

(2020) 12 SHI CK 0018

In the High Court Of Himachal Pradesh

Case No : CWPII No. 11 Of 2020, Civil Writ Petition No. 2687 Of 2020

Court On Its Own Motion And Others

APPELLANT

Vs

State Of H.P. & Ors

RESPONDENT

Date of Decision : 03-12-2020

Acts Referred:

Citation : (2020) 12 SHI CK 0018

Hon'ble Judges : Tarlok Singh Chauhan, J; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : B. C. Negi, Shreya Chauhan, Sanjeev Bhushan, Rakesh Chauhan, Hamender Singh Chandel, Vishal Mohan, Ashok Sharma, Ajay Vaidya, Ritta Goswami, Nand Lal Thakur, Rajesh K. Sharma

Judgement

Name of the Institution, Categories of manpower, "Number of manpower to be hired", Remarks,

Indira Gandhi Medical College

Shimla", Nurses, 15, "Only to deal with the

COVID-19 patient",

, Lab Technician, 15, "Only for COVID-19

testing and daily report to

the higher authorities",

, Class-IV, 15, "Only for COVID-19

related duties.",

, Data Entry Operator, 1, "Only for COVID-related

duties",

Dr. RPGMC Tanda, District
Kangra",Nurses,15,"Only to deal with the
COVID-19 patient",
,Lab Technician,10,"Only for COVID-19
testing and daily report to
the higher authorities",
,Class-IV,12,"Only for COVID-19
related duties",
,Data Entry Operator,1,"Only for COVID-related
duties",

SLBSGMC Mandi at Ner
Chowk",Nurses,15,"Only to deal with the
COVID-19 patient",
,Lab Technician,10,"Only for COVID-19
testing and daily report to
the higher authorities",
,Class-IV,12,"Only for COVID-19
related duties",
,Data Entry Operator,1,"Only for COVID-related
duties",

Pt. JLNGMC Chamba,
District Chamba, H.P.",Nurses,10,"Only to deal with the
COVID-19 patient",

,,,,

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,,Lab Technician,10,"Only for COVID-19
testing and daily report to
the higher authorities
,,Class-IV,10,"Only for COVID-19
related duties

„Data Entry Operator,1,"Only for COVID-related duties

„Dr. RKGMC, Hamirpur, District Hamirpur",Nurses,10,"Only to deal with the COVID-19 patient

„Lab Technician,10,"Only for COVID-19 testing and daily report to the higher authorities

„Class-IV,5,"Only for COVID-19 related duties

„Data Entry Operator,1,"Only for COVID-related duties

„Dr. YSPGMC Nahan, District Sirmaur, H.P",Nurses,10,"Only to deal with the COVID-19 patient

„Lab Technician,10,"Only for COVID-19 testing and daily report to the higher authorities

„Class-IV,5,"Only for COVID-19 related duties

„Data Entry Operator,1,"Only for COVID-related duties

„DDU ZH Shimla,Nurses,10,"Only to deal with the COVID-19 patient

„Lab Technician,5,"Only for COVID-19 testing and daily report to the higher authorities

