

**THE HIGH COURT OF MADHYA PRADESH**  
W.P.No.25339/2018  
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**Gwalior, Dated:-07.08.2019**

**Per Justice Vivek Agarwal**

Shri Omendra Singh Kushwah, learned counsel for the petitioner.

Shri F.A.Shah, learned Govt. Advocate for respondents No.1 to 3/State.

Shri Deepak Khot, learned counsel for respondent No.4.

This Public Interest Litigation has been filed by the petitioner, who is a practising lawyer in the High Court of M.P., highlighting the issue of laxity on the part of the authorities of the State and local body like Municipal Corporation in clearing the debris and covering of marshy lands hatches which is cause of several diseases including Dengue, Malaria, Swine Flu, Chikungunya etc.

It is submitted by the learned counsel for the petitioner that authorities of State have failed to take appropriate measures so to clear such potential source where vectors of such diseases like Malaria or Dengue grow and develop. In support of his contention, he has enclosed several photographs showing how solid waste and municipal waste are being dumped in open spaces and how open spaces are being left uncared for resulting in development of swamps, water pools etc. which are providing breeding ground to the vectors which communicate such diseases like Malaria, Dengue and Swine Flu.

In this backdrop, petitioner has sought relief against the

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authorities of State and its instrumentalities to direct them to carry out serious measures to prevent accumulation of waste, accumulation of water and development of swamp and if such situation is found, then concerned zonal officer and health officer of the Municipal Corporation be penalized. It is also prayed that all the open drains be covered and they be cleaned regularly so to prevent accumulation of water and waste material. It is also prayed that regular fogging of chemicals so to prevent growth of Malaria and Dengue mosquitoes be carried out besides equipping Government Hospitals with adequate number of preventive kits and medicines so that appropriate and inexpensive treatment be rendered to the patients in Government Hospital, rather leaving the patients and sufferers at the mercy of private hospitals which not only charge exorbitant amount for the treatment, but also in the name of investigation. Ancillary to these main reliefs, it has been prayed that municipal authorities be directed to earmark a particular budget for such cleansing operations which will be preventive in nature and for investigation, prevention and supply of medicines. It is also prayed that Municipal Authorities be directed to publish phone numbers of cleaning in-charge and mobile numbers of the staff engaged in the work of lifting of waste material besides that of concerned doctors etc. in newspapers. It is prayed that Commissioner, Municipal Corporation and Collector, Gwalior, be directed to monitor cleansing operation of the district on regular basis

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and be further directed to submit their report before the Court in every alternative month.

Authorities of the State have filed their reply and in their reply they have mentioned that a report was called from the District Malaria Officer. A bare perusal of which reveals that certain measures have been taken by the State Government and its functionaries to provide medical facilities to the patients of Dengue etc., copies of these charts have been enclosed as Annexure R/1 and Annexure R/2.

A duty chart showing duties assigned to various officers to prevent spreading of viruses of Dengue, Chikungunya, Swine Flu and Malaria has been enclosed as Annexure R/3 issued by the Collector, Gwalior, on 15.6.18. However, it is mentioned when the team so constituted by the District Collector visited various localities, then at some places unpleasant situation had arisen when members of the team tried to educate people about cleanliness of their water coolers etc. and members of such team were attacked, and therefore, they were forced to lodge a FIR, Annexure R/4. After making such submissions, it is submitted that mainly reliefs have been sought against the Municipal Corporation, and therefore, Municipal Corporation, could answer them adequately.

Respondent No.4/Municipal Corporation has filed a reply and it is submitted that authorities are taking preventive as well as curative measures for the residents of Gwalior. It is also submitted that

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respondent/Corporation has deployed in all 2904 cleaning wardens/protectors (Safai Sanrakshak) within the municipal limits of Gwalior and details of such employees has been annexed as Annexure R/4-I. It is also submitted that Municipal Corporation has deployed 85 vehicles including JCB dumper and tractor trolley for collection of garbage from different points in the city and sending it to dumping yard/landfill sites of the Municipal Corporation and in this regard it has entered into an agreement with Eco Green Pvt. Ltd. for door to door collection of waste/garbage and re-utilizing that garbage for production of electricity at the landfill sites. It is also submitted that assembly-wise fogging is being carried out periodically as acknowledged by the concerned residents and this shows that Municipal Corporation is alive to its responsibilities and is discharging the same to best of their capacity.

