

WP (PIL) No. 06/2020

IN RE- COVID 19 MANAGEMENT

For Petitioner : Mr. Jorgay Namka, Amicus Curiae.

For Respondents No. 1, 2 and 12 : Ms. Sangita Pradhan, Asst. Solicitor General of India.

For Respondents No. 3 to 11 : Mr. Sudesh Joshi, Addl. Advocate General.
Mr. Hissey Gyaltsen, Asst. Govt. Advocate.

Date: 14/08/2021

CORAM :

HON'BLE MR. JUSTICE JITENDRA KUMAR MAHESHWARI, CJ.
HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

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PER J.K. MAHESHWARI, CJ

The present case is related with respect to Covid-19 management issues in the State of Sikkim.

2. The perusal of record indicate, time to time, orders were passed seeking explanations from the State Government. In furtherance bulky explanations have been filed, but those are of no avail.
3. The situation since last three months prevailing in the State regarding Covid-19 cases is fluctuating. Initially, it ranges higher, later on it has come down, now again it is increasing gradually and the present percentage of Covid cases reaches between 10 to 12 in the State.
4. The Officers who are assigned the duties of Covid-19 management issues are not in a position to identify the probable reasons of increase of cases thereon the effective control ought to be made, showing the indicator of check points in increase of the cases in the State. The bulky explanations filed are not satisfactory or even do not identifying the reason of increase.
5. Today, during the course of hearing, it is contended before the Court that as per the Standard Operating Procedure (SOP) issued by the Central Government, the State Government has complied those requirements observing the same. It is also stated that the guidelines of ICMR as issued are being followed.

6. While analyzing those statements comparing with the requirement of SOP, this Court found that the Officer who filed the affidavit has not furnished with correct information. For the sake of example, in paragraph 11 of the affidavit dated 27.07.2021, it is said in all across the State there are 23 Covid Care Centres (CCC) established which is marked as Annexure R-3. The Human Resources (HR) in these facilities have been deployed in line with requirement as laid down in the SOP. Further said that each CCC has a Medical Officer (MO) or a Multi Purpose Health Worker (MPHW) as the Nodal Officer as detailed in the list of CCCs. Those Nodal Officers are supported by ASHA/Anganwadi workers and the up keep facilities are looked after by the Gram Panchayat of the area in the rural areas and the Urban Local Bodies in the urban areas. When we compared the said statement from Annexure R-3 at page no. 886, the details of North District, Mangan has been shown wherein it is not specified that who is the Nodal Officer. It is merely said that one Medical Officer and one paramedical staff has been deployed being HR in each CCC apparently this is not requirement as specified in the SOP and said by the Officer in the affidavit that too without specifying about Anganwadi/ASHA workers.

7. On coming to the list of equipments as filed for North District Annexure I-A at page no. 888, out of total 18 requirements specified in the SOP, seven is not fulfilled and dedicated Ambulance is also not there for the CCCs. Learned Addl. Advocate General made an attempt to satisfy this Court that these are the available equipments to which a list has been furnished. Similar is the position to answer the requirement of the SOP specified in the Annexure I-B, which is answered at page no. 889. On being asked by the Court why in the matter of list of equipments Annexure I-A it has been mentioned that Centre (for one month). Learned Additional Advocate General contends that it is a clerical mistake. If we see the contents of the affidavit in paragraph 11 furnished by the Officer and on comparison with SOP it reflects that the requirement has not been complied with. Therefore, we find that despite bulky explanations filed time to time nothing concrete has been brought indicating the root facilities available on the CCCs. How far such explanation of irresponsible Officer who is holding the post of Director (Admin), Department of Health Care, Human Service and Family Welfare, Government of Sikkim can be accepted and how far the Additional Advocate General can justify the incorrect factual aspect is beyond the reach of understanding of the Court.

8. This Court is cautious that it is a matter regarding Health Care facilities to the citizens of the State of Sikkim, in particular, to combat the surge of Covid-

19 pandemic, in our view such responses are not acceptable. Having experienced on so many dates we deem it appropriate to observe that the learned Advocate General must appear in this case and apprise this Court regarding the correct position of the facts showing the compliance of the SOP of the Central Government which is at least a minimum compliance by the State Authorities and also on other issues.

9. We cannot hesitant to say that the State Government is duty bound to observe the provisions as contained in the Directive Principles of State Policy (DPSP) corresponding to the Article 21 of the Constitution of India in the matter of health and security of the citizens of the State. Therefore, with hope and trust that within two weeks the Advocate General would come forward with the correct and genuine issue/replies and explanations of the previous orders and make his submissions on the next date.

10. List this case for further orders on 01.09.2021.

11. If any explanation/response is required to be filed by the State Government it should be filed on or before 31.08.2021.

Judge**Chief Justice**