

§-11,12,17-27, 29-32.

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

+ **W.P.(C) 5126/2021**

DELHI MEDICAL ASSOCIATION ..... Petitioner

versus

UNION OF INDIA THROUGH SECRETARY & ANR.

+ **W.P.(C) 5142/2021 & CM APPL. 15757/2021**

MANISHA GUPTA ..... Petitioner

versus

GOVT, OF N.C.T OF DELHI & ANR. .... Respondent

+ **W.P.(C) 3031/2020 & C.M. No. 15227/2021, C.M. No. 15228/2021**  
**C.M. No. 15229/2021, C.M. No. 15358/2021, C.M. No. 15359/2021**  
**C.M. No. 15360/2021, C.M. No. 15361/2021, C.M. No. 15362/2021**  
**C.M. No. 15363/2021, C.M. NO. 15481/2021, C.M. 15482/2021,**  
**C.MNO. 15652/2021, CMNO. 15653/2021, C.M.NO. 15845, CM.**  
**NO. 15869/2021, C.M.No. 15962/2021, C.M. Nos. 16081-85/ 2021.**

RAKESH MALHOTRA ..... Petitioner

versus

GOVERNMENT OF NATIONAL CAPITAL

TERRITORY OF INDIA AND ORS

..... Respondents

+ **W.P.(C) 4970/2021 & CM APPL 15223/ 2021, CM APPL**  
**15224/2021, CM APPL 15225/2021, CM APPL 15226/2021, CM**  
**APPL. 15249/2021, CM APPL. 15250/2021/2021, CM APPL.**  
**15251/2021, CM APPL15252/ 2021, CM APPL 15603/2021**

BALAJI MEDICAL AND RESEARCH CENTER..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

+ **W.P.(C) 4971/2021 & CM APPL. 15236/2021**

GANESH DAS CHAWLA CHARITABLE

TRUST (REGD)

..... Petitioner

versus

UNION OF INDIA

..... Respondent

+ **W.P.(C) 4984/2021 & CM APPL. 15279/2021, C.M. NO.**  
**15777/2021, CMNO. 15778/2021, CMNO. 15779/2021**

M/S. BRAM HEALTH CARE PRIVATE LIMITED..... Petitioner

	versus	
	UNION OF INDIA & ANR.	..... Respondent
+	<b><u>W.P.(C) 4985/2021 &amp; C.M. No. 15922/2021</u></b> BATRA HOSPITAL AND MEDICAL RESEARCH CENTRE	..... Petitioner
	versus	
	UNION OF INDIA & ORS.	..... Respondents
+	<b><u>W.P.(C) 5001/2021</u></b> MAHARAJA AGRASEEN HOSPITAL CHARITABLE TRUST	..... Petitioner
	versus	
	UNION OF INDIA AND ORS	..... Respondents
+	<b><u>W.P.(C) 5002/2021</u></b> M/S BHAGAT CHANDRA HOSPITAL	..... Petitioner
	versus	
	UNION OF INDIA THROUGH SECRETARY & ANR.	..... Respondents
+	<b><u>W.P.(C) 5003/2021</u></b> M/S JAIPUR GOLDEN HOSPITAL	..... Petitioner
	versus	
	UNION OF INDIA THROUGH SECRETARY & ORS.	..... Respondents
+	<b><u>W.P.(C) 5024/2021 &amp; CM APPL. 15397/2021</u></b> SHANTI MUKAND HOSPITAL	..... Petitioner
	versus	
	UNION OF INDIA AND ORS.	..... Respondents
+	<b><u>W.P.(C) 5026/2021 &amp; CM APPL. 15401/2021</u></b> VINAY JAIDKA	..... Petitioner
	versus	
	CHIEF SECRETARY	..... Respondent
+	<b><u>W.P.(C) 5050/2021 &amp; CM APPL. 15464/2021, CM APPL. 15465/2021, CM APPL. 15466/2021, CM APPL 15694/2021</u></b> BHAVREEN KANDHARI	..... Petitioner

- versus
- GOVT OF NCT OF DELHI & ORS. .... Respondents
- + **W.P.(C) 5073/2021 & CM APPL. 15529/2021**  
VENKATESHWAR HOSPITAL .... Petitioner
- versus
- GOVERNMENT OF NCT OF DELHI & ORS. .... Respondents
- + **W.P.(C) 5085/2021 & CM APPL. 15581/2021, CM APPL. 15582/2021**  
EHILARASAN ALIAS SHANKAR .... Petitioner
- versus
- UNION OF INDIA & ORS. .... Respondents
- + **W.P.(C) 5100/2021 & CM APPL. 15623/2021**  
MANISHA GUPTA .... Petitioner
- versus
- GOVT, OF N.C.T OF DELHI & ANR. .... Respondents
- + **W.P.(C) 5102/2021 and CM Nos. 15635/2021 & 15636/2021**  
ASEEMIT SOCIAL PROJECTS FOUNDATION .... Petitioner
- versus
- UNION OF INDIA & ANR. .... Respondents

