
(2020) 04 UK CK 0001

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 52 Of 2020

Sanpreet Singh Ajmani

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 17-04-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 04 UK CK 0001

Hon'ble Judges : Lok Pal Singh, J;Manoj Kumar Tiwari, J

Bench : Division Bench

Advocate : Sanpreet Singh Ajmani, Sanjay Bhatt, S.N. Babulkar, Paresh Tripathi, Yogesh Pande, Anil Bisht

Final Decision : Disposed Of

Judgement

Lok Pal Singh, J

Mr. Sanpreet Singh Ajmani, petitioner, present in person.

Mr. Sanjay Bhatt, Central Government Standing Counsel for respondent no. 1.

1) Mr. S.N. Babulkar, Advocate General along with Mr. Paresh Tripathi, Chief Standing Counsel, Mr. Yogesh Pande, Addl. Chief Standing Counsel

and Mr. Anil Bisht, Standing Counsel for respondent nos. 2 & 3.

2) The petitioner, who is a practicing Advocate of this Court, has filed the present Writ Petition (PIL) under Article 226 of the Constitution of India

espousing public cause for the benefit of Health Care Workers involved in the ongoing fight against COVID 19 pandemic.

3) By means of present Public Interest Litigation, the petitioner has prayed for following reliefs:

A) Issue writ, order or direction in the nature of mandamus commanding the

respondent no. 1 and 2 through respective District Magistrates to ensure that all the Health Care Workers be provided nutritious food, daily need items, clean cloths and accommodation, having close proximity with the Hospital, where they have been attending to and treating the patients of COVID 19.

B) Issue writ, order or direction in the nature of mandamus commanding the respondent no. 1 and 2 to ensure implementation of the Guidelines issued by the World Health Organization under the heading ‘‘Corona virus disease (COVID 19) outbreak: rights, roles and responsibilities of ‘‘Health Care Workers’’, including key considerations for occupational safety and health’’, strictly in letter and spirit.

C) Issue writ, order or direction in the nature of mandamus commanding the respondent no. 1 and 2 to ensure availability of Personal Protective Equipment ‘‘PPE’’, including sterile medical gloves, starch apparels, medical masks, goggles, face shield, respirators (i.e. N-95 Respirator Mask or Triple Layer Medical Mask or equivalent), shoe covers, head covers and coveralls/gowns to all the ‘‘Health Care Workers’’ attending to, and treating patients of COVID 19 and to ensure police protection and safety of the ‘‘Health Care Workers’’ in compliance of the directions issued by the Hon’ble Apex Court vide order dated 08.04.2020 (Annexure no. P-3) passed in Writ Petition (Civil) Diary No. 10795/2020 ‘‘Jerryl Banait versus Union of India & Anr.’’

D) Issue writ, order or direction in the nature of mandamus commanding the respondent no. 3 District Magistrate, Nainital to look into the grievance of the ‘‘Health Care Workers’’ serving in the Dr. Sushila Tiwari Government Hospital, Haldwani, District Nainital and ensure that they not subjected to humiliation for putting forward their grievance before the media and the respondent no. 2 be directed not to terminate or suspend their employment, without the leave of this Hon’ble Court.

E) Issue writ, order or direction in the nature of mandamus commanding the respondent no. 2 to fill up the vacant posts of the doctors, nurses and other ‘‘Health Care Workers’’ as per the sanctioned post in compliance of order dated 27.11.2019 passed by this Hon’ble Court in Writ Petition (PIL) no. 159/19 and increase the sanctioned posts of the Health Care Workers.

F) Issue writ, order or direction commanding the respondent no. 2 to forthwith pay the arrears of salary of Health Care Workers serving in the Government Hospitals.

G) Issue writ, order or direction commanding the respondent no. 2 to ensure that the Health Care Workers serving in the Government Hospitals be paid the salary at par with the regular employees by applying the principle of "equal work equal pay" in the light of decision of the Hon'ble Supreme Court in Civil Appeal no. 213 of 2013, State of Punjab & others Vs Jagjit Singh & others.

