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In the High Court at Calcutta

(Chamber)

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W.P. 5327 (W) of 2020

(Via Video Conference)

(The Court on its own motion)

***In re: Contagion of COVID – 19 Virus in
Children Protection Homes.***

**Mr. Kishore Dutta, Ld. Advocate General.
... for the State.**

Pursuant to our earlier direction, the learned Advocate General has filed two separate reports by the Department of Women and Child Development and Social Welfare. We have also received a compliance report filed by Mr. Rupam Banerjee, Joint Secretary, Health & Family Welfare Department, electronically through the learned Registrar General of this Court.

It appears from the report filed by the Joint Secretary, Department of Women and Child Development and Social Welfare that total 45 inmates have been reported suffering from cough and cold symptoms and all of them have been medically managed. However, it appears that 19 out of 45 inmates were taken to Fever Clinics and no case of testing of COVID-19 was recommended by the medical officers, but the report does not disclose as to the present physical condition of the remaining inmates of the homes mentioned in the report dated 29th April, 2020.

Moreover, it appears that in few homes 2 or 3 children were kept in isolation rooms after being diagnosed with cough and cold, but the present condition of the said children have not been stated in the said report. It may so happen that the report was

prepared keeping in mind that the matter would be taken up for hearing on 30th April, 2020, on which date, however, the sitting could not be held due to unavoidable circumstances.

The reports from the medical team annexed with the report filed by the said Joint Secretary also does not indicate the number of Counselors attached to each home and whether the said number is adequate considering the composition of the children in a particular home and their requirements.

In fact, we have in our earlier order dated 8th April, 2020 categorically stated that there should be adequate number of child psychologists, clinical psychologists and Counselors in all homes to ensure that the children do not suffer from mental distress or trauma. We also directed the State Government to ensure that adequate provisions are made to provide the required counseling. We have also categorically stated that in the report to be filed by the said Health Department it should be clearly stated that medical team constituted for each District should specifically mention the number of Counsellors and clinical psychologists and/or child psychologists or both and also a remark on their performance. The performance of all the Counsellors should be closely monitored. The report filed by the said Joint Secretary, however, does not address the said issue.

It has been submitted on behalf of the Health Department that performance of the Counselors are monitored by the Department of Women & Child Development & Social Welfare.

We, accordingly, direct the Secretary, Department of Women and Child Development and Social Welfare and Secretary, Health & Family Welfare Department to file a comprehensive report in this regard within a fortnight from date.

In so far as the report filed by the Secretary, Department of Women and Child Development and Social Welfare on 12th May, 2020 is concerned, it appears that there are 3502 children at present in camps for migrant labour being maintained across the State. This figure of course relates to a period prior to 30th April, 2020. In the report it is stated that all the camps have provisions for adequate food, drinking water and washing materials and in all camps regular medical check ups are being conducted. However, the physical and mental conditions of the children of such migrant labour have not been disclosed in the said report. We have been given to understand that the migrant labour are spread over different Districts of the State.

We, accordingly, direct the District Magistrates of each District to file a report with regard to number of migrant children in their respective Districts. The Secretary, Department of Child and Social Welfare as well as the Secretary, Health Department shall take immediate steps to ensure the safety and security of such children. A report as to the mental and physical condition of the children in the camps for migrant labour in each District should be filed by an affidavit within a fortnight from date.

We found from the two reports filed by the Secretary, Department of Women and Child Development and Social Welfare that our earlier directions have been complied with.

We direct the respective Departments of the Government to ensure that during the COVID period all the Government regulations and protocols are strictly maintained and all steps should be taken to ensure that the welfare of the children are not compromised.

We wish to highlight some of the measures that

could be culled out from the Standard Operating Procedures published by different Departments of the Government to be followed by all the Homes:

“A. Visit of the Outsider

- i) If anyone outsider like plumber /electrician/mechanic visits the home then it should be ensured that he doesn't have fever. He needs to be checked with digital/infrared thermometer.
- ii) He could sanitize his hands with sanitizer or soap and water.
- iii) He should not be allowed to touch anything except his work.
- iv) Sanitize the place and equipment's he used with soap solution after completion of work.

B. Disinfection of Home

- i) Mop the floor daily in the morning with 2% detergent solution or 0.2% Lizol solution or Dettol/Savlon 3% solution.
- ii) Disinfect the main door handle and doorbell with 70% alcohol based liquid sanitizer.

C. Disinfection of Vegetables and Fruits.

- i) In current circumstances it is necessary to disinfect the vegetables and fruits before consumption.
- ii) Depending upon type of vegetable, wash the vegetables and fruits with lukewarm water by adding salt/baking powder or water with 2% soap/detergent solution by rubbing with hands.
- iii) Clean with tap water.
- iv) Store in refrigerator for use.