## **MEMO OF APPEARANCE**

### **For the petitioners**

Mr.Sacchin Puri, Senior Advocate with Mr.Praveen K. Sharma and Mr.Dhananjay Grover, Advocates for the petitioner in W.P.(C) Nos. 5100/2021

Petitioner in person in W.P.(C) No.3031/2020.

Mr.Mahesh Agarwal, Mr.Rishi Agrawala, Mr.Karan Luthra, Mr.Ankit Banati, Advocates in WP(C) No. 4970/2021.

Mr. Himanshu Dagar, Advocate for applicant in C.M. No. 15648/2021 in W.P.(C.) No. 4970/2021.

Mr. Ajay Kohli, Ms. Priyanka Ghorawat, Mr. Raghav Marwaha, Advocates

for Delhi Heart and Lung Institute.

Ms. Prabhsahay Kaur, Advocate for in W.P.(C) No. 4971/2021.

Mr. Priyadarshi Manish and Mrs. Anjali J. Manish, Advocates in W.P.(C) No.4984/2021.

Mr. Sidharth Dave, Senior Advocate with Ms. Varuna Bhandari, Ms. Bhakti Vardhan, Mr. Tushar Thareja, Mr. Akhil Mittal, Advocates in W.P.(C) No. 4985/2021.

Mr. Alok Kr. Aggarwal, Ms. Anushruti, Ms. Supreet Bimbora and Ms. Simran Arora, Advocates in WP (C) No. 5001/2021.

Mr, Sachin Datta & Mr. G. Tushar Rao, Senior Advocates with Mr. Dinesh Sharma, Ms. Ritika Jhurani, Ms. Jipsa Rawat, Advocates along with Mr.D.K. Baluja, Medical Director, Jaipur Golden Hospital in W.P. C Nos. 5002-5003/2021& 5126/2021.

Mr. Maninder Singh, Senior Advocate with Mr. Aarush Bhatia, Advocate in W.P.(C) No. 5024/2021.

Mr. Satish Aggarwala & Mr. Gagan Vaswani, Advocates in W.P.C No. 5026/2021.

Mr. Krishnan Venugopal, Senior Advocate with Mr. Manan Verma, Mr. Aditya N Prasad, Mr. Kaushik Mishra & Ms. Anmol Srivastava, Advocates in W.P.C No. 5050/2021.

Mr. M.K. Gahlaut, Advocate in W.P.C No. 5081/2021.

Mr. Mohit Chaudhary & Mr. Kunal Sachdeva, Advocates in W.P.(C.) No.5085/2021

Ms. Karuna Nundy, Mr. Sarthak Maggon & Ms. Upasana, Advocates in W.P.(C.) No. 5102/2021.

Mr Sudhir Mishra, Ms. Petal Chandhok, Ms Rupali Gupta and Mr. Raghav Seth, Advocates in W.P.C No. 5073/2021.

Mr. Siddharth Chechani, Advocate in W.P.C No. 5103/2021.

Mr. Abhinav Vashisht, Sr. Adv. with Mr. Sacchin Puri, Sr. Adv., Mr. JS Bakshi, Sr. Adv. with Mr. Praveen K. Sharma, Mr. Dhanjay Grover, Mr. Kamil Khan and Ms. Akshita Sachdeva, Advs. in W.P.(C) No. 5142/ 2021.

**For the respondents**

Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Aishwarya Bhati, ASG along with Ms. Monika Arora, Mr. Amit Mahajan, Mr. Anil Soni & Mr. Anurag Ahluwalia, CGSCs, Mr. Syed Husain Adil Taqvi, GP, Mr. Jivesh Kr. Tiwari, Ms. Nidhi Parashar, Mr. Kanu Aggarwal, Mr. Kritagya

Kumar Kait, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg & Mr. Vinay Yadav, Advocates for UNION OF INDIA in all the matters.

Mr. Rahul Mehra, Senior Advocate along with Mr. Satyakam, Mr. Santosh Tripathi, SC Mr. Gautam Narayan, Mr. Anuj Aggarwal & Mr. Anupam Srivastava, ASCs with Mr. Aditya P. Khanna, Ms. Dacchita Sahni, Ms. Ritika Vohra and Mr. Chaitanya Gosain, Ms. Aayushi Bansal, Advocates for GNCTD in all the matters.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae), Mr. Anandh Venkataramani, Mr. Vinayak Mehrotra, Ms. Mansi Sood, Mr. Karthik Sundar, Ms. Sonal Sarada, Mr. Areeb Y Amanullah, Advocates in all the matters.