It is also submitted that municipal authorities are making random checks and removing those employees who are not doing their job sincerely and properly. Authorities have removed 100 employees outsourced from the contractors as they were not found available during random checks. They are also taking aspect of water pollution, water logging and choking of sewer lines in a systematic and detailed manner. They have also denied factum of dumping of garbage and unhygienic conditions in various colonies of Morar, Gwalior and Lashkar. It has also denied that because of water logging and open

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drainage at public places, mosquitoes are increasing. Agreement was entered into for construction of comprehensive sewage system in Lashkar and Morar region and agreements were executed in the month of September and October, 2017 respectively. It is also submitted that a laboratory has been established at Motijheel with a dedicated Division functional for last several years which deals with the aspect of treatment and sampling of water. While repulsing the charge of lethargic/negligent attitude, it is mentioned that Municipal Corporation is undertaking all necessary steps to keep the city pollution free and has tried to suggest that an incinerator is being installed by the said company within the municipal limits of Gwalior. It is also mentioned that fixed compact transfer station (10 in numbers) are being constructed for compacting garbage and then sending it to landfill sites and once this arrangement of Public Private Partnership (PPP) becomes functional from 2020, there will be a win win situation for the residents of Gwalior. It is also complained that instead of furnishing any representation, petitioner has directly approached the Court.

When this issue was taken up, then from time to time various compliance reports and counter affidavits have been filed. First one being dated 18.3.19. This report was filed in compliance of order dated 11.3.19 when we directed the Corporation to divulge the status as regards the steps taken by the Municipal Corporation to control and

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eradicate the epidemics like Dengue and Swine Flu. It is submitted that whenever such virus borne epidemic erupts in the city, Malaria Department identifies the places and make a joint survey with the employees of the Municipal Corporation to disinfect the places by fogging and spraying medicines in particular areas so identified. Otherwise, also Municipal Corporation periodically do the job of fogging and spraying medicines to eradicate viruses within the municipal limits. It is also mentioned in such report that Municipal Corporation is imposing fine on the persons who are littering waste in public places. Rest all are repetition of what has already been mentioned in the reply discussed above.

On 20.3.2019 another status report has been filed mentioning therein that Municipal Corporation has categorized the areas which are sensitive/ high risk areas where fogging and spraying of disinfectant is very necessary and accordingly action plan has been worked out and to keep the city clean they have proposed fine for various unhygienic activities like spitting, urinating, throwing of garbage etc. As per the details contain in Annexure C-5, fine was imposed on about 49 persons for littering wastes, spitting at public places etc. whose list has been enclosed by the Municipal Corporation.

Another report dated 23.4.19 was filed showing that Corporation after completion of schedule work of one month as

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provided by Malaria Department has made a plan for fumigation/fogging and spraying of disinfectant which has been enclosed alongwith the report.

This is followed by another status report dated 1.7.19 wherein it is mentioned that in coordination with Malaria Department steps have been taken for detection of larva from infected areas, so also its eradication. It is also admitted that all the Zonal Officers have been entrusted with the work of fogging and spraying of disinfectant in respective zones consisting of 2-3 wards for which separate machines have been provided and in case of any failure of machine, Nodal Officer Workshop has been directed to make arrangement of alternative machines and for repair of said machines. Health Officers have been empowered to take action against those who are found to be negligent in respect of accumulation of water because of which larvae are born. This is an indirect admission of the authorities of Municipal Corporation after having denied growth of any larva or existence of any breeding ground for such vector borne diseases in their initial reply.

After receiving this reply, we in the Court asked learned counsel for the Municipal Corporation, Gwalior, to call on certain numbers mentioned in compilation filed on 3.7.19 when counsel fairly conceded that such eight digit numbers do not exist in Gwalior. We directed Commissioner, Municipal Corporation, Gwalior, to remain

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personally present and then on 11.7.19 while tendering an unconditional apology, he apprised us that orders have been issued suspending persons who were found guilty of dereliction of duties and has also issued appropriate orders for reorganizing the structure of process of fumigation and spraying of disinfectant in all areas situated within municipal limits by giving fresh responsibility. On 22.7.19 we asked as to whether all the fogging machines are in working condition when we were informed that 40% of the machines were non-functional due to non-availability of spare parts. However, we were assured that remedial measures are being taken to rectify the anomalies in execution of plans and in furtherance of this another compliance report has been filed on 23.7.19 in which there is an admission vide Annexure C-3 that out of 25 fogging machines only 20 were functional and 5 were not functional.