D. Disinfection Packaged Milk

- i) Wash the packet with 2% soap/detergent solution by rubbing with hand.
- ii) Wash with tap water.
- iii) Cut the pack; pour into pan and heat to boil.
- iv) If you take milk from milkman then make proper distance during the process and boil the milk immediately.

We have also recently come across the suggestive measures recommended by the Ministry of AYUSH in its official website, wherein the manual boosting measures can be adequately adopted and some of the measures are reproduced as under:

“Recommended Measures

I General Measures

1. Drink warm water throughout the day.
2. Daily practice of Yogasana, Pranayama and meditation for at least 30 minutes as advised by Ministry of AYUSH (#YOGAatHome #StayHome #StaySafe)
3. Spices like Haldi (Turmeric), Jeera (Cumin), Dhaniya (Coriander) and Lahsun (Garlic) are recommended in cooking.

II Ayurvedic Immunity Promoting Measures

1. Take Chyavanprash 10gm (1tsf) in the morning. Diabetics should take sugar free Chyavanprash.
2. Drink herbal tea / decoction (Kadha) made from Tulsi (Basil), Dalchini (Cinnamon), Kalimirch (Black pepper), Shunthi (Dry Ginger) and Munakka (Raisin) - once or twice a day. Add jaggery (natural sugar) and / or fresh lemon juice to your taste, if needed.
3. Golden Milk- Half tea spoon Haldi (turmeric) powder in 150 ml hot milk -once or twice a day.

III Simple Ayurvedic Procedures

1. Nasal application - Apply sesame oil / coconut oil or Ghee in both the nostrils (Pratimarsh Nasya) in morning and evening.
2. Oil pulling therapy- Take 1 table spoon sesame or coconut oil in mouth. Do not drink, Swish in the mouth for 2 to 3 minutes and spit it off followed by warm water rinse. This can be done once or twice a day.

IV During dry cough / sore throat

1. Steam inhalation with fresh Pudina (Mint) leaves or Ajwain (Caraway seeds) can be practiced once in a day.
2. Lavang (Clove) powder mixed with natural sugar / honey can be taken 2-3 times a day in case of cough or throat irritation.
3. These measures generally treat normal dry cough and sore throat. However, it is best to consult doctors if these symptoms persist.

1 The above measures can be followed to the extent possible as per an individual's convenience”.

Development and Social Welfare shall ensure that such measures are implemented and report compliance on the next date.

The Court directs all the Departments of Government concerned with the child right issues to maintain a synergy and connectivity amongst themselves and to see that the children be institutionalized or un-institutionalized or even migrant children avail all the benefits and measures indicated above.

Put the matter after two weeks.

We have considered the report filed by the West Bengal Commission for Protection of Child Rights. The conference organized by the Commission for Protection of Child Rights has been duly attended amongst the other POCSO Judges. It transpires from the said report that in view of the failure in recording judicial statement under Section 164 of the Code of Criminal Procedure there has been a delay in filing the charge sheets and the accused persons were granted bail. This is a matter of great concern.

We direct the District Judges to ensure that the recording the statement under Section 164 of the Code of Criminal Procedure in POCSO related cases should be done without any further delay. The report further expresses an apprehension that the accused, who had obtained bail after the expiry of the statutory period, might cause fear in the mind of the victims and the witnesses. In this pandemic situation, it is important, that the child rights are secured and accordingly we direct the Superintendent of Police of all the Districts to issue necessary directions upon the Officer-in-Charge of all the police stations within their jurisdiction to keep vigil in the locality, so that the perpetrators do not cause abuses to the vulnerable children during the

lock down situation. The State Government shall file an affidavit within two weeks from date.

This order should be immediately communicated to the District Judges, Commissioner of Police, District Magistrates and the Superintendent of Police of all the Districts for immediate compliance.

We have also considered report filed by the visitors in relation to the home in the Union Territory of Andaman & Nicobar Islands. However, since connectivity could not be established, we fix this matter on 18th May, 2020 for consideration of the reports filed by the visitors.

Let appropriate notice be served upon the Government Pleader, Secretary of the Women and Child Welfare Department and the Secretary, Health Department, Andaman & Nicobar Island with an intimation that the matter shall be listed on 18th May, 2020 to be taken up at 12-00 Noon.

We direct the District Judge, Andaman & Nicobar Island to share the report filed with us with the concerned Departments forthwith and we seek a response from the said authority by the adjourned date.

It is made clear that on 18th May, 2020 matters relating to the Homes at Andaman & Nicobar Islands only shall be taken up for consideration.

(Soumen Sen, J.)

(Harish Tandon, J.)