Mr. Anil Grover, Senior Additional Advocate General for Haryana along with Ms. Bansuri Swaraj, Additional Advocate General for Haryana and Mr. Siddhesh Kotwal, Ms. Manya Hasija & Ms. Ana Upadhyay, Advocates.

Mr. Aseem Chaturvedi & Mr. Ajay Bhargav, Advocates for M/s INOX.

Mr. Divya Prakash Pande, Advocate for South Delhi Municipal Corporation.

Mr. Abhinav Tyagi, Advocate for M/s Seth Air Products.

Ms. Malvika Trivedi, Senior Advocate with Mr. Tanmay Yadav, Ms. Abhisree Saujanya, Ms. Nihaarika Jauhari, Ms. Eysha Marysha, Ms. Vidhi Jain, Advocates along with Ms. Kritika Gupta, applicant in person.

Ms. Garima Prashad, Senior Advocate with Mr. Abhinav Agrawal, Advocate.

Mr. Ankur Mahindro & Ms. Sanjoli Mehrotra, Advocates for intervener.

Mr. Om Prakash & Mr. Pradeep Kumar Tripathi, Advocates for the applicant in C.M. No. 15651/2021.

Mr. Rohit Priya Ranjan, Advocate for M/s Goyal Gases.

Mr. Abhishek Nanda, Advocate for IRDAI.

Mr. Anupam S Sharma, SPP-CBI with Mr. Prakarsh Airan, Ms. Harpreet Kalsi, Advs in W.P.(CrI)953/2021.

Mr. Tushar Mehta, SG with Mr. Chetan Sharma, ASG, Mr. Satya Ranjan Swain, CGSC and Mr. Kautilya Birat, Mr. Vedansh Anand, Advocates in W.P.(C) No. 5126/2021.

Ms. Urvi Mohan, Adv. for DBOCWW Board.

Ms. Himanshi Nailwal with Mr. Ambuj Tiwari, Mr. Ankur Garg, Mr. Akhil Mitta, Advocates in C.M. No. 15922/21 in W.P.(C) No. 4985/2021.

Ms. Nitya Ramakrishnan, Sr. Adv. with Mr. Prasanna S, Ms. Vinoothna Vinjam and Mr. Ritesh D, Advocates in C.M. NO. 15962/2021.

Ms. Shweta Kabra, Advocate for India Glycols Limited.

**CORAM:**  
**HON'BLE MR. JUSTICE VIPIN SANGHI**  
**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

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**10.05.2021**

1. The learned Amicus has circulated his note of today on the issue regarding oxygen supply and, particularly, in relation to creation of oxygen cylinder pool. In the said note the learned Amicus has highlighted the following: -

*A. Regarding Oxygen Cylinder Pool – **For action by GNCTD***

*1. Vide Order dated 04.05.2021, the Transport Department, GNCTD had created a common cylinder pool for Delhi, with hubs at various depots of the Delhi Transport Corporation in each of the 11 districts. 20 filled cylinders were to be given to each district which could be exchanged in return for empty cylinders, post - approval of the concerned District Magistrate.*

*2. On 05.05.2021, the Revenue Department, GNCTD passed an Order, inter alia, mandating that :*

*a. With effect from 06.05.2021, all individuals requiring oxygen for home isolation patients would apply for the same on <https://delhi.gov.in/>, and;*

*b. Such application would be accompanied with a valid photo ID, Aadhar Card Details, COVID positive report, and other documents (CT Scan report etc. if available) that would indicate the actual need for oxygen , and;*

*c. The District Magistrate would identify the dedicated dealers/depots for distribution of cylinders, and;*

*d. Individuals were not to be redirected to refilling plants under any circumstances.*

*3. By another Order dated 06.05.2021, the GNCTD directed the*

*District Magistrates to carry out a comprehensive exercise for the identification of cylinder dealers by all linked re-fillers. The capacity of available oxygen cylinders was also to be ascertained. It was further directed that Order dated 05.05.2021 be implemented only after such dealer linkage exercise was completed.*

*4. From information circulating on WhatsApp messages in the public domain, it appears that pursuant to the aforesaid, the Sub-Divisional Magistrate (Mehrauli), South District has issued an undated Public Notice 5 providing a dedicated WhatsApp number for cylinder supply to home isolation patients till such time as the portal is fully operationalised. A perusal of the same reveals that the following, inter alia, have been laid down:*

