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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3031/2020 & C.M. No. 15227/2021, C.M. No. 15228/2021
C.M. No. 15229/2021, C.M. No. 15358/2021, C.M. No. 15359/2021
C.M. No. 15360/2021, C.M. No. 15361/2021, C.M. No. 15362/2021
C.M. No. 15363/2021, C.M. NO. 15481/2021, C.M. 15482/2021,
C.M NO. 15652/2021, CM NO. 15653/2021, C.M. NO. 15845, CM.
NO. 15869/2021, C.M.No. 15962/2021, C.M. Nos. 16081-85/ 2021.
RAKESH MALHOTRA Petitioner

Through Petitioner in person.

Versus

GOVERNMENT OF NATIONAL CAPITAL
TERRITORY OF INDIA AND ORS Respondents

Through Mr.Rahul Mehra, Senior Advocate with Mr.Satyakam, ASC, Mr.Gauram Narayan, ASC, Mr.Anuj Aggarwal, ASC, Mr.Chaitanya Gosain, Adv for GNCTD.

Mr.Anurag Ahluwalia, CGSC with Mr.Abbigyan Siddhant, Mr.Nitnem Singh, Advs for UOI.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae), Mr. Anandh Venkataramani, Mr. Vinayak Mehrotra, Ms. Mansi Sood, Mr. Karthik Sundar, Ms. Sonal Sarda, Mr. Areeb Y Amanullah, Advocates

CORAM:

**HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI**

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ORDER
13.05.2021

1. At the outset, we have put to Mr.Anurag Ahluwalia, appearing for the ICMR, as to why the Feluda test - which provides faster results in about two hours without compromising accuracy, is not being used as an alternative and only RT-PCR test is being propagated. He has submitted

that though the Feluda test, which was developed by the CSIR and marketed by the TATAs, was used extensively in Maharashtra as also for testing during the recently held Kumbh Mela, the same is perhaps not being used by most States as a Feluda Kit is costlier vis-a-vis a RT-PCR Kit. He has further informed us that the Feluda testing has the advantage of being conducted in mobile labs, unlike the RT-PCR Test which is conducted in a fixed lab, and the test has also been approved by the DCGI for commercial launch.

2. Dr.Anurag Agrawal from the CSIR has also joined the proceedings and has explained that the total time taken for a Feluda test in the manual format is about 1.5 hours. He has also pointed out that the efficacy of the Feluda test to detect COVID-19 is very high, and almost similar to the RT-PCR test. He has explained that the main advantage of the Feluda test is that the testing process can be taken to the location where the persons required to be tested are situated and, unlike the RT-PCR test, there is no requirement of shipping the sample to a laboratory for testing. Upon a query by the Court, he has stated that though machines are imported for RT-PCR tests, the kits used for both tests are mostly indigenous. For the Feluda test, except the paper strip, every material in the kit is indigenously produced; however, keeping in view the fact that there are limited suppliers for the special paper used in the Feluda test, the price of the kit remains higher. He has further informed us that even though a letter has been sent by the CSIR to the Chief Secretaries of all States reminding them of this technology, very few States are using the Feluda test. Dr.Agrawal has further informed us that the Ray test, which is useful for picking up the variants of the virus, is an advancement of the Feluda test; however, its

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efficacy rate is yet to be established. He further stated that though the GNCTD was to start the use of the Feluda test in December, 2020; for which purpose, an initial procurement order was also issued in January 2021, no steps in this regard appear to have been taken thereafter.

3. In response, Mr.Rahul Mehra, learned senior counsel for the GNCTD submitted that as per his instructions, two of the hospitals under the GNCTD including GTB Hospital and Baba Saheb Ambedkar Hospital, had sought to use the Feluda test in collaboration with a team from TATAs, but it transpired that a lot of false positives were reported using the Feluda test and, therefore, a decision was taken to do away with Feluda test and continue with RT-PCR test instead. At this stage, Dr.Agrawal points out that the issue of false positives was never raised, either with the CSIR or the ICMR. Mr.Ahluwalia, has screen shared the minutes of the meeting held between the Delhi Government and the ICMR on 04.12.2020 regarding the subject of the alternatives available to RT-PCR test.