„Class-IV,5,"Only for COVID-19 related duties

„Data Entry Operator,1,"Only for COVID-related

duties

,Zonal Hospital Dharamshala,Nurses,10,"Only to deal with the COVID-19 patient

,,Lab Technician,5,"Only for COVID-19

testing and daily report to

the higher authorities

,,Class-IV,5,Only for COVID wards

,,Data Entry Operator,1,"Only for COVID-related

duties

,MS Khaneri (Rampur,Nurses,10,"Only to deal with the COVID-19 patient

,,Class-IV,5,Only for COVID wards

,,Data Entry Operator,1,"Only for COVID-related

duties

,"Civil Hospital Rohru, District

Shimla",Nurses,10,"Only to deal with the

COVID-19 patient

,,Class-IV,5,Only for COVID wards

,,,,

District,State,Cases on Nov 29,% increase since Oct 31,

Shimla,Himachal,"7,073",183.1,

Lahaul & Spit,Himachal,"1,075",177.8,

Kullu,Himachal,"3,588",131.5,

Mandi,Himachal,"6,571",117.2,

Chamba,Himachal,"1,952",69.9,

Hamirpur,Himachal,"2,088",69.1,

Kangra,Himachal,"5,135",66.7,

Gurgaon,Haryana,"49,112",63.6,

Idukki,Kerala,"11,717",62.7,

Ganganagar,Rajasthan,"5,845",60.6,

Faridabad,Haryana,"40,152",58.7,
 Bilaspur,Himachal,"2,036",58.6,
 Hisar,Haryana,"15,624",56.6,
 Tonk,Rajasthan,"2,751",53.8,
 Hanumangarh,Rajasthan,"2,635",52.3,
 Bametara,Chhattisgarh,"3, 724",51.1,
 Balod,Chhattisgarh,"6, 966",51.0,
 Korba,Chhattisgarh,"13, 278",50.9,
 Wayanad,Kerala,"10, 656",50.6,
 Sr. No,Name of Distt./Institution,Quantity,,
 1.,CMO Kangra,25,,
 2.,ZH Mandi,5,,
 3., "IGH, Shimla",25,,
 4,CMO Chamba,10,,
 5,CMO Solan,20,,
 6,RH Solan,5,,
 7,ESI Kattha Solan,10,,
 8,CMO Una,15,,
 9,RH Una,5,,
 10,CH Haroli Una,10,,
 11,ZH Dharamshala,15,,
 12,CMO Mandi,20,,
 13,SLBSGMC Nerchowk,15,,
 14,CMO Sirmaur,16,,
 15,"CH Sarhan, Sirmaur",9,,
 16,"KNH, Shimla",10,,
 17,"YSPGMC, Nahan",17,,
 18,CMO Kullu,15,,
 19,RH Kullu,5,,
 20,"CHC Tegubehar, Kullu",10,,

21,"RPGMC, Tanda",25,,
 22,CMO Shimla,25,,
 23,CMO Bilaspur,10,,
 24,RH Bilaspur,5,,
 25,CH Ghumarwin,10,,
 26,Bhota Hamirpur,10,,
 27,CMO Hamirpur,15,,
 28,"CH Nurpur, Kangra",5,,
 29,CH Palampu,5,,
 30,CH Rohru,5,,
 31,"RKGMC, Hamirpur",15,,
 32,MGMSC Khaneri,5,,
 33,MS DDUZH,20,,
 34,CMO Kinnaur,20,,
 35,Medical College Chamba,15,,
 36,CMO Keylong,5,,
 37,CMO Chamba,20,,
 ,Total,477,,

ii. Oxygen Cylinders are available in abundance and now the demands for additional cylinders has also been raised but the difficulty is that entire,,,,

country is facing dearth thereof, however, the matter is being persuaded seriously.",,,,

iii. makeshift hospitals in Shimla, Mandi and Nalagarh will be readied within next 15 days. This was being done so that patients from far flung areas",,,,

could easily reach these nearby hospitals instead of travelling to Shimla.,,,,,

iv. The government has issued strict warning and consequential action against the doctors, paramedics and medics on non-COVID duties who were",,,,

reluctant to treat patients with other diseases.,,,,,

v. The doctors found negligent in discharge of their duties will not be spared and strict punitive action will be taken against them.,,,,,

vi. 30 more ambulances have been added from the districts to supplement the emergency services. Besides, instructions have been given to district",,,,

administrations to hire four wheel drive ambulance in snowbound areas including Shimla, Rohru, Rakmpur, Kullu, Lahaul & Spiti and Kinnaur districts." ,,,,

vii. Any complaints about 108 ambulance provider regarding poor response will be dealt strictly. ,,,,

viii. Oxymeter alongwith all the medicines are being provided in the Kit to those of Covid patients who are staying in their homes. ,,,,

15. The Secretary (Health) was apprised of the practice of conspicuously affixing the posters outside the residence of COVID patients, which creates" ,,,,

stigma and often leads to a situation where the patient(s) may be treated so-called untouchable(s) as has otherwise been observed by the Three-Judge ,,,,

Bench of the Honâ??ble Supreme Court, however, since this issue is sub judice before the Honâ??ble Supreme Court, we need not comment or" ,,,,

make any observations in this regard, save and except, that the State would be well advised to re-visit such practice(s) and protocol(s)." ,,,,

16. We are further informed that the Government has now directed that only 50 persons would be permitted to attend marriage, social, religious and" ,,,,

political functions and the Government is seriously contemplating the involvement of private labs for testing COVID positive patients and the rates for ,,,,

such tests shall be competitive and less than those prevailing in the adjoining States. ,,,,

17. Directions have also been issued to all the hospitals to ensure that senior doctors visit the notified COVID hospitals and Ward(s) at least three ,,,,

times in a day. ,,,,

18. We are also informed that effective policing is difficult as nearly 1400 police personnel have themselves tested positive for COVID-19. ,,,,

19. The Medical Superintendents IGMC and DDU Hospital have expressed apprehension that the staff to be appointed on outsource basis, after" ,,,,

appointment, may resort to strike or dharana, therefore, some directions in this regard need be issued." ,,,,

20. After due deliberations, we feel that the following directions for the time being are absolutely necessary to tackle the steep surge in COVID-19" ,,,,

cases:- ,,,,

i. The State shall ensure that senior doctors in all the notified COVID hospitals visit the ward on regular basis in accordance with the instructions ,,,,

issued by the Government.,,,,

ii. The State is directed to consider the feasibility of having liquid oxygen tankers stationed at all the notified COVID hospitals.,,,,

iii. Respondents to ensure that the manpower hired temporarily on outsource basis through authorised service providers be appointed as expeditiously.,,,,

as possible and in no event later than 5th December, 2020.",,,,

iv. The State is directed to ramp up the testing by adopting the approved measures by associating private Labs or their technicians, or both.",,,,

v. It shall be mandatory for the sample collecting authority to obtain contact number, e-mail id, if any, apart from other details like age, address etc. at",,,,

the time of taking samples, so that the result of the test can be communicated on e-mail, whatsapp etc. Such report be supplied in a time bound",,,,

manner and in no event beyond 48 hours, bearing in mind the necessary protocols.",,,,

vi. Wide publicity be given in the news, print and social media regarding testing that are to be conducted in walk-in kiosk in all the towns like Shimla",,,,

