Applicant-in-person)

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The following order of the Court was passed:

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**O R D E R**

1. This Court issued notice on 12.06.2020 in this *Suo Motu* writ petition with object to notice deficiencies, shortcomings and lapses in patient care of Covid-19 in different hospitals in National Capital Territory of Delhi and other States. The object was to take remedial action by all concerned to redeem the plight of patients and other persons who needs medical care.

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2. In response to notice dated 12.06.2020, Union of India, Delhi Government and other States have filed their affidavits. Several applications for intervention have also been filed by different individuals, organisations highlighting one or other aspects of the issue.

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3. The Union of India in its affidavit after noticing the aberration, which were highlighted by the Court in its order, have brought on the record remedial steps taken by Union of India. The affidavit mentions that on 14.06.2020, a high-level meeting was held by Hon'ble Home Minister with Lieutenant Governor of Delhi, Chief Minister of Delhi, Union Health Minister, Health Minister of Delhi, Mayors and Commissioners of Delhi's three Municipal Corporations to strengthen the strategy to fight the coronavirus. The affidavit enumerates certain action points which have emerged in the deliberation. In paragraph 13 of the affidavit, decision taken by the Union of India have been referred to. We may notice only few of such decisions which need to be specifically noticed. In paragraph 13(ii), following has been stated:-

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“13. (ii) It has been further decided that a team of senior doctors from Central Government Hospitals in Delhi, GNCTD Hospitals, Municipal Hospitals and AIIMS shall visit all hospitals in Delhi, within 2 days, to study the arrangements made for patient care and treatment and suggest improvements to be done. The responsibility for implementation of the said decision has been given to the Union Health Secretary to coordinate with Chief Secretary, GNCTD and Director, AIIMS, who would ensure implementation of the said decision.”

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4. In paragraph 13(iv), decision regarding increase of the testing per day in NCT of Delhi has been mentioned. It has been stated that by 20.06.2020, the tests shall be increased up to 18,000 per day. The decision

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- A also refers to the constitution of the Committee of Dr. V.K. Paul, Member, NITI Aayog, representative of the AIIMS and representative of GNCTD who has to report regarding reasonable rates of various covid related facilities/tests etc. for private hospitals, labs.
  - 5. We have come to know that the rates of the tests to be conducted in the private labs is substantially reduced by the Government of India for which orders have also been issued. The affidavit also gives details of guidelines framed by the Union of India to ensure proper treatment of Covid-19 patients and dignified handling of the dead bodies in the hospitals as well as the guidelines framed by the Union of India pertaining to Covid-19 hospital management.
  - 6. In paragraph 18, it has been stated that strict observance and adherence of guidelines shall be ensured. One of the guidelines, whose adherence was to be ensured, was that the patients are provided with the bed and are permitted to have one attendant and the attendant can remain in the hospital premises in the area earmarked by the hospital and no suspected Covid-19 patients shall be turned away from the hospital and details of indoor facilities and advisory for OPD has also been noticed.
  - 7. The Government of NCT, Delhi has also filed affidavit of Smt. Padmini Singla, Secretary, Health and Family Welfare, Government of NCT of Delhi. Although affidavit gives the details of the Government hospitals of Delhi, Government designated Covid hospitals, name of an IAS officer who was deployed as a nodal officer in all Covid designated hospitals to monitor and supervise various aspects and functioning of the hospitals, providing for 24x7 Help desk at each hospital along with display board/LED Screen to inform the availability of beds to the general public, details of available manpower in LNJP hospital, details of public sector labs and private sector labs. The affidavit also noticed the decision taken in the meeting chaired by Hon'ble Home Minister on 14.06.2020 to increase the testing facility in Delhi.
  - 8. We, however, noticed that in the entire affidavit, apart from general statement that all steps are being taken, the affidavit does not indicate any mechanism for proper supervision of the functioning of the hospital and steps for improvement. The affidavit tries to give an impression to the Court that everything in the Government hospital in NCT, Delhi is well and all steps are being taken by the Government of NCT of Delhi. When the Government does not endeavour to know any shortcomings or lapses in its hospitals and patient care, the chances of

remedial action and improvement becomes dim. Every organisation, every individual should be more than ready to know about shortcomings, lapses and it is only after knowing one's shortcomings and deficiencies, remedial actions can be taken.