H) Issue writ, order or direction commanding the respondent no. 3 to ensure that necessary amenities be provided to the people residing in Banbhulpura area of Haldwani, District Nainital and ensure that the people residing there may not suffer due to starvation and they may be forthwith provided proper medical aid for diseases other than COVID 19, in the interest of justice.

I) This Hon'ble Court may mould / add / alter the reliefs sought for by enlarging the scope of this writ petition in the peculiar facts and circumstances of this present situation.

J) Pass any other or further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

4) At the very outset the petitioner, appearing in person, has confined his prayer only in respect of reliefs sought in the instant writ petition (PIL) i.e. reliefs no. (A), (B), (C) and (H), as, according to him, the other reliefs sought by him are not of urgent nature in the wake of COVID 19 pandemic.

5) The first contention of the petitioner is that the doctors, nurses and other medical staff, who are the frontline warriors in the ongoing fight against COVID 19 pandemic, are most vulnerable of being affected by the corona virus as they have not been provided with appropriate personal protective equipments, including sterile medical gloves, starch apparels, medical masks, goggles, face shield, respirators (i.e. N-95 Respirator Mask or Triple Layer Medical Mask or equivalent), shoe covers, head covers and coveralls/gowns.

6) It is further contended that the health and safety of Health Care Workers is of utmost importance and any infection to the frontline Corona warriors, i.e., doctors, nurses and other medical staff would create a shortage of Health Care Workers which will ultimately affect the effective

treatment and care of Corona affected patients. It is contended that special attention and care is required to be provided to such Health Care Workers

as they are working on war footing and are doing 10-12 hours duty. They are facing mental agony. It is also contended that a news item was

telecasted in a television channel â??NEWS 18 UTTARAKHANDâ?? in regard to the irregularities found in Dr. Sushila Tiwari Government

Hospital, Haldwani, District Nainital. It is stated that he made a representation to the Union Minister of Health and Family Welfare for making

necessary arrangements, but no steps have been taken by the Union of India as well as by the State of Uttarakhand in this regard so far. It is pleaded

that after the incident of Banbhulpura area of Haldwani which took place on 13th April, 2020, the State Government has imposed a curfew in said

area. It is contended that weaker section of society used to reside in that particular area, thus it is the duty of the State Government to take care of the

health, life and liberty of this particular area where curfew has been imposed.

7) Petitioner has raised an issue that the respective District Magistrates be directed to ensure that all the Health Care Workers be provided nutritious

food, items of daily need, clear apparels and accommodation in close proximity with their work places, i.e. hospitals, where they are attending to and

treating the patients of COVID 19. Further relief has been sought in the nature of mandamus commanding the respondent nos. 1 and 2 to ensure

implementation of the guidelines issued by the World Health Organization under the heading â??Corona virus disease (COVID 19) outbreak: rights,

roles and responsibilities of â??Health Care Workersâ??, including key considerations for occupational safety and healthâ?, strictly in letter and

spirit. Further direction has been sought commanding respondent nos. 1 and 2 to ensure availability of personal protective equipments, including sterile

medical gloves, starch apparels, medical masks, goggles, face shield, respirators (i.e. N-95 Respirator Mask or Triple Layer Medical Mask or

equivalent), shoe covers, head covers and coveralls/gowns.

8) We have convened the court proceedings through video conferencing.

9) Heard the petitioner, present in person, learned counsel for the respondents and perused the documents brought on record. They have consented

that the writ petition (PIL) be decided finally without calling for counter affidavit.

10) It would be apt to note here that the first case of COVID 19 was detected in

the State of Uttarakhand after three trainee IFS officers of Indira

Gandhi National Forest Academy returned to Dehradun after attending a conference / training programme in Spain. However, they did not disclose

their travel history to the local administration. When the symptoms of COVID 19 developed in their bodies, they were rushed to the State Government

Hospital and after proper examination it was revealed that all of them are Corona positive. They were immediately quarantined. Two other persons

came in the State from abroad and were detected COVID 19 affected. Total 07 COVID 19 cases were detected in the State of Uttarakhand.

However, after the news got published in the media that some members of the Jamaat have returned to their respective cities from Nijamuddin

Markaz, Delhi, a frantic search was made by the State Government and they were medically examined and the total number of Corona affected

persons went upto 35. By passage of time, 07 Corona affected patients got cured. However, 28 Corona affected persons are still undergoing

treatment. Fortunately no loss of life is reported so far in the State of Uttarakhand due to COVID 19 pandemic.

