

CJ & AAJ:

23.07.2020

(through video conferencing)

W.P.No.8619/2020 c/w

W.P.Nos.8536/2020, 8622/2020

8668/2020 & 8848/2020

1. Today, the State Government has filed the written submissions in terms of the directions issued in the earlier orders and in particular, the order dated 20th July 2020. Our attention is invited to the circular dated 22nd July 2020 (Annexure-R35). It will be appropriate if a direction is issued by the State Government that this circular should be made available to all the laboratories in the State which are recognized for COVID-19 testing. In turn, a direction is required to be issued to the laboratories to provide copies of this circular to all the persons coming for COVID-19 testing. Needless to add that the copies of the circular in Kannada language will have to be supplied to the persons coming for COVID-19 testing.

2. The State Government has placed on record the data of Indian Council of Medical Research (for short 'ICMR') approved testing centres in the State. In paragraph 3 of the written submissions, details of the number of tests undertaken have

been set out. In paragraph 4, it is stated that steps have been taken to make a provision to send SMS to a patient who has been tested negative and a request has been made that ICMR should send SMS to all those who have undergone COVID-19 testing. Revised Standard Operating Procedure (for short 'SOP') for COVID Care Centres (for short 'CCCs') is also placed on record.

3. It is stated in paragraph 7 of the written submissions that regular updates regarding availability of the beds at various facilities is available on clicking the link mentioned therein. The learned Additional Advocate General stated that though there is no real time updation of the data on the website, as and when the details are received from the hospitals, the data is updated. According to us, making available up-to-date data of the available vacant beds on public domain is one of the crucial parts of the fight against COVID-19. Therefore, it will be appropriate if the State Government issues directions to ensure that every hospital regularly submits the data of availability of beds at such intervals as may be decided by the State Government.

4. We have perused Annexure-R39 which has been issued in exercise of the powers under Sections 2 and 3 of the Karnataka Epidemic Diseases Ordinance, 2020 and the regulations framed thereunder read with Sections 2 and 11 of the Karnataka Private Medical Establishment Act as amended in the year 2007. However, we find that there is no specific direction that a person who is suffering from medical emergency arising out of an ailment other than COVID-19 should not be denied treatment on the ground that he is unable to produce a medical report showing that he is tested negative for COVID-19. The State Government will have to issue necessary modification.

5. As regards the ambulance services, paragraph 10 needs clarification. Apart from 108 ambulances, it is placed on record that Bruhat Bengaluru Mahanagara Palike (for short 'BBMP') and the district administrations have procured services of the private ambulances. It will be appropriate if a centralized mechanism is created by providing one helpline number so that patients or their relatives will be able to secure the services of even private ambulances in case the ambulances assigned to 108 are not available.

6. As regards the special facilities for health care workers, in clause (b) of paragraph 11 of the written submissions, it is stated that a provision has been made for payment of Personal Protective Equipment (for short 'PPE') risk allowance incentive for the medical staff members (Group – D) who are required to wear PPE kits. The State Government must clarify whether this allowance will be payable to the contract workers who have been employed in the hospitals run by the State Government and agencies and instrumentalities of the State Government. As regards clause (c) of paragraph 11, the State Government must clarify whether the insurance scheme (Garib Kalyan Package Insurance Scheme for the health workers fighting COVID-19) is applicable firstly, to the contract workers and secondly, to the staff doing the work of cleaning and sanitization in the hospitals of the State Government and agencies and instrumentalities of the State Government.

7. In paragraph 12, there is an assurance that constitution of the Medical Expert Committee will undergo a change on the lines of the directions issued by the Apex Court. The time granted by the Apex Court to the State Government to set up

the Committee has expired long back and therefore, the State Government must act immediately.

8. It is stated that the report submitted by the Karnataka State Legal Services Authority has been forwarded to BBMP. BBMP must respond on the next date of hearing on what is recorded in the said report and as observed earlier, what is stated on pages 10 and 11 of the said report.

9. Paragraph 14 onwards of the written submissions deal with all the districts in the State. A chart has been handed over across the Bar indicating the Dedicated COVID Hospital (DCH), Dedicated COVID Health Centres (DCHC) and CCC facilities available in various districts. We will hear the learned counsel appearing for the petitioners on these aspects on the next date.

