

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

SUO MOTU PUBLIC INTEREST LITIGATION NO.4/2020
(Court on its own motion vrs Union of India and ors)

AND

WRIT PETITION ST. NO.8050/2020

(Viveka Super Speciality Hospitals and Research Centr vrs. State of
Maharashtra and ors)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

SMPIL No. 4/2020

Shri S.PBhandarkar Advocate (Amicus Curiae).
Shri U. M. Aurangabadkar, A.S.G.I. for respondent no.1
Shri S.M.Puranik, Advocate for Respondent No.4
Shri D.P.Thakre, Addl. G.P for Respondent Nos. 2, 5, 6, 8 and 9
Shri B.G.Kulkarni, Advocate for IMA

WP (St.) No. 8050/2020

Shri K.N.Shukul, Advocate for petitioner
Shri A.S.Fulzele, Addl. G.P for Respondent Nos. 1 and 3
Shri J.B.Kasat, Advocate for Respondent No.2
Shri U.M.Aurangabadkar, ASGI for Respondent No.4

CORAM :- R. K. DESHPANDE, AND
SMT. PUSHPA V. GANDEDIWALA, JJ.
DATED :- 29.09.2020

The All India Institute of Medical Science (AIIMS), Wardha Road, Nagpur, through its Director be joined as party Respondent No.1-A. Shri U.M.Aurangabadkar, learned ASGI waives service of notice for the added respondent and submits that appropriate instructions shall be taken from the Director.

2. In response to our query as to augmentation or enhancement of the facilities at Government Medical College and Hospital (GMC) and Indira Gandhi Medical

College and Hospital (IGGMC) is concerned, we are informed that a meeting was held under the Chairmanship of the Hon'ble Minister of Health Department on 25.09.2020, in which a decision is taken that all 600 existing beds including ICU and HDU beds at GMC shall be made functional and in addition to it, 400 consisting of some ICU and HDU beds are also proposed to be created for catering the need of COVID-19 patients. Thus, there will be fulfilled 1000 beds COVID-19 facility at GMC, Nagpur. There is no proposal for enhancement of the beds at IGGMC, Nagpur.

3. We wanted the facility of the aforesaid 1000 beds for COVID-19 patients to be created, accommodated or updated in the building wherein the ICU and HDU beds for Covid patients are made available. Out of 600 existing beds, 90 beds are in the basement area, which shall be removed from that place and shall be relocated elsewhere in the same building. The basement area being totally unhygienic shall not be used for the beds of any sorts of patients. The beds of non-covid patients in this building shall be shifted to another building within a period of 15 days from today. The complete hygiene shall be maintained in the building and the management and administration of Covid-19 patients shall be done by IAS Office posted there, in coordination with the other officers or Doctors looking after the administration and management of GMC. The names of officers responsible for maintenance and administration shall be specified on the affidavit. We direct the

Divisional Commissioner, the Commissioner, Nagpur Municipal Corporation and the Dean, Government Medical College and Hospital to see that facility of 1000 beds for COVID-19 patients is well equipped, maintaining the hygiene with posting of adequate number of doctors and para medical staff within a period of one month from today and to submit the report to that effect before us.

4. We are informed that there is a decision taken in the chairmanship of the Hon'ble Minister of Health Department to have facility of 500 beds at AIIMS. We, therefore, wanted the authority of AIIMS to come forward before us in the next week giving a plan of 500 beds of COVID-19. We expect that this shall be in a altogether separate building.

5. Shri B.G.Kulkarni, the learned counsel appearing for Indian Medical Association (IMA) informs us that Rotary International has supplied the funds of Rs.1,50,00,000/- to the Rotary Club, Nagpur, for creating the infrastructural facilities at Nagpur Nagrik Sahakari Rugnalaya, in respect of 150 beds including 70 beds of ICU. The IMA in coordination with the Rotary Club proposes to restart the Rugnalaya presently to treat COVID-19 patients as a designated COVID-19 Hospital.

6. In response to our last order dated 25.09.2020, the Health Officer of Nagpur Municipal Corporation has filed an affidavit stating in paragraph No.3 that it has not received any proposal either from the

Rotary Club or from the IMA and therefore, the decision on it cannot be taken. We wanted this proposal is submitted by IMA and Rotary Club together to the Municipal Corporation, Nagpur, within a period of two days from today. If such proposal is received, the Municipal Commission can apply his mind to the proposal and take a decision thereon. Apart from this, we wanted independently a report from the Commissioner, Municipal Corporation, of its stand about structural stability of the building of Nagpur Nagarik Sahakari Rugnalaya and in what manner the structural stability can be achieved and the period within which it can be attained. That should also be supplied and stated on affidavit. We, therefore, expect that this be done by the next week.