- a. The patient has to be from South District, and;*
- b. Aadhar card is required as proof of address, and;*
- c. Patient should have a COVID positive report, and;*
- d. Doctor's prescription and CT severity need to be attached, and;*
- e. Allotment will be made on first - come, first - serve basis, and;*
- f. AB - type/D - type empty cylinder is to be given in lieu of filled cylinder of same type.*

*5. GNCTD had by Order 6 dated 23.04.2021 categorically directed hospitals not to deny treatment to any person requiring medical aid. It was also directed that suspected cases be kept in a dedicated area. Further, vide Judgement dated 26.04.2021 in Jaideep Ahuja v GNCTD & Anr., WP(C) 4999/2021, the Hon'ble DB - 1 had directed hospitals to scrupulously adhere to the GNCTD Order dated 23.04.2021, and for GNCTD to widely circulate the same.*

*6. It is noted that the UoI has revised the National Policy for Admission in Hospitals 8 on 08.05.2021. The same also stipulates that 'Requirement of a positive test for COVID - 19 virus is not mandatory for admission to a COVID health facility. A suspect case shall be admitted to the suspect ward of CCC, DCHC or DHC as the case may be.'*

7. *As such, insistence on a COVID - positive report for supply of oxygen cylinders to individuals may deprive some needy patients of the same, who do not possess a COVID - positive report.*

8. *In this light, it is suggested that the GNCTD be directed to:*

*a. Immediately operationalise the portal, and till the same is done, create dedicated WhatsApp numbers for the districts/sub - divisions, and widely publicise the same forthwith.*

*b. Permit supply to patients lacking a COVID - positive report based on a doctor's prescription and other accompanying documents/test results.*

*c. Reconsider urgently the requirement of only Aadhar and substituting it with any other accepted document viz. Driving License etc.*

*d. Issue a clarification that instead of a blanket limitation to persons residing in the same district, ordinarily preference would be given to such persons . However, in emergent cases, others could also avail of the said facility.”*

2. We have heard learned Amicus as well as Mr. Mehra, learned Sr. Adv. appearing for the GNCTD. He submits that so far as the operationalization of the portal for booking oxygen cylinders is concerned, there is some re-thinking in the department as to whether the same should be operationalized, or the distribution should be undertaken by appointing retailers who should be required to account for the cylinder supplied to them for onward supply to the customers.

3. He submits that the requirement of covid positive report can be dispensed with, in view of the orders passed by the Hon'ble Chief Justice's Bench, and the supply of oxygen could be based on doctor's prescription and other accompanying documents, or test reports. He further submits that the requirement of providing a copy of the Aadhaar card of the patient could be relaxed, and some other identity document should be accepted, such as



driving license or other identity card issued by the Government. The GNCTD should take steps to bring about the changes taken note of in this paragraph.

4. Mr. Mehra submits that the suggestion that the distribution through the office of the District Magistrate be opened up for all the residents, irrespective of the district in which they reside, may not be implemented right away, since in all the 11 district the same mechanism is being operationalized and, therefore, to evolve and maintain a proper system, and avoid overcrowding, the residents of the different districts should approach the concerned provider for procuring a cylinder within the district. He submits that depending upon the experience gained after the system is implemented, reallocation of the number of cylinders district wise could be undertaken to deal with greater demand in some areas versus less demand in others.

5. Let Status/ Compliance Report in this regard be placed before this Court. It shall be considered on 12.05.2021.

6. The other aspect raised by the learned Amicus is with regard to the control of price of oxygen cylinders. In this regard, learned Amicus has stated as follows: -

***“B. Price Control of Oxygen Cylinders – For action by UoI/NPPA /GNCTD***

*1. The powers conferred on the Central Government by virtue of Sections 3 and 5 of the Essential Commodities Act, 1955 has delegated powers in respect of specified paras of The Drugs (Prices Control) Order, 2013 to the National Pharmaceutical Pricing Authority ( Authority ).*

*2. The Authority had, by way of a Gazette Notification dated*

*26.09.2020 , capped the maximum price (ex - factory), excluding GST at INR 15.22/cubic metre for Liquid Medical Oxygen and INR 25.71 /cubic metre for Oxygen Inhalation (Medicinal Gas) in cylinder. The said Gazette Notification also noted that the Ministry of Health and Family Welfare, UoI had delegated to the Authority powers under Section 10(2)(1), Disaster Management Act, 2005 to take all steps necessary to immediately regulate availability and pricing of LMO and oxygen cylinders. This was to remain valid till 31.03.2021 or till further orders, whichever was earlier.*

