

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No. 58 of 2020

Sachdanand Dabral

....Petitioner

Versus

Union of India and others

....Respondents

Present:-

Mr. Shiv Bhatt, Advocate for the petitioner.
Mr. S.N. Babulkar, learned Advocate General, Mr. H.M. Raturi, Deputy Advocate General, Mr. Vinod Nautiyal, Deputy Advocate General and Mr. Paresh Tripathi, learned Chief Standing Counsel assisted by Mr. Yogesh Pandey, Addl. C.S.C., Mr. Anurag Bisaria, Standing Counsel, Mr. Anil Bisht, Standing Counsel and Mr. Suyash Pant, Brief Holder for the State.
Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India assisted by Mr. Sanjay Bhatt and Mr. V.K. Kaparwan, Advocates.

Writ Petition (PIL) No. 51 of 2020

Rajendra Arya

....Petitioner

Versus

Union of India and others

....Respondents

Present:-

Mr. Piyush Garg, Advocate for the petitioner.
Mr. S.N. Babulkar, learned Advocate General, Mr. H.M. Raturi, Deputy Advocate General, Mr. Vinod Nautiyal, Deputy Advocate General and Mr. Paresh Tripathi, learned Chief Standing Counsel assisted by Mr. Yogesh Pandey, Addl. C.S.C., Mr. Anurag Bisaria, Standing Counsel, Mr. Anil Bisht, Standing Counsel and Mr. Suyash Pant, Brief Holder for the State.
Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India assisted by Mr. Sanjay Bhatt and Mr. V.K. Kaparwan, Advocates.
Ms. Anjali Bhargava, Advocate for B.S.N.L.

Writ Petition (PIL) No. 50 of 2020

In Re in the Matter of to Provide Adequate Security to
Doctor and Other Para Medical Professionals

....Petitioner

Versus

Principal Secretary/Secretary, Health Department
Govt. of Uttarakhand and others

....Respondents

Present:-

Mr. Dushyant Mainali, petitioner in person.

Mr. S.N. Babulkar, learned Advocate General, Mr. H.M. Raturi, Deputy Advocate General, Mr. Vinod Nautiyal, Deputy Advocate General and Mr. Paresh Tripathi, learned Chief Standing Counsel assisted by Mr. Yogesh Pandey, Addl. C.S.C., Mr. Anurag Bisaria, Standing Counsel, Mr. Anil Bisht, Standing Counsel and Mr. Suyash Pant, Brief Holder for the State.

Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India assisted by Mr. Sanjay Bhatt and Mr. V.K. Kaparwan, Advocates.

Hon'ble Sudhanshu Dhulia, J.

Hon'ble Ravindra Maithani, J.

Today we had a very fruitful discussion with the learned Advocate General Mr. S.N. Babulkar, learned Assistant Solicitor General of India Mr. Rakesh Thapliyal and the learned counsels for the parties. What is also necessary to mention is that the Secretary, Health, Government of Uttarakhand and the Director General, Medical Health were also connected with us via video-conferencing.

2. We had said right at the beginning in our previous orders that these are public interest litigations. These are by its nature not adversarial in nature, and the very purpose of these litigations is to arrive at a solution for the problems which have been raised before this Court. This

could only have been done by cooperation and on assistance of the State Authorities and we are happy to note that the State Government has not disappointed us.

3. Having said this, we must note that presently the efforts which are being made by the State Authorities, particularly at the borders of Uttarakhand, are not sufficient to check the return of persons, who are coming more rapidly in ever increasing numbers. We are afraid many of them may be infected with the virus. We say this as admittedly COVID-19 positive cases have been detected in far flung places like “Betal Ghat” in Nainital, Uttarkashi, Tehri, Almora and many other interior hill districts. All this has happened after opening up after the lockdown. This situation is absolutely alarming.

4. We are not against the arrival of the people. They have every right to come. Our only concern is that in these difficult times there must be a proper screening at the borders.

5. Admittedly the present tests which are being done on the borders, are only limited to thermal screening and general clinical examination. This is admitted by the State Authorities as well that this is not a sufficient measure and we can do better.

6. After having a broad discussion with the learned Advocate General Mr. S.N. Babulkar assisted by Mr. Paresh Tripathi, learned Chief Standing Counsel, Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India and the State Authorities, we direct as follows:

7. More than two lakh persons are likely to come to Uttarakhand since the opening of the state borders. More than ninety thousand persons have already reached Uttarakhand. The remaining are coming on daily basis and roughly 6000 – 7000 persons are entering Uttarakhand from various border points each day.

8. At each border point, the State Government shall make every possible effort to establish and make functional quarantine centers. In these quarantine centers, all such returnees who are coming from red zones shall be kept for a period of one week. Out of these quarantined persons, those who have necessary symptoms, as per the guidelines of ICMR, shall be tested for RT-PCR.

9. Although rapid antibody test has not been approved by ICMR for diagnostic purposes, but since the result of this test is available in much less time, such tests can be used for surveillance purposes alone. At Least it would be a better surveillance than the surveillance by thermal screening!

10. Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India, who is representing ICMR has given a statement before this Court that ICMR has no objection if rapid testing is done only for surveillance purposes, but this decision has to be taken by the State Authorities.

11. ICMR has also recommended certain manufacturers, who make rapid testing. The Secretary,

Health, Government of India has fairly admitted that this test can be done on an experiment basis at border points and subject to its success or failure will be implemented further or discontinued. We appreciate this suggestion.

12. Let the rapid test kit be procured immediately and testing be done by this method, on experiment basis at the border points.

13. We have also been informed that ICMR has approved a testing kit, called "Elisa" Kit, under Integrated Disease Surveillance Programme, which can be made available to the State Government. Such tests have already been performed in District Pauri Garhwal of Uttarakhand. Let it be done for surveillance purposes in other districts as well.

14. Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India has assured this Court that as and when the State Government makes a requisition of these kits, the same shall be supplied to them, depending upon their requirement, without any further delay.

15. Let a progress report be filed by the learned Advocate General on the points which we have discussed above.

16. List this case on 02.06.2020.

(Ravindra Maithani, J.)

(Sudhanshu Dhulia, J.)

20.05.2020