

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR

SUO-MOTU PUBLIC INTEREST LITIGATION NO. 04 OF 2020

(COURT ON ITS OWN MOTION...VS.. UNION OF INDIA THR. SECRETARY, DRUGS & FOOD
QUALITY CONTROL SECTION, NEW DELHI & OTH.)

WITH

PUBLIC INTEREST LITIGATION NO. 10 OF 2020

(SUBHASH JAINARAYAN ZANWAR...VS.. UNION OF INDIA THR. SECRETARY, MINISTRY OF
HEALTH AND FAMILY WELFARE, NEW DELHI & OTH.)

WITH

PUBLIC INTEREST LITIGATION NO. 25 OF 2020

(ADV. KAMAL LAKHMICHAND SATUJA...VS.. UNION OF INDIA THR. SECRETARY, DRUGS & FOOD
QUALITY CONTROL SECTION & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.P.Bhandarkar, Amicus Curiae.
Shri U.M.Aurangabadkar, ASGI for Respondent No.1.
Shri M.G.Bhangde, Sr. Adv. a/b Shri D.P.Thakre, Addl.G.P.for Resp/State.
Ms Ketki Joshi, Incharge G.P.for Respondent/State in PIL No.25/2020.
Shri S.M.Puranik, Advocate for Respondent No.4.
Shri T.D.Mandlekar, Advocate for Intervener.
Shri M. Anilkumar, Advocate for Intervener.
Ms Sushma Jha, Advocate for Intervener.

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.

DATED : APRIL 12, 2021.

Heard.

2. Various issues are deliberated upon.

3. One of the issue is about availability of
Remdesivir Injections.

Shri M.G.Bhangde, learned Senior Advocate, on
instructions from Shri Vijay Kose, Joint Commissioner, Food
and Drug Administration stated that Remdesivir injections are
being supplied to the Dedicated Hospitals as per the
procedure laid down in the communication issued by the

Commissioner of the Food and Drugs Administration on 5th April 2021. Further statement is made by the learned Senior Advocate, on instructions from Shri Vijay Kose, Joint Commissioner that Remdesivir Injections are not being sold from counters of private pharmacists.

Though the learned Amicus Curiae and learned Advocates appearing for petitioners and interveners showed their concern about the compliance of the circular dated 5th April 2021, today, we are not concerned with whatever has happened in the past. We are taking up this matter urgently looking to the situation prevailing today and we are trying to find out solutions with the help of the different authorities for effectual resolution of the concerns raised today.

We accept the statement made by Shri Vijay Kose, Joint Commissioner of Food and Drug Administration.

4. It is submitted on behalf of the Amicus Curiae and the learned Advocates for the petitioner and interveners that because of paucity of beds in Government Hospitals and Dedicated Hospitals, needy patients are required to go to Non-Dedicated Hospitals and some serious patients require Remdesivir Injections and they are not getting those injections.

Shri M.G.Bhangde, learned Senior Advocate appearing for the State and its officers and Shri S.M.Puranik, learned Advocate appearing for the Nagpur Municipal Corporation state that some solution will be found out by tomorrow to redress this grievance.

5. During the course of hearing it transpired that some miscreants are indulging in illegal activities resulting in non-availability of Remdesivir injections for the needy patients. It is submitted on behalf of the Amicus Curiae and learned Advocates for the petitioners and interveners that some persons are getting prescriptions in the name of one patient from different Doctors to purchase Remdesivir Injections and are selling the same in black-market. As regards this also, the authorities assured that some solution to monitor the supply of Remdesivir Injections to needy patients will be found out by tomorrow.

6. Another concern raised by the Amicus Curiae and learned Advocates for the petitioners and interveners is about the non-availability of Tocilizumab Injections.

The grievance of the Amicus Curiae, petitioners and the interveners is that these injections have suddenly vanished from the market. It is not in dispute that Tocilizumab Injections were being sold at the counters of private pharmacists and it is submitted by the Amicus Curiae, petitioners and interveners that these injections are being sold at a very high prices and there is reason to believe that some persons have hoarded these injections.