After hearing arguments of learned counsel for the parties, we are of the disposition that fighting with vector borne diseases and plugging such source/breeding ground for the vectors is an ongoing continuous process. In this process, both the residents of the city and instrumentalities of the State and local body, namely Municipal Corporation, have an important unending task to be performed. Since petitioner has been able to put State machinery in motion, we expect that disposal of this petition will not turn them lethargic towards their duties. Learned counsel for the State and Municipal Corporation have



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assured that they will continue this fight against spread of Malaria, Chikungunya, Dengue and Swine Flu on a war footing on a continuous and sustainable basis. Therefore, we intend to dispose of this petition with following directions:

(1) State authorities to built resilience against epidemic prone diseases like Dengue and invest properly in surveillance and preparedness of capacity for early detection and reporting of disease outbreaks. Authorities of the State are also directed to carry out robust and timely public health response for their containment and mitigation.

(2) Under the head of prevention, they are required to take steps to close uncovered land fill sites, cover swamps or introduce such variety of fishes also called “mosquitofish” of Genus: Gambusia, Species G.affinis which feed on larvae of such mosquitoes so that their incidence may be eradicated or reduced.

(3) Authorities are also directed to prepare a system of reporting, action taken and impact of such action on the society which should remain in public domain so that there is three way interaction between the persons at the receiving end, authorities of the local bodies and the team of doctors consisting of district hospitals/community health centers/ PHC or medical colleges as the case may be. This three way interactive system will ensure prevention as well as cure and when these three factors work in tandem then such menace can be fought

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effectively.

(4) State authorities shall ensure training of health personnel at all levels of health system to implement early case detection and referral system for patient, managing severe cases with appropriate treatment, reorienting health services to control Dengue and Chikungunya outbreaks.

(5) The authorities of the State, specially the Department of Health and local administration shall work in a coordinated manner so to improve their outbreak prediction and detection through coordinated epidemiological and entomological surveillance; promoting the principles of integrated vector management and deploying locally-adapted vector control measures including effective urban and household water management and through communication to achieve behavioural outcomes that augment prevention programmes.

(6) The authorities of the State should also promote increased outlay for research in combating such tropical disease and for their prevention as well as curative measures.

(7) The authorities of the State to strengthen local research capabilities by making rational mobilization and allocation of resources so that all the stakeholders are able to work as a team and there is no wastage of public money.

(8) On the clinical side, diagnosis and investigative tools play a very important role in reducing the mortality and it can be reduced to

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minimal by implementing timely and appropriate clinical management involving clinical and laboratory diagnosis. For this purpose, there is a need to establish appropriate facilities for early detection of such diseases. For which purpose, they should establish a de-centralized mechanism of laboratory testing which are not only inexpensive, but also effective to handle large number of sampling requirements during crucial period of a year when such outbreak is optimum.

(9) Public cannot be a mute spectator and it will have to supplement the efforts of instrumentalities of the State and they can do so by adopting few simple measures like (i) using mosquito net or repellents; (ii) wear light colour clothes covering most of the body parts; (iii) they be also educated about the necessity to keep doors and window closed especially during evening; (iv) people should be educated to empty and clean containers holding water such as flower vases, flower pots, coolers atleast once a week; (v) people should also be educated to keep their surroundings clean and ensure that there is no stagnant water which is a breeding ground for the mosquitoes; (vi) inexpensive remedies can be propagated in consultation with team of doctors belonging to various branches of medicines, like allopathy, Ayurved, homeopathy, Unani etc.

(10) Petitioner is also directed to devote at least one weekend in a fortnight to generate awareness amongst various stakeholders at his end, then only it can be said that petitioner is truly a public spirited

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citizen as he claims himself to be. He should not only spread awareness about prevention and curative measures, but should also spread awareness amongst the members of the public to keep their surrounding environment clean and not to create such breeding place where vectors can easily grow. This effort, if sustained over a sufficiently effective duration of three years can help in bringing down incidence of dengue, malaria, swine flue etc.

(11) Unless and until Governmental steps are supplemented by public response, none of the stakeholders will be able to optimize the benefits of individual efforts, and therefore, we hope and trust that not only the instrumentalities of the State, but people like petitioner from public and public at large will respond to such community measures to prevent diseases, existence of which can be substantially reduced through awareness, cleanliness and early detection.

With these directions, petition is disposed of.

**(Sanjay Yadav)**  
**Judge**

**(Vivek Agarwal)**  
**Judge**

ms/-