10. The issue of *poura karmikas* has been raised in W.P.No.6435/2020. However, COVID-19 related issues concerning the *poura karmikas* working in the city of Bengaluru are also involved. The learned counsel appearing for BBMP states that a meeting was convened yesterday by the concerned Joint Commissioner of all the stakeholders. He

stated that there are 17,419 *poura karmikas* on the role of BBMP who are regularly getting salary of ₹18,200/- per month. He stated on instructions that PPE kits have been provided to all the *poura karmikas* and the parts of PPE kits which are for one time use are being replaced everyday. He stated that the written submissions have been filed by him. After going through the written submissions, further directions can be issued. We will consider the written submissions on the next date of hearing.

11. The learned counsel appearing for BBMP further stated that now, all *poura karmikas* will be subjected to COVID-19 test. He states that 4 *poura karmikas* have died due to COVID-19 and 15 *poura karmikas* have been tested positive. He states that all 15 have been hospitalized and the hospital charges will be borne and paid by BBMP. He states that the salary of these *poura karmikas* will remain unaffected. He states that compensation of ₹10,00,000/- has been paid to the families of the deceased *poura karmikas* and a sum of ₹20,000/- has been paid on account of funeral expenses. He states that after taking instructions, he will make a statement that whether Garib Kalyan Package Insurance Scheme for the

health workers fighting COVID-19 is applicable to the *poura karmikas*. He stated that he will take instructions about the payment of salary and supply of equipments to the *poura karmikas* who have been employed through contractors and make a statement on the next date of hearing.

12. Mr.Clifton D.Rozario, the learned counsel submitted that even some of the *poura karmikas* and especially, the *poura karmikas* working in Ward Nos.93 and 110 have not been paid salary for the last two months. The learned counsel appearing for BBMP will take instructions on this aspect. Mr.Clifton also states that some of the contract workers have not been paid salary for more than two months. Even on this aspect, the learned counsel appearing for BBMP will take instructions and make a statement on the next date.

13. Perused the memo dated 23rd July 2020 filed by Mr.G.R.Mohan, the learned counsel. The learned Additional Advocate General will take instructions on what is stated in paragraphs 3 and 4 of the memo.

14. The learned counsel appearing for Bengaluru Metro Rail Corporation Limited (for short 'BMRCL') seeks a short time to place its response on record. However, he states on

instructions that the workers residing in the camp at Kannur have been shifted to other camps and the said camp has been closed. He states that the workers who are tested positive have been discharged from the hospital and some of them have been advised home quarantine. He further states that the contractors will pay regular salary to the workers who are tested positive and to those who are undergoing quarantine. He states that the expenses of medical treatment have been borne and paid by the contractors appointed by BMRCL. He further states that SOPs have been devised which are applicable to all the 59 camps of workers of BMRCL.

15. The learned counsel Sri Clifton D. Rozario submitted that when he had gone to visit 7 camps, firstly, he did not get easy entry into the camps and secondly, he noticed that the conditions in the camps are pathetic inasmuch as the norms of social distancing are not being observed.

16. BMRCL is a company set up by the State Government and the Central Government. Therefore, it is the duty of BMRCL to ensure that the contractors take care of all the workers. BMRCL must also state whether any insurance

scheme is made applicable to the workers who are working on the sites of BMRCL. The learned counsel appearing for BMRCL shall ensure that the written submissions are filed latest by the morning of 26th July 2020 and the copies thereof are furnished to the counsel representing the parties in this case. BMRCL will also place on record necessary material to show that all the workers who are affected by COVID-19 and the workers who are put in quarantine because they were primary contacts have been paid regular wages without any deduction.

Order In W.P.No.8848/2020

17. In this petition, the issue is regarding treating the dead bodies of COVID-19 patients with dignity. There are several grey areas in the SOPs which are on record starting from handing over the custody of the dead body to the relatives and allowing them to perform the last rites at the place of their choice. The other issue is regarding identity of the dead bodies. Another issue will be regarding dealing with the dead bodies which are unclaimed.

18. The learned counsel appearing for BBMP states that recently, SOP has been issued by BBMP dealing with these issues and he will immediately place a copy of the SOP on record.

19. This issue will have to be gone into in detail as several clarifications are necessary from the end of the State Government. We propose to consider this issue on the next date that is, 27th July 2020 at 2.30 p.m.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

AHB/RV/bkv