Mandi, Dharamshala, Kullu, Solan, Una, Hamirpur, Bilaspur etc. for the collection of samples during the pre-fixed time everyday.",,,,

vii. A dedicated helpline in all the COVID Hospitals be notified so that the family members, near and dear ones of the COVID patients can get in",,,,

touch with such patients to know about his/her well being etc.,,,,

viii. Such patients, who are willing to afford, be permitted to have trained nursing attendant at their own costs as this would be a long way to reduce",,,,

the burden on the hospital staff.,,,,

ix. It be ensured that wrapping up of the dead body(ies) of those COVID patients, who unfortunately succumb to the disease, under no circumstances",,,,

is/are carried out/done in the Ward and the body is removed immediately from the Ward.,,,,

x. It be ensured that the toilets are kept in clean and hygienic condition round a clock and a dedicated helpline be provided to the patients, in case, they",,,,

have any complaint regarding not only the toilets but other facilities.,,,,

xi. Provisions for hot water and steamer(s) be made by providing those in adequate quantities alongwith electricity extension boxes.,,,,

xii. The State may also consider making COVID test mandatory for the people entering the State from the outside.,,,,

xiii. The rules regarding the wearing of mask, social distancing and quarantine be strictly enforced by associating not only the local police but also by",,,,,

engaging the employees of the Municipal Corporation, Home Department and local volunteers.",,,,

xiv. It be ensured that no person or family is ostracised by the Society only because the family is COVID positive.,,,,,

xv. No social or public gathering shall be permitted henceforth without the prior approval of the Magistrate with intimation to the local police station,,,,

who shall then be duty bound to ensure that such gathering does not exceed the prescribed limit. In addition thereto, it shall also be the duty and",,,,,

responsibility of the office bearers of the Panchayati Raj Institutions and local urban bodies, as the case may be, to ensure that the protocols and",,,,,

procedures including wearing of mask, social distancing, home isolation, public gathering etc. are strictly adhered to.",,,,

xvi. It be ensured that every person, more particularly, who are engaged in delivery of essential services observe SoPs strictly and their test be",,,,,

conducted on priority basis.,,,,,

xvii. The State would consider providing additional incentives to those deployed in COVID-19 duties including the outsourced workers, more",,,,,

particularly, Class-III and IV, who are working in the COVID wards.",,,,

xviii. The patients undergoing treatment at home will be contacted by dedicated medical personnel at least twice a day over his/her telephone so as to,,,,

monitor the treatment at home.,,,,,

xix. The State will ensure that the medicine kits being provided to patients undergoing treatment at home are of good and standard quality so as to,,,,

remove any kind of doubt regarding its efficacy.,,,,,

xx. The State would also consider having flexi or staggered office time from 9:30 a.m. for the first shift and 10:00 a.m. for the second shift which shall,,,,

finish at 4:30 p.m. and 5:00 p.m., respectively This will help in reducing over-crowding in buses.",,,,

xxi. The general public be educated about COVID-19 by hoardings, messages through Radio, T.V., booklets etc. by convincing them that it is a",,,,,

collective fight by the society and no one should violate the regulations, procedures and protocols. The people should also be educated about the",,,,,

infection of the Corona, its prevention and treatment.",,,,

xxii. Similar exercise shall be taken by all the Secretaries, State Legal Services Authority at their own level and through the PLVâ??s etc." ,,,,

xxiii. The Director General of Police is directed to depute extra police personnel(s) from the battalion and other places so as to ensure that no one, ,,,, unnecessarily leaves or enter the containment zones. ,,,,

xxiv. All those involved in COVID duties irrespective of their rank and files, are restrained from going on strike/dharna and, in case, any one of them" ,,,,

have any difficulty, then they are at liberty to approach this Court individually or through the learned Amicus Curiae for redressal thereof, but under no" ,,,,

circumstances they would resort to arm twisting by resorting to strike or dharna. In case, any one of them resort(s) to such mis-adventure, then in" ,,,,

addition to any other action, which respondents-State may take including blacklisting the firm(s), terminating the services of such employees, he/they" ,,,,

shall be liable to be prosecuted and punished for contempt under the Contempt of Courts Act, for deliberately disobeying the directions of the Court." ,,,,

xxv. Ambulances, six in number, which are fitted with ventilator(s) and other equipments and are stated to be idle, shall be put to use forthwith." ,,,,

xxvi. Adequate provisions be made for diet, rest etc. for those who have been deputed in connection with COVID-19 duties and if found necessary," ,,,,

assistance of NGOs, Charitable Institutions may be taken." ,,,,

21. Status report and point wise response to the suggestions given by the learned Amicus Curiae, as found mentioned in order dated 13.11.2020" ,,,,

alongwith latest status of the make-shift hospitals be filed by the Secretary (Health) in the open Court on the next date of hearing. ,,,,

List on 10.12.2020. ,,,,