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IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH
CHAUHAN

AND

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

Writ Petition (PIL) No. 58 of 2020

WITH

Writ Petition (PIL) No.97 OF 2019
Writ Petition (PIL) No. 59 OF 2020
Writ Petition (PIL) No.51 OF 2020
Writ Petition (PIL) No.67 OF 2020
Writ Petition (PIL) No.70 OF 2020
Writ Petition (PIL) No.61 OF 2021
Writ Petition (PIL) No. 71 OF 2021
Writ Petition (PIL) No.72 OF 2021
Writ Petition (PIL) No.77 OF 2021
Writ Petition (PIL) No.90 OF 2021

07TH JULY, 2021

Mr. Shiv Bhatt, the learned counsel for the petitioner in WPPIL No. 58 of 2020 and WPPIL No. 77 of 2021.

Mr. Piyush Garg, the learned counsel for the petitioner in WPPIL No.51 of 2020.

Mr. Dushyant Mainali, the learned counsel for the petitioner in WPPIL No. 50 of 2020.

Mr. Abhijay Negi, the learned counsel for the petitioner in WPPIL No.97 of 2019.

Ms. Snigdha Tiwari, the learned counsel for the petitioner in WPPIL Nos. 67 of 2020 and 71 of 2021.

Mr. Arjun D. Singh, petitioner, in-person, in WPPIL No.90 of 2021.

Mr. S.N. Babulkar, the learned Advocate General assisted by Mr. C.S. Rawat, the learned Chief Standing Counsel for the State of Uttarakhand.

Mr. Rakesh Thapliyal, the learned Assistant Solicitor General for the Union of India.

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The Court made the following:

COMMON ORDER : (per Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

In compliance of the order dated 28.06.2021, Mr. S.S. Sandhu, the learned Chief Secretary, Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, Mr. Dilip Jawalkar, the learned Secretary, Tourism and Mr. Ashish Chauhan, the learned Additional Secretary, Culture and Religion Affairs Department, are present before this Court, through Video Conferencing.

2. Mr. Dilip Jawalkar has submitted an affidavit, which shall be taken on record.

3. Mr. Shiv Bhatt, the learned counsel for the petitioner in Writ Petition (PIL) No. 58 of 2020, has brought to the notice of this Court two letters, written by Mr. Rajesh Bhushan, IAS, the Home Secretary, Government of India, dated 28.06.2021 and 29.06.2021. The learned counsel submits that according to these letters, certain guidelines have been issued by the Department of Health and Family Welfare. These guidelines are required to be strictly implemented by the State Governments and the Union Territories. According to the letter dated 29.06.2021, the States were directed to have a continuous focus on five-fold strategies for

effective management of Covid-19 i.e. tests-track-treatment-vaccination, and adherence to Covid appropriate behavior. However, according to the SOP dated 05.07.2021, issued by the State, certain relaxations have been given, such as "the lockdown is not to be observed during the weekends". Therefore, the shops and the restaurants are permitted to be open and functional during the weekends. According to the learned counsel, the moment the lockdown is relaxed, a large number of people are flooding in the hill stations of the State. Many of them are arriving within the State without the required registration, and without the required RT-PCR negative test reports. Therefore, these tourists, who are pouring in, are beginning to pose a threat both to the creation of the new mutant, and to the spread of *Delta Plus* mutant. The learned counsel further submits that already the Head of the AIIMS, New Delhi, the Head of the WHO, and the ICMR have clearly declared that the second wave, caused by the Delta variant, is not over. Moreover, the WHO and the scientific community within India have already warned that the *Delta Plus* variant has started to spread its tentacles. Furthermore, the third wave is likely to hit India in the second week of August, 2021. According to the expert opinion, the third wave will be 1.7 time

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stronger than the second wave. According to the Media Reports, 66 cases of Delta Plus variant have been discovered. Mr. Shiv Bhatt further informs this Court that thirty samples were sent from Uttarakhand to the National Centre for Disease Control ("NCDC" for short).

4. According to Mr. Amit Negi, the learned Secretary, Health and the Family Welfare, in total 521 samples have been sent to the NCDC from the State. Out of these, 144 samples have been found to be Covid-19 positive, and belong to the *Delta* variant. A single sample, arising from the Udham Singh Nagar district, has been discovered to be as a *Delta Plus* variant sample. Therefore, Mr. Shiv Bhatt submits that a direction should be issued to the Government to review its decision with regard to relaxing the lockdown during the weekends; the State Government should also be directed to control the inflow of the tourists into the State.