We direct the Commissioner of Food and Drugs Administration, Nagpur to cause an inquiry in the matter immediately and place report on the record of this petition by tomorrow. To make it clear, we want that the flow of Tocilizumab injections from the Production Centres/ Factories to the wholesalers and to the retailers and the dispensing of

these injunctions from the counters of the private pharmacists should be tracked and if there is any hoarding appropriate action as per the law should be taken against the erring persons.

7. Another concern shown at the time of hearing by the learned Amicus Curiae and learned Advocates for the petitioners and interveners was about the shortage of oxygen cylinders.

Shri M.G.Bhangde, learned Senior Advocate, on instructions from Shri Vijay Kose, Joint Commissioner, Food and Drugs Administration, Nagpur, submitted that there is no shortage of oxygen cylinders.

Be that as it may, without going into the controversy, we find substance in the suggestion given at the time of hearing that the State Government may consider establishing a Unit/Plant at Nagpur for production of oxygen.

The learned Senior Advocate stated that he can take instructions in the matter, however, about a week's time would be required for the same.

Looking to the situation prevailing today and that the situation is worsening day by day, we request the Hon'ble Chief Minister, Government of Maharashtra to look into the matter with urgency and examine the matter regarding setting up of a plant at Nagpur for production of oxygen.

Shri M. Anilkumar, learned Advocate submitted that as per the instructions received from one of the

producers of oxygen at Nagpur, about Rs.Ten Crores would be required for setting up a plant having capacity of producing about 900 oxygen cylinders per day.

In our view, it would not difficult for the State Government to take immediate action in this regard. We also request the Hon'ble Guardian Minister of Nagpur to look into this matter and coordinate with the Hon'ble Chief Minister. We hope and trust that some urgent decision will be taken in the matter immediately and conveyed to this Court by tomorrow.

8. The learned Amicus Curiae and learned Advocates for the petitioners and interveners stated that there is a report in newspaper that Mayor of City of Nagpur has made a public statement that facility of 500 beds would be made available at Mankapur Stadium, Nagpur.

As this matter is not covered by the pleadings on record, Shri S.M. Puranik, learned Advocate appearing for the Nagpur Municipal Corporation is not in a position to make any submission on this issue.

We direct the Mayor of Nagpur Municipal Corporation to file an affidavit pointing out background on the basis of which such statement is made, if any. We direct the Commissioner, Nagpur Municipal Corporation to file separate affidavit pointing out whether the statement made by the Mayor of City of Nagpur can be implemented or not. Separate affidavits shall be filed by tomorrow morning.

9. At this stage, considering the submissions made by the learned Amicus Curiae and learned Advocates for the petitioners and interveners, and the reports about vandalism at the hospitals where some patients died, we feel it appropriate to issue certain directions to the Police Authorities to ensure safety of the Doctors and health workers, so that their morale is not affected.

On instructions, Shri M.G.Bhangde, learned Senior Advocate stated that some police force is already deployed at the Government Hospitals.

We direct the Commissioner of Police, Nagpur to ensure that sufficient police force is deployed at the Government Hospitals at the Casualty Entrance to ensure that unnecessary vandalism and rowdyism is not created by the relatives of the patients. We further direct the Commissioner of Police, Nagpur to ensure that 24/7 patrolling is done by the police near Dedicated Covid-19 Hospitals, so that doctors and health workers of these hospitals can work in a protected atmosphere, without there being any fear of vandalism. We further direct the Police Authorities to take immediate and stern action against the persons creating ruckus at these places. The Police Authorities should immediately act on the complaint of these hospitals and, in any case, should not permit any persons to take photographs or make video films by making forcible entry in the hospital. Such entry should be prohibited even to the media persons.

10. We further request the media and press that the unfortunate incidents should not be highlighted too much because highlighting of unfortunate incidents create

unnecessary panic in the citizens which results in further untoward incidents.

11. On request made by learned Amicus Curiae and learned Advocates for the petitioners and interveners, stand over to **13th April 2021 at 02:30 p.m.**

12. Office of the Government Pleader, High Court, Nagpur Bench to ensure that copy of this order is brought to the notice of the Hon'ble Chief Minister and the Hon'ble Guardian Minister of Nagpur District immediately.

(AMIT B. BORKAR, J.)

(Z.A.HAQ, J.)

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