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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3031/2020

RAKESH MALHOTRA

..... Petitioner

Through: Petitioner in person.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
INDIA AND ORS

..... Respondents

Through: Mr.Satyakam, ASC for GNCTD.
Mr.Sidharth Luthra, Sr.Advocate with
Mr.Arjun Dewan and Ms.Aayushi
Sharma Khazanchi, Advocates
for Dr. Dang Lab.
Ms.Mumtaz Bhalla, Advocate for
Dr.Lal Path Labs.
Mr.Anurag Ahluwalia, CGSC,
Mr.Abhigyan Siddhant and Mr.Viplav
Acharya, Advocates for R3 and
ICMR.
Mr.Rohit Aggarwal with Ms.Gunjan
Sinha Jain, Advocates for Sir Ganga
Ram Hospital.
Ms.Pratishtha Vij, Advocate for
Sterling Accuris Diagnostic.
Mr.Neeraj Grover, Advocate for
Dr.P.Bhasin Path Labs.
Mr.Sanjeev Sharma, Advocate for
Applicant in CM 12106/2020.
Mr.Vikas Chopra, Advocate for
NABL.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
ORDER
% **22.06.2020**

HEARD THROUGH VIDEO CONFERENCING.

CM APPLs.12106/2020 and 12780/2020

1. Pursuant to the order dated 18th June, 2020, an affidavit has been filed by the Director General, Health Services, Directorate of Health Services, Govt. of NCT of Delhi, as a combined response to all the affidavits filed by the private laboratories. ICMR and NALB have also filed their affidavits.
2. We have enquired from Mr. Satyakam, learned Addl. Standing Counsel appearing for the GNCTD as to whether the Committee constituted by the Lieutenant Governor, GNCTD has examined the issues that were highlighted by this court in the last order and taken a view in the matter. Learned ASC submits that each member of the Committee was separately apprised of the order passed but due to their preoccupation on account of the COVID-19 situation, they have not been able to deliberate on the issues through VC.
3. It is deemed appropriate to direct the Chief Secretary, GNCTD, to request the members of the Committee to assemble over a VC meeting, discuss the issues raised in the order dated 18th June, 2020 and convey their recommendations through the GNCTD on or before 24th June, 2020. The affidavit filed by the GNCTD will be examined only after the minutes of the meeting of the Committee constituted by the Lieutenant Governor, GNCTD are placed on record.

4. Mr. Vikas Chopra, learned counsel appearing for NABL, seeks to clarify that the NABL has not placed any embargo or insisted on any fresh accreditation of a private laboratory for undertaking the COVID-19 test. He submits that it is for the ICMR to recognise the private laboratories in question and authorize them for conducting the COVID-19 test. It is directed that once ICMR has to give a sanction to a private laboratory to conduct the COVID-19 test, NABL will not come in the way.

5. Mr. Satyakam, learned ASC states on instructions that on 18th June, 2020, a total of 15,012 samples were collected in Delhi out of which, 7,040 samples were tested through the Rapid Antigen detection test and 7,972 through the RT PCR test. He submits that as on 21.6.2020, 13,345 samples were collected and 9,356 samples were tested through the Rapid Antigen test and 3,989 samples through the RT PCR test. He states on oral instructions that Delhi Government has targeted conducting 22,000 Rapid Antigen tests per day (2,000 tests x 11 Districts). If that is so, then the figures of the testing done from 18th June, 2020 onwards are abysmal. Delhi Government has not conducted more than 50% of the tests and failed to keep to the target. Learned ASC states that the court may examine the figures after testing has been conducted in this manner for at least one week, that will conclude on 25th June, 2020.

6. We have been further informed that for the present, Rapid Antigen testing has been permitted by the ICMR to be undertaken only in Containment zones or Hotspots and the government hospitals alone are authorized to conduct the said test.

7. Mr. Malhotra, the petitioner in person, submits that when the private hospitals have been declared as COVID-19 hospitals, they too should be

permitted to conduct the said test on both, symptomatic and asymptomatic persons who seek admission for COVID-19 treatment or for scheduled/emergent surgeries/procedures, as already directed by this Court.

8. Mr.Anurag Ahluwalia, learned counsel for the ICMR, shall obtain necessary instructions on this aspect well before the next date of hearing.

9. Delhi Government shall file a fresh updated affidavit on or before 24th June, 2020 and enclose therewith, the minutes of the meeting of the Committee constituted by the Hon'ble Lieutenant Governor, GNCTD, as directed above.

10. List on 25th June, 2020, at the end of the board.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JUNE 22, 2020

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