5. Mr. Shiv Bhatt further submits that according to the Media Reports, the death audit is not being carried out properly. For, there are 70% backlog deaths, which need to be dealt with.

6. Furthermore, according to the Media Reports, the healthcare system continues to totter, and continues

to be a weak one. According to a report, published in *Amar Ujala* newspaper, dated 27th June, 2021, the Government hospitals are not equipped with MRI machines. Moreover, there are a number of CHCs, which are not staffed with Doctors. Therefore, there is a drastic need to strengthen the healthcare system within the State.

7. He further submits that even the position of vaccination in the State is rather dismal. According to the Media Reports, India is far behind the other countries in vaccinating its population. While France, the United Kingdom and United States have vaccinated between 41 to 47% of their population, India has inoculated about 26% of its population. According to Mr. Shiv Bhatt, even on the last occasion, while dealing with the three districts of Uttarkashi, Chamoli and Rudraprayag, it was clearly pointed out that not even 50% population has been inoculated. According to the learned counsel, the invasion of tourists will jeopardise the local people, who have not been inoculated so far. Drawing the attention of this Court to the Times of India dated 07.07.2021, the learned counsel further submits that the Central Government has been directing the State Government to control the crowd, which is mulling in its towns and cities. For, there is a disparate need to prevent the

onslaught of the third wave. However, the government is singularly failing to do so.

8. Mr. Abhijay Negi, the learned counsel for the petitioner in Writ Petition (PIL) Nos. 97 of 2019 and 72 of 2021, has raised the following two issues:

Firstly, there is a lack of pediatric wards, pediatric beds, and pediatric ventilators in the Government hospitals. According to the learned counsel, since the third wave is likely to adversely affect the health of the children, it is imperative for the State to be well prepared with beds, specifically marked for the children. Moreover, there is a need to augment the number of pediatric wards, and to increase the number of pediatric ventilators available in the Government hospitals. According to the learned counsel, if the Government hospitals are not strengthened to deal with the children, who are likely to be affected by the third wave, a chaotic situation again will be created, where the people will have to run unnecessarily from pillar to post in order to save the lives of their children.

Secondly, the stipend being paid to the intern Doctors is significantly lower than the stipend being paid by the other States. According to him, while the intern Doctors in Uttarakhand are being paid a monthly stipend of Rs. 7,500/-, the intern Doctors in Himachal Pradesh

are being paid Rs. 17,000/- and in Chhatisgargh, they are being paid Rs. 17,900/- per month as stipend. Thus, according to the learned counsel, it is essential that the stipend being paid to the intern Doctors should be increased so as to motivate them to become a front-line warrior to tackle Covid-19. This is extremely necessary as the third wave is only four weeks away according to the expert opinion. Thus, the learned counsel suggests that the State must gear up and must strengthen its healthcare system to take on the third wave as it strikes the State, possibly in the second week of August, 2021.

9. Ms. Snigdha Tiwari, the learned counsel for the petitioners in Writ Petition (PIL) No.67 of 2020, Writ Petition (PIL) No.71 of 2021, has further raised the issue of inoculation of the physically challenged and the elderly people in the State. According to her, it is extremely difficult, if not possible, for the physically challenged and the elderly people to go to the hospitals to be inoculated. Therefore, she suggests that, as has been done in the State of Jammu & Kashmir and other States, the inoculation of this particular segment of the society should be carried out "at home". Therefore, she suggests that a scheme should be formulated by the State Government to ensure that this particular segment of the society is inoculated "at home", or in the alternative, in

the clinics which are created nearby their homes. According to her, since the physically challenged people already have a compromised immune system, and since the elderly people are the victims of COVID-19 pandemic, it is essential that they be inoculated as expeditiously as possible, so as to protect them from the onslaught of the third wave of COVID-19.

