

BEFORE THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V. ASHA

&

THE HONOURABLE MRS. JUSTICE SHIRCY V

THURSDAY, THE 30TH OF APRIL 2020/10TH VAISAKHA 1942

W.P.(C) TMP No. 131/2020

PETITIONER :

United Nurses Association,
Through Its State President Mr. Shoby Joseph
R/O. Door No. 26/548/9, 2nd Floor,
Capital City, Korappath Line,
Round North, Thrissur-680020,
Kerala.

By Adv. SRI. SRIRAM PARAKKAT
By Adv. SRI. K.R. SRIPATHI
By Adv. SMT. ANUPAMA SUBRAMANIAN

Respondent/Respondents : Nos..5

1. Union of India,
Represented by the Secretary,
Nirmal Bhavan, Near Udyog Bhawan Metro Station,
Maulana Azad Rd, New Delhi, Delhi 110011
2. The State of Kerala,
Represented by Chief Secretary,
GOVERNMENT OF KERALA, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

R2 BY GOVT. PLEADER SRI. ABRAHAM P. VAKKANAL

R1 BY CGSC ADV. SUVIN R. MENON

THIS W.P.(C) HAVING COME UP FOR ADMISSION ON 30.04.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

ASHA, J.

United Nurses Association has filed this Writ Petition pointing out that the COVID affected Nurses and Nurses who are likely to be affected with COVID, are not provided any facilities for medication, testing, quarantine, food, etc in other States. According to them the Nurses in the State of Kerala are in an enviable position as due care is given to them, while their counterparts in other States are completely neglected and are struggling to pull on.

2. One of the reliefs sought is to bring back the COVID affected Nurses to Kerala to give them proper medication.

3. We heard Ms.Anupama Subramanian, the learned Counsel for the petitioner, Sri.Suvin R.Menon, learned CGC and Sri.Paul Abraham Vakkanal, learned Government Pleader.

4. We are of the view that the prayer for bringing back the Nurses who are COVID affected cannot be granted.

5. In this Writ Petition the details of the affected/aggrieved Nurses are not given. Petitioner has only projected its general grievance that there are several Nurses who are not getting medication in various States.

6. Regarding the facilities for ensuring the safety of the Nurses, Sri.Suvin R.Menon, learned CGC, made available a copy of

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the letter dated 20.04.2020. As per this letter the Secretary to Department of Health and Family Welfare addressed the Chief Secretaries and Secretary to Health Department of all the States informing that adequate measures are taken for ensuring the safety of health persons and requesting to disseminate those measures adopted by the Government as pointed in Annexure-1 to all the health professional in the Government and private hospitals/medical colleges. It is also pointed that these measures are adopted in recognition of their efforts in the fight against COVID-19. Paragraph 12 of Annexure to that letter provides that the Government has announced an accidental insurance cover of Rs.50 lakhs for 2200 for 22.12 lakh health care workers who may be drafted for services for COVID-19 persons under the Pradhan Mantri Gareeb Kalyan Package. The benefit of this would be available to the Nurses in all the States including Kerala.

7. In the OM No.40-3/2020-DM-1(A) dated 29.4.2020, which was also made available by Sri.Suvin R.Menon, learned CGC, orders are issued under section 10(2)(1) of the Disaster Management Act. Guidelines have been issued for strict implementation by the Ministries/Departments of Government of India, State/Union Territory authorities relating to the transportation of persons stranded in other States. As per these guidelines all States have to designate Nodal authorities and develop standard protocols for receiving and sending stranded persons and these nodal authorities shall register the stranded persons within the State. It is

pointed out that instructions are issued to all the States to appoint Nodal Officers for taking care of such persons. It is also pointed out by Sri.Suvin R.Menon that the Nurses who are affected or likely to be affected in another States can approach these Nodal Officers in the event they are not getting proper care or medication and those Nodal Officers would be able to intervene in the matter and to take appropriate action.

8. The learned Government Pleader Sri.Paul Abraham Vakkanal pointed out that the State Government has already addressed the Chief Ministers of Maharashtra and Delhi seeking their intervention and assistance to protect the health and safety of the health workers including paramedical staff hailing from this State.

9. The Association has in this Writ Petition itself admitted that the State Government has already intervened for ensuring the safety of the Nurses in other States. When the Central Government has also issued guidelines insisting the measures to be adopted, for ensuring the safety of Health workers, the petitioner or the affected nurses would be free to approach the Nodal Officer pointing out the inadequacies in the facilities available to them and to get their grievances redressed.

10. The learned CGC also submitted in cases where the intervention of Nodal Officers could not solve the problem, the Central Government would definitely step in.

11. We find that the State of Kerala as well as the Government

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of India are taking positive action to ensure the safety of the health workers including Nurses. The petitioner Association or the members of the family of the affected Nurses would also be free to approach the concerned Nodal Officers including the Nodal Officer of the State of Kerala to redress their grievances and the matter will be duly looked into and taken care of by the Government of Kerala as well as Government of India.

The Writ Petition is accordingly disposed of.

P.V. ASHA, JUDGE

SHIRCY V, JUDGE

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APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF CERTIFICATE OF REGISTRATION OF TRADE UNION,
UNITED NURSES ASSOCIATION

EXT.P2: TRUE COPY OF THE WRITTEN REPRESENTATION GIVEN IN MALAYALAM
LANGUAGE TO THE OFFICE OF THE HON'BLE CHIEF MINISTER OF KERALA
DT.19.4.20

EXT.P3: TRUE COPY OF THE TRANSLATION OF EXT.P2