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9. We impress upon Government of NCT of Delhi to be more vigilant in knowing about the deficiency and lapses in functioning of the hospitals and patients care and take immediate & remedial steps to redeem the miseries of patients, the public who needs medical care and help.

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10. The necessary guidelines on all aspects of patients' care, hospital management, testing, infrastructure are in place as has been highlighted by Union of India in its affidavit. The main concern is the faithful and strict implementation of the said guidelines which can be only ensured by constant supervision, monitoring and taking remedial steps with regard to improvement of infrastructure, staff, facilities, etc. The most important aspect is continuous supervision and monitoring of Government hospital in Government of NCT of Delhi and other States.

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11. As noted above, in the meeting dated 14.06.2020 chaired by Hon'ble Home Minister, one of the decisions taken was that a team of senior doctors from Central Government hospitals in Delhi, GNCTD hospitals, Municipal hospitals and AIIMS shall visit all hospitals in Delhi. One visit in all hospitals of Delhi is not enough. There has to be constant monitoring, supervision and management.

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12. We with the object of continuous supervision and monitoring of government hospitals, Covid dedicated hospitals and other hospitals taking care of covid management issue following **directions** Nos.(I) to (IV):-

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(I) The Ministry of Health and Family Welfare, Union of India, shall constitute Expert Committees consisting of:

- a) Senior Doctors from Central Government hospitals in Delhi,
- b) Doctors from GNCTD hospitals or other hospitals of Delhi Government,
- c) Doctors from All India Institute of Medical Sciences,
- d) Responsible officer from Ministry of Health and Family Welfare.

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- A (II) The Expert Committee shall inspect, supervise and issue necessary directions to all Government hospitals, Covid hospitals and other hospitals in NCT of Delhi taking care of Covid patients; The Expert Committees shall ensure that at least one visit in each hospital be done weekly.
- B (III) The above team may in addition to normal inspection shall also conduct surprise visits to assess the preparedness of the hospitals. The expert team as indicated above after visiting may issue necessary instructions for improvement to the hospital concerned and also forward its report to the Government of NCT of Delhi and the Union of India, Ministry of Health and Family Welfare.
- C (IV) We further direct that all States shall also constitute an expert team of Doctors and other experts for inspection, supervision and guidance of Government hospitals and other hospitals dedicated to Covid-19 in each State who may inspect, supervise the hospitals in the State and issue necessary directions for the improvement to the concerned hospital and report to the Government. Chief Secretary of each State shall ensure that such Committees are immediately constituted and start their works within a period of seven days.
13. An affidavit has also been filed by Director, LNJP hospital, Government of NCT of Delhi, where in paragraph 4, it has been stated
- E that CCTV Cameras have been installed in all the wards. The installation of CCTV Cameras in all the wards is a welcome step which shall not only help the hospital management to immediately find out the requirement of proper care with regard to patients admitted in the wards but also ensure transparency in the patients care in the hospital. In this regard,
- F we issue following **directions** as direction Nos. (V) to (VII):
- (V) Footage from the CCTV Cameras shall be made available by the hospitals in NCT of Delhi to the inspecting/supervising expert team or to any other authority or body as per directions of the Union of India, Ministry of Health and Family Welfare for screening the footage and
- G issuing necessary directions thereon.
- (VI) In Government hospitals of GNCT, Delhi which are Covid dedicated hospitals, where CCTV cameras have not been installed, steps shall be taken to install CCTV Cameras in the wards.
- (VII) The Chief Secretaries of other States shall also take steps
- H regarding installation of CCTV Cameras in Covid dedicated hospitals

where Covid patients are taking treatment to facilitate the management of such patients and for the screening of the footage by designated authorities or bodies so that remedial action may be suggested and ensured.

14. We have noticed above that one of the guidelines by the Union of India is to permit one attendant of covid-19 patient. In this regard, we issue following **directions** as direction No. (VIII) and (IX):-

(VIII) All Covid-dedicated hospitals shall permit one willing attendant of the patient in the hospital premise, who can remain in an area earmarked by the hospital.