10. This Court has pointed out to the learned Chief Secretary that there are media reports which clearly reveal that the hill stations of the State are being inundated by tourists every weekend. According to one media report, published in *Dainik Jagran* newspaper, in the last weekend, Nainital had received 10,000 tourists, this weekend, Nainital has received 25,000 tourists. Due to the great influx of tourists, social distancing is not being maintained; many of the tourists do not bother to comply with the SOP for COVID-19; most to them are found to be without masks; many of them do not use sanitizer. Moreover, according to *Dainik Jagran*, Haldwani edition, dated 07.07.2021, many of these tourists are entering the State without registration, or/and without the required RT-PCR reports. Furthermore, according to the media reports, many of “the negative reports” are found to be forged as in the case of Haridwar, and now in the case of Tehri.

Therefore, this Court has requested the learned Chief Secretary to request the State Government to review its decision of opening up the markets during the weekends, and in relaxing the lockdown during the said period.

11. Mr. S.S. Sandhu, the learned Chief Secretary, has given an undertaking to this Court that he would immediately bring this issue to the notice of the State Government.

12. In light of the facts mentioned hereinabove, this Court issues the following directions to the State Government: -

i. To review its decision to relax the lockdown during the weekends, and to permit a large number of tourists to invade the State during the said period. For, the tourists may bring in and introduce the dreaded *Delta plus* variant in the State.

ii. The State is further directed to take concrete steps to control the inflow of tourists in the State. The steps, so taken by the State, should be informed to the public at large so that the potential tourists are informed about the steps being taken by the State.

iii. This Court directs Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, to inform this Court about the number of samples sent to the NCDC; about the reports received from the NCDC with regard to these samples; with regard to the steps taken, either by the District Magistrate, or by the Health Officers of the concerned district where anyone is found to be suffering from the *Delta* variant, or from the *Delta plus* variant.

iv. Mr. Amit Negi is further directed to inform this Court with regard to the number of MRI machines available in the Government Hospitals of the State.

a. Whether these MRI machines are available in all the Government Hospitals or not?

b. In which Government Hospitals of the State, the MRI machines are not available in the State?

c. Whether all the CHCs' have doctors appointed in them or not?

d. A complete list of CHCs without doctors should be provided in the report.

v. Mr. Amit Negi is further directed to inform this Court with regard to the availability of the

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pediatric beds, pediatric ventilators, and pediatric wards in the Government Hospitals, and in the private hospitals operating in the State.

vi. He is further directed to inform this Court with regard to the position of vaccination in the State. He shall inform this Court with regard to the number of inoculation carried out in each district of the State. How many persons have received the first doze? How many persons have received the second doze? What is the daily rate of vaccination in the State?

vii. He is further directed to consider, and to implement the scheme for vaccinating the physically challenged and elderly people, as expeditiously as possible. In case, "near to home clinics" can be established, the possibility for the same should be explored by the State Government.

viii. Mr. Amit Negi is further directed to consider the possibility of increasing the stipend being paid to the intern doctors. For, on the one hand, according to Mr. Amit Negi, it is difficult to attract the doctors to the State, yet, on the other hand, the stipend being paid to the intern

doctors is too low as compared to the other States. Therefore, the State Government should consider the possibility of increasing the stipend of intern doctors within the State.

ix. Lastly, Mr. S.S. Sandhu, the learned Chief Secretary is directed to inform this Court with regard to the decision, if any, taken by the State Government concerning tightening of the lockdown during the weekends in the State.

13. Both Mr. Dilip Jawalkar, the learned Secretary, Tourism, and Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, have sought time for submitting their respective reports. They are directed to submit their respective reports on or before 26.07.2021.

14. Mr. S.N. Babulkar, the learned Advocate General further informs this Court that the State Government has referred the matter of live streaming of the Char Dham temples to the *Char Dham Devasthanam* Board. Therefore, he seeks time to further inform this Court whether the live streaming of the *pujas* and *archanas*, carried out within the sanctum sanctorum of the Char Dham temples, would be possible or not. He is further directed to inform this Court if any decision on

the said issue has been taken by the the *Char Dham Devasthanam* Board by 28.07.2021.

15. Mr. S.S. Sandhu, the learned Chief Secretary, Mr. Dilip Jawalkar, the learned Secretary, Tourism, Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare and Dr. Ashish Chauhan, the learned Additional Secretary, Culture and Religion Affairs Department, are directed to be present before this Court on 28.07.2021, through Video Conferencing.

16. List this case on 28.07.2021.

RAGHVENDRA SINGH CHAUHAN, C.J.

ALOK KUMAR VERMA, J.

Dt: 7th July, 2021
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