4. In the light of the aforesaid, we direct the GNCTD to examine whether the Feluda testing could be employed in places where people congregate, as its lab is mobile and the results can be generated in about 1.5 hours. The minutes of meeting dated 04.12.2020 as also the report of the sub-group should also be taken into consideration while arriving at its decision. A detailed affidavit in this regard be filed within three days.

5. In response to the Court's query as to the steps taken by the ICMR for dissemination of COVID literature, Mr.Ahluwalia has drawn our attention to the "Revised guidelines for home isolation and asymptomatic cases". He has stated that a similar brochure can be replicated by all the States and publicized. He has further stated that 60-90 seconds clips of Dr.Guleria

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answering common queries can also be found on the website www.mygov.in, as also on YouTube, wherein videos of certain celebrities speaking on these issues have also been shared. He has further stated that the information on the website is accessible in 8 different languages and brochures are also found on Twitter handles, chat groups etc. and therefore, any State can access and disseminate the same from the website.

6. In our view, there is urgent and imminent need to launch an impactful campaign to educate the public at large on all issues relating to control and treatment of COVID-19 by exploiting the Print Media and audio-visual media such as National Television Channels. The Government should utilise the existing software, such as the clips of Dr.Guleria, or create other softwares/ programmes on an urgent basis. In the meantime, the GNCTD should provide the links of the videos produced by ICMR on its website *delhifightscorona.in* with appropriate headings to ensure that awareness is generated amongst the citizens. It goes without saying that the publicity software/ materials should be in Vernacular language as well. We have put it to Mr.Ahluwalia that the ICMR must educate the general public about the use of equipments/ apparatus, such as Oxymeters, oxygen concentrators as well as inform them about the kind of concentrators which are of use in the present pandemic. We have also impressed upon Mr.Mehra that the responsibility of publicising the literature in print media would be of the GNCTD and therefore, it should take effective and urgent steps to disseminate information to the general public.

7. Mr.Rao, learned Amicus submits that efforts must be made by both the Central Government and the State Government to reach out to the people and therefore, short videos on the subject must be sent to the

general public through WhatsApp, Dialer tones, Text messages and every other mode of communication available to the respective governments.

8. Ms. Nidhi Mohan Parashar, appearing for the Central Government has assured us that the issue of reaching out to the public by use of dialer tones on telenetworks will be taken up on an urgent basis.

9. Mr. Ahluwalia has also drawn our attention to the affidavit filed by ICMR setting out the names of 103 laboratories in GNCTD which conduct RT-PCR tests. It is his submission that the list was last updated on 04.05.2021 and as of today, there are no applications pending approval for opening of a testing lab with the ICMR. He has also submitted that the ICMR is approving the setting up of laboratories on an urgent basis and all applications are being examined and dealt with within 24 hours of receiving the requisite documents. We have requested the learned Amicus to verify with the help of the volunteers, whether these laboratories are operational so that a verified list can then be publicized by the GNCTD. Once verified, the details of these labs be uploaded on the website of GNCTD *delhifightscorona.in* with appropriate heading.

10. Mr. Ahluwalia has further pointed out that the information sought from the patients while issuing a RT-PCR report is not as elaborate as before, and the laboratories primarily require basic patient data and a copy of the Aadhaar card. He has, however, assured the Court that in case any laboratory is facing a specific issue, the same may be brought to the notice of the ICMR, which will proceed to duly examine the same.

11. Mr. Ahluwalia has also made the following suggestions for the use of Mohalla clinics run by the GNCTD:-

(i) Preliminary clinical assessment of an individual coming with

COVID-19 symptoms of flu like illness, including RAT test as appropriate;

- (ii) Monitoring of temperature and O2 saturation at the clinic;
- (iii) Providing instructions/leaflets in local language on home-based isolation and care for COVID 19 and
- (iv) Referral as indicated.

12. We direct the GNCTD to respond to the above suggestions in the next three days.

13. Mr.Rao has further brought to our attention the fact that keeping in view the dearth of cylinders with which the city was plagued, many RWAs as also other bodies have started creating oxygen cylinder banks. He submitted that since these cylinders are inflammable, the RWAs and other bodies ought to be educated as to the manner in which these cylinders need to be stored, as also whether they require PESO certification. The GNCTD should take steps to address this concern and report instructions/ status on 20.05.2021.

14. List for further hearing on 17.05.2021.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 11, 2021

Sr/nk