(IX) All Covid dedicated hospitals shall create a helpdesk accessible physically as well as by telephone from where well being of patients admitted in the hospitals can be enquired.

15. In the supplementary affidavit dated 17.06.2020 filed on behalf of the Union of India, details of Covid-19 patients discharge policy of Union of India has been given. Copy of the revised discharge policy for Covid-19 dated 08.05.2020 has also been brought on the record. The revised policy dated 08.05.2020 brought on record does not indicate that necessary directions have been issued to all States/Union Territories to communicate it to the concerned dedicated Covid hospitals and other hospitals to uniformly follow the discharge policy. We are of the view that discharge policy framed by the Union of India has to be followed by all States/Union Territories uniformly to ensure discharge of the Covid patients uniformly and to achieve clarity in the minds of all concerned. We, thus, issue following **direction** in this regard:-

(X) The Union of India, Ministry of Home Affairs may issue appropriate directions in exercise of power under Disaster Management Act, 2005 to all States/Union Territories to uniformly follow the revised discharge policy dated 08.05.2020 with regard to discharge of different categories of patients as categorised in the revised discharge policy.

16. We, in our order dated 12.06.2020 has observed:-

“We impress upon the States to ensure that there should be steep increase in the testing both by Government hospitals and private labs and whosoever desires for testing should not be denied on any technical ground or any other ground.....”

- A 17. We have also noticed in this order that Union of India has constituted a Committee of Dr. V.K. Paul, Member, NITI Aayog, representative of the AIIMS and representative of GNCTD who has to report regarding reasonable rates of various Covid related facilities/tests etc. Government of India on the basis of a report from the said Committee
- B has already taken a decision for reducing the amount of test in the NCT
- Delhi. The Union of India may consider issuing uniform directions to all the States and Union Territories with regard to reasonable rates of various Covid related facilities/test for private hospitals/labs, which may be made applicable across the country. If any variations to be made with regard to any particular State/Union Territory, the same shall be specifically
- C provided for in the guidelines. We, thus, issue following **direction** in this regard:-

- (XI) The Union of India may issue appropriate guidelines/directions to all the States/Union Territories with regard to prescribing reasonable rates of various Covid related facilities/test etc., which need to be
- D uniformly followed by all concerned. In case, with regard to any particular State/Union Territory, there is any difference, the same may be specifically noticed and directed accordingly.

**I.A Nos.55935 & 55936 of 2020**

- E 18. Learned counsel for the applicant submits that the State of Maharashtra has issued an order that a positive report of the patient shall not be given to the patient or the relatives of the patient.
- 19. Mr. Tushar Mehta, learned Solicitor General conceded that when a report of the patient is positive, the same shall be given to the patient or his relatives.
- F 20. We have no doubt that the States and all concerned shall supply a copy of the report of the patient to him or his relatives and the hospital.
- G 21. A copy of the applications may also be given to the learned Solicitor General as well as learned counsel for the State of Maharashtra.
- H 22. Learned counsel for the State of Maharashtra submits that the State of Maharashtra has already fixed the rate of testing as Rs.2200/- and Rs.2800/-, which we feel is welcome to step-up the number of testing in the State of Maharashtra. He further submits that every day more than 16000 tests are conducted in the State of Maharashtra.

Learned counsel for the State of Maharashtra submits that he shall obtain instructions regarding non-giving of the report to the patient or his relatives. He shall advise the State to issue an appropriate order permitting handing of the report to the patient or his relatives and the hospital. A

23. Learned counsel for various intervenors have submitted that their several suggestions have been included in the intervention applications. Learned counsel appearing for the intervenors may give a copy of the suggestions in writing to the learned Solicitor General as well as to learned counsel for the respective States for appropriate consideration. B

24. A question was posed to Shri Sanjay Jain, learned Additional Solicitor General appearing for the Delhi Government about the status of construction of second trauma centre at Dwarka out of Rupees Sixty Crores deposited as a fine by the Ansal Brothers (Rupees Thirty Crores each) in Uphaar Cinema fire tragedy case – Criminal Appeal No. 597-598 of 2010 vide this Court's order dated 22.09.2015. Shri Sanjay Jain submitted that he will get back on this on the next date of hearing. C D

25. List the matter in third week of July, 2020.

Divya Pandey

Directions issued.