



CC/ATCG/Operations/2020/05

Date: 12.09.2020

The Chairman
Airports Authority of India
Rajiv Gandhi Bhawan
New Delhi-110003

Subject: **Regarding Breath Analyser Test of Air Traffic Controllers**

Air Traffic Controllers' Guild (India) filed the Civil Writ Petition No. 2946/2020 under Article 226 of the Constitution of India before the Hon'ble Delhi High Court praying for issuance of a writ of mandamus directing the Directorate General of Civil Aviation (DGCA) and Airports Authority of India (AAI) to temporarily suspend the Breath Analyzer Test (BAT) to prevent the further spread of coronavirus.

That Hon'ble High Court vide Order dated 23.03.2020 passed the following directions in Civil Writ Petition No. 2946/2020:-

- i. The DGMS (Air), Delhi shall immediately convene a meeting of the DGCA, AAI, Ministry of Civil Aviation, including any doctors or medical specialists tomorrow i.e., 24th March 2020 or at the earliest possible convenience to draw up an alternative protocol for conducting breath analyser tests on ATCs;*
- ii. The Breath Analyser Test currently being conducted shall remain suspended with immediate effect at all airports till further orders;*
- iii. The Petitioner and all its members shall abide by the assurance to the effect that they appreciate the critical nature of their duty and undertake that they would not report to work under the influence of alcohol;*
- iv. An undertaking and a self-declaration shall be obtained under the signature of each ATC who reports to work;*
- v. Any violation of the undertaking and self-declaration given by the Petitioner and/or its members shall entail severe consequences including suspension of the licence;*
- vi. The DGMS shall draw up the new protocol to be followed until the spread of COVID-19 abates;*
- vii. DGCA is however permitted to conduct any other way of testing which is not invasive in nature and which does not increase the chance of spreading of COVID-19. Urine/blood testing, if opted for as the method of testing, shall be done by*

using disposable syringes and/or sterilised equipment, in a 2% randomised sample, until the new protocol is framed so that any violation of the self-declaration or undertaking can be detected;

viii. *AAI shall provide any facilities that may be needed for the DGCA to implement the above directions."*

Thereafter Airports Authority of India filed an application before the Hon'ble Delhi High Court seeking modification of the Order dated 23.03.2020 to the extent that the Breath Analyser Tests may be conducted on random basis with the implementation of the DGMS (Air) Report dated 16.06.2020.

Hon'ble High Court vide Order dated 03.09.2020 modified Order dated 23.03.2020 to the extent that the breath analyser test may be conducted by the authorities, strictly as per the recommendations dated 16.06.2020 of the medical board. Vide same Order, petitioners have been given liberty to give suggestions/representations to the authorities with regard to further precautionary measures that can be taken.

That thereafter Director General of Civil Aviation vide Order dated 07.09.2020 has directed as under:-

"Air Traffic Controllers shall be subjected to Breath-Analyser examination w.e.f. 08.09.2020 as required under CAR Section-5, Series-F, Part-IV in a manner that 5% of them at a station per day are examined before commencing the duty.

While conducting such Breath-Analyser examination the employer organization shall ensure adherence to guidelines prescribed by DGMS (Air) as quoted below

The machine used for such random tests shall not be used for next 12 hours after the conduct of one test. Besides the random test, the authorities may also test any person suspected to have consumed psychoactive substance"

However, it is humbly submitted there cannot be strict adherence of DGMS guidelines dated 16.06.2020 as while conducting the Breath Analyser Test, officer in-charge for conducting the test himself blows in the Breath Analyser machine first to calibrate the testing machine before using it to conduct test on Air Traffic Controllers. It is also pertinent to mention that the officer in-charge for conducting the test is bound by the DGCA guidelines to calibrate or test run the breath analyser machine himself/herself before testing any other person. Therefore, in the given

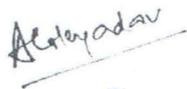
circumstances Breath Analyser Test cannot be conducted as per DGMS guidelines and would result in violation of Delhi High Court's Order dated 03.09.2020.

We therefore request you to consider any other way of testing which is not invasive in nature and which does not increase the chance of spreading of COVID-19. Air Traffic Controllers Guild once again suggests to consider Abott i-STAT or other disposable breath analysers easily available online for conducting the breath analyser examination.

Kindly do the needful. Thanking You

Assuring you of our co-operation at all times,

With Regards,



(Alok Yadav)
General Secretary

Copy to :

1. Member (ANS), AAI, CHQ, RG Bhawan, New Delhi.
2. Member (Operations), AAI, CHQ, RG Bhawan, New Delhi.