7. In response to our query in respect of Indira Gandhi Rugnalaya, Gandhi Nagar, Nagpur, it is stated in paragraph No. 5 of the affidavit filed by the Municipal Corporation as under;

*"5. I say and submit that NMC has already augmented and upgraded the facilities at Indira Gandhi Rugnalaya, Gandhi Nagar, Nagpur. At present there are 110 oxygenated beds available out of which 73 are occupied by Covid patients. I further say and submit that as on today there are total 59 private and 6 Government Dedicated Covid Hospitals are catering their services. There are total 499 beds lying vacant in Private Dedicated Covid Hospitals and 205 beds are lying vacant in 6 Government Hospitals. The chart showing details as above is annexed herewith as **Annexure-I** to the affidavit."*

Accordingly, a statement is made that the entire facility as stated above has become operational.

8. In response to what we stated in paragraph No.6 of our order dated 25.09.2020, the Divisional Commissioner has filed an affidavit dated 28.09.2020, stating therein as under

"In this respect, I humbly submit that, State Government with notification dated 17th August, 2020 has already prescribed 20 procedures under which COVID patients can be treated free of cost for which government will reimburse the cost in Mahatma Phule Jan Aarogya Yojana (Health Insurance Scheme). It is submitted that, empanelled hospitals are reimbursed under the insurance scheme. The empanelled hospitals are reimbursed under the scheme. Already there are 31 private hospitals and 9 Government Hospitals are empanelled under this scheme in Nagpur District."

According to the Divisional Commissioner, if all the private hospitals are prepared to subscribe to the scheme, then even the patients of COVID-19 in private hospitals can get the treatment free of charge. We, therefore, wanted this issue to be resolved by the private hospitals in the Coordination Committee meeting which we have constituted. The meeting of the Coordination Committee expects on 01.10.2020 at 11 a.m. in the Chamber of the Chairman of the Committee - the Mayor, Nagpur Municipal Corporation and we wanted the response of all the private hospitals. We are prepared to consider if there are any difficulties of the private hospitals and therefore, it is expected from all the private hospitals to express all

genuine difficulties in their way to subscribe the scheme floated by the State Government.

9. In paragraph No.6 of our last order dated 25.09.2020, after giving background we noted that the testing and investigation can only be in recognized laboratory and MRI CT Scan Centres with whom the agreements are entered into and those who are not agreeable for such rates, such laboratory or centres shall not be entitled to carry out the investigation and testing of COVID-19 patients. In response to this, Shri Puranik, the learned counsel appearing for the NMC has invited our attention to paragraph No.4 of the affidavit filed by the Municipal Corporation, which we have reproduced below.

"4. I say and submit that this Hon'ble Court in para 6 of the order dated 25.09.2020 had suggested that the respondent authorities to enter into an agreement with private Laboratories and Radiologists in respect of the charges of testing and investigation. In this regard it is submitted that the State Government is the authority to fix the rate for testing and investigation and NMC has no role to play in this. The State Government vide GR dated 24.09.2020 has fixed the rates for High Resolution CT scan and this GR has been challenged by the Radiologist Association and it is likely to be listed on 29.09.2020.

10. Shri K.N.Shukul, the learned counsel appearing for the petitioner in W.P. St. No. 8050/2020 makes a statement that the Government Resolution dated 24.09.2020 is the subject matter of challenge in a Writ Petition between *Indian Radiological & Imaging*

Association, Maharashtra State, Nagpur Branch vrs. State of Maharashtra and 3 others. He seeks circulation of this matter. Hence, put up the said writ petition for admission and further orders along with Writ Petition No. 1936 of 2020 in the next week.

11. In response to our query regarding Railway Hospitals, the stand of the Municipal Commissioner in paragraph No.6 of the affidavit is as under;

"6. I further say and submit that the learned Amicus Curiae has filed an affidavit in which he has claimed that the Municipal Commissioner has issued an order directing that this hospital was of no aid to cater to the pandemic and NMC would appoint these doctors elsewhere. This is not correct and the same is based on newspaper report. It is submitted that NMC in its affidavit dated 22.09.2020 has categorically mentioned in para 4 that vide order dated 16.09.2020 NMC had requisitioned the Railway Hospital for providing treatment to Covid patients along with medical and para medical staff. It was noticed that this hospital did not have piped Oxygen supply facility which the Railway authority is working on. In the meanwhile the medical and para medical staff of railways has been made available to run the 44 bedded hospital of NMC namely "Ayush" at Sadar."

This aspect can be consider on the next occasion.

WP St. No. 8050/2020

Shri K.N.Shukul, the learned counsel appearing for the petitioner has made some complaint about non-supply of the copies of the minutes of meeting and other documents.



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wpst 8050.20.odt*

Shri Kasat, the learned counsel appearing for NMC makes a statement that all the things shall be published on Website so that everyone knows.

Put up both these matters on **06.10.2020** at **10.30** a.m. for physical hearing by consent of parties.

JUDGE

JUDGE

Rvjalit