11) Learned counsel appearing for the State has apprised this Court that only 28 Corona affected persons are in the State of Uttarakhand and in the

past 10 days not even a single case of Corona affected person has been detected in the State. As per the instructions received by learned Counsel for

the State following safety gears / equipments are available with the State Government:

i) PPEs 31965

ii) N-95 masks 42308

iii) Triple layer masks 134405

iv) Oxygen cylinders 1639

v) VTM vials 18087

vi) Functional ventilators 266

12) We have been informed by learned Counsel for the State that none of the Corona affected patient is on ventilator at present and many a patients

were cured by keeping them in quarantine and after providing proper medication which is being used for treating influenza, cough cold and fever.

13) So far as the Union of India is concerned, the petitioner has no grievance

against it.

14) So far as the State Government is concerned, we have no hesitation in recording our appreciation towards the effectual steps taken by it in

controlling the outbreak of COVID 19 pandemic in the State by taking timely action.

15) After going through the contentions raised by the petitioner before this Court, we are enlarging the scope of the present writ petition (PIL) in

respect of all the Districts of the State of Uttarakhand. The writ petition (PIL) is being disposed of finally with the consent of the petitioner as well as

respective counsel for the respondents present.

16) Having considered the respective submissions of the petitioner as well as learned counsel for the respondents, this Court is of the view that

following directions be issued to respondent nos. 2 and 3 as well as to other District Magistrates of the State of Uttarakhand:

i) Respondent no. 3 and all the District Magistrates shall ensure that PPEs are provided to the frontline Corona warriors, i.e., doctors, nurses and other

medical staff while collecting samples and also during treatment of Corona affected persons.

ii) The State Government shall ensure that all the Health Care Workers, i.e., doctors, nurses and other medical staff, who are unable to visit their

respective residences, shall be provided nutritious food, items of daily need, clean apparels and accommodation in close proximity of their work places

where they are attending and treating the Corona affected patients, if such facilities are not already being provided to them.

iii) The District Magistrates of all 13 districts shall ensure that none of the medical officers, nurses and medical staff shall avoid the use of PPEs. The

direction issued by the Government of India in its Circular dated 12th April, 2020 shall be complied with strictly and any violation of said circular by

any of the Medical Officers or medical staff shall be considered as act of indiscipline.

iv) Respondent nos. 2 and 3 shall ensure the implementation of the Guidelines issued by the World Health Organization under the heading "Corona

virus disease (COVID 19) outbreak: rights, roles and responsibilities of Health Care Workers", including key considerations for occupational

safety and health.

v) Respondent no. 3 and all the District Magistrates of the State of Uttarakhand shall look into the grievances of Health Care Workers in their

respective Districts. However, the Medical Officers and the medical staff, if aggrieved, may raise their grievance before the State Government

instead of approaching the Media.

vi) Respondent no. 3 and all the District Magistrates shall ensure maintenance of law and order in their respective districts. They shall ensure the

safety of Medical Officers, nurses and other medical staff, including drivers and attendants of the ambulances, by providing adequate police protection

to them as and when they are asked to take into custody any suspected Corona affected person for treatment to the hospital or for quarantine

purposes.

vii) Respondent no. 3 and all the District Magistrates shall identify the sensitive areas where there is likelihood of any violent action being taken by the

public against the frontline Corona warriors, including the police personnel and to take appropriate preventive measures to ensure that no harm is

caused to the frontline Corona warriors / public safety.

viii) The State Government shall ensure availability of essential commodities to residents of the areas which are declared as hot spots or where curfew

has been imposed.

ix) Respondent nos. 2 shall ensure the compliance of the directions issued to respondent no. 3 as well as to all the District Magistrates of the State of

Uttarakhand.

x) State Government shall organize awareness campaigns using mobile vans equipped with loudspeaker among the general public to make them aware

of the outbreak of Corona pandemic and its rapid spread, more particularly in the sensitive areas.

17) With the directions as above, the writ petition (PIL) stands disposed of finally. (All pending applications also stands disposed of).