

(2020) 08 DEL CK 0042

In the Delhi High Court

Case No : Civil Writ Petition No. 3736 Of 2020

Gaurav Kumar Bansa

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 07-08-2020

Acts Referred:

Citation : (2020) 08 DEL CK 0042

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ;Prateek Jalan, J

Bench : Division Bench

Advocate : Chetan Sharma, Kirtiman Singh, Waize Ali Noor, Rohan Anand, Sameer Vashisht, Urvi Kapoor, Tushar Sannu, Ankita Bhadouriya

Final Decision : Disposed Of

Judgement

D.N.Patel, CJ

Proceedings in the matter have been conducted through video conferencing.

1. This public interest litigation has been preferred with the following prayers:-

â??A. Issue a Writ/Order/Direction in the nature of mandamus against respondents and in particular Respondent No.01 and Respondent

No.02 to issue GUIDELINES with respect to COVID 19 TESTING FACILITY for HOMELESS MENTALLY ILL PERSONS.

B. Pass any other Order or Direction which this Honâ??ble Court may deems fit and proper under the facts and circumstances as

mentioned above.â??

2. Having heard the learned counsel for the parties and looking to the affidavits filed by the respondents, especially the latest affidavit dated 6th

August, 2020, it appears that certain steps are being taken for testing the homeless mentally ill persons for COVID-19. The principal difficulty which

had been brought to our notice, as recorded in the earlier orders, was that homeless mentally ill persons often do not possess identity documents,

address and mobile phone number, which were being required prior to testing. It appears that this concern has been addressed in the aforesaid

affidavit dated 6th August, 2020 filed on behalf of the Indian Council for Medical Research. Paragraphs -7 and 9 of the said affidavit read as under:-

7. It is further submitted that in so far as the observations of this Honâble Court regarding establishment of camps for the

homeless/mentally ill patients are concerned and as to whether such patients are required to submit Govt. ID details and mobile telephone

number mandatorily as per the guidelines issued by ICMR for COVID-19 laboratory testing, a clarification has been sought from the

answering respondent for tackling the situation related to homeless/mentally ill patients, who may factually not possess such

documents/numbers. In this regard it is submitted that:-

(a) State specific guidelines for establishment of camps for mentally challenged/homeless patients can be issued and further implemented by

the respective States. Thereafter, the said State authorities may adopt suitable protocol to address the grievance raised while ensuring that

strategy of â??Test/Track/Treatâ?? is followed.

(b) In addition all States have been given access on ICMR portal by merging the Application Programming Interface (â??APIsâ??).

(c) Further, individuals being tested who factually do not possess a phone number; a number â??9999999999â? can be entered into the

database. It is clarified that this number may be used for homeless/mentally ill patients only.

(d) In addition, for address of these people, the address of testing labs or hospitals of admission may be entered.

(e) In so far as the RT-PCR (Reverse Transcription-Polymerase Chain Reaction) Application is concerned, the issue was under deliberation

of this Honâble Court in WP(C)No.3031 of 2020 titled â??Shri Rakesh Malhotra vs State of NCT of Delhi & Ors.â? Wherein in terms of

the directions of this Honâble Court a meeting was held on 23.06.2020 between various stake holders and several issues had been

resolved, including the operation of RT-PCR App. It is submitted that the ICMR

does not have any role in the operation of the RT-PCR App.

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9. It is submitted that the answering respondent has already issued a generic Advisory dated 23.06.2020 namely 'New Additional Strategies

for COVID-19 Testing' wherein at para A (ii) and para B (ii) of Annexure 1 and para (xvi) of Annexure 2 of the said Advisory has

specifically mentioned about the testing strategies for mentally ill/homeless patients. The said Advisory of the answering respondent is

available on the website of ICMR and has already been filed before this Hon'ble Court in the present case.â??

3. A perusal of the above makes it clear that steps have now been taken to enable testing of the homeless mentally ill persons for Covid-19.

4. However, it is further suggested by the petitioner that as an alternative, the identity of the concerned police officer having jurisdiction upon the area

in question shall also allowed to be noted in place of the patientâ??s contact details.

5. Thus, we hereby direct the concerned respondent authorities that over and above the aforesaid measures as noted in paragraphs 7 and 9 of the

additional affidavit of ICMR reproduced hereinabove, as an alternative, wherever it is not possible to secure the patientâ??s contact details, identity of

the concerned police officer having jurisdiction upon the concerned area shall also be allowed to be submitted.

6. Mr. Chetan Sharma, learned ASG assures us that the aforesaid provisions will be widely disseminated amongst all concerned expeditiously.

7. With these observations, we see no reason to further monitor this case. The petition is, accordingly, disposed of.