*3. On 25.03.2021, the Authority has extended the aforementioned price - capping order till 30.09.2021 or till further orders, whichever is earlier.*

*4. However, I am informed that as far as oxygen cylinders are concerned, the pricing is not being scrupulously followed. It is recommended to this Hon'ble Court that it may be pleased to:*

*a. Direct the UoI and NPPA to take steps to enforce the price caps*

*b. Direct GNCTD to ensure that the pricing decided by NPA is adhered to*

*c. Direct the UoI and NPPA to monitor and review the situation and pass additional necessary orders, as warranted.”*

7. We are of the view that the GNCTD should look into the aforesaid aspect so that the price at which the cylinders are to be supplied to the consumer is fixed/ capped, after taking into account the price of the gas as the oxygen cylinders and; the transportation costs/ commission and service charges which may reasonably be borne for delivering gas after conversion from liquid medical oxygen. The GNCTD shall hold a meeting with all the stakeholders to resolve this issue at the earliest. Let a Status Report in this regard be filed by 14.05.2021.

8. Learned Amicus has next raised the issue with regard to allocation of seized medical equipment by sub-ordinate courts. A reference has been made to order passed in case FIR No. 197/2021 titled *State vs. Vinay Agarwal & Akash Vashist* by the learned MM-04 Dwarka Courts, whereby the learned MM released oxygen concentrators which had been seized by the police, for use by police and the Judicial Officers. The said order has been set aside by the learned Principal District and Sessions Judge, South West, Dwarka Courts granting liberty to the IO to move fresh application to the appropriate authority, namely the District Magistrate, in terms of the order passed by this Court in Venkateshwar Hospital's case.

9. We are informed by Mr. Sagar that the orders passed by this Court in Venkateshwara hospital case is not even in the knowledge of the concerned Magistrates. It shall be the responsibility of the State to circulate the said order to all the Public Prosecutors, so that they could inform the Courts of about the same. The orders be also circulated to DMs for compliance. Let the State place before this Court a report with regard to seizures made by the State and the orders passed by various DMs for release of equipment. The particulars be provided case wise. This aspect shall be considered on 18.05.2021.

10. The next issue flagged by the learned Amicus is with regard to the availability of, and the charges levied by Ambulances and Hearse/ Mortuary Services for Covid-19 patients, who unfortunately pas away. The submission of learned Amicus in his note is as follows:

*“D. Issues regarding Ambulance and Hearse/Mortuary services for Covid-19 patients/deceased – For action by GNCTD*

*1. It appears that there are several issues being faced by*

*members of the public in relation to Ambulance and Hearse/Mortuary services. The most prominent of these is the non-availability of a consolidated and authenticated information source. While there is a dedicated GNCTD helpline number, namely 102, for ambulance services, the same is insufficient to cater to the current need for ambulance(s) for Covid-19 patients, both with and without oxygen. Additionally, no such helpline number exists for hearse/mortuary services.*

*2. Towards this end, crowdsourced (and subsequently verified) lists of private service providers, both for ambulances<sup>13</sup> and for hearse/mortuary services<sup>14</sup> (similar to Yellow Pages directories), have been collated and authenticated, as attached herewith. In order to ensure easy accessibility and wide circulation of the same, the GNCTD could consider the following:*

*a. Publication of the same at a prominent place on the Covid-19 portal delhifightscorona.in as well as the websites of the respective District Magistrates.*

*b. Wide circulation of the link through other communication channels such as WhatsApp groups of the respective RWAs as well as through newspaper inserts/pamphlets.*

*c. Regular updation of the list and provision for other such service providers to request to be added to the same.*

*d. While asking such service providers to register their information for the online database, they could also be asked for their oxygen capacity/requirements, which would enable appropriate provisions to be made for them from the overall supply*

*3. Another issue pertains to the rates charged by these private ambulance and hearse/mortuary services. While GNCTD, through the Centralised Accident and Trauma Services (CATS), has already capped the rates chargeable by private ambulances for various categories of services, vide order dated 06.05.2021<sup>15</sup>, hearse/mortuary services appear to remain uncapped. As such, on account of the large number of deaths due to Covid-19 and the acute shortage of such services, many*

*providers are charging exorbitant rates for providing these services. Therefore, the GNCTD could consider similar directions regarding capping of rates of hearse/mortuary services, unless already done. In the latter event, these directions ought to be widely publicised and strict and swift action ought to be taken against violators.*

*4. On the other hand, there are also certain issues being faced by providers of both ambulance as well as hearse/mortuary services, with regard to which GNCTD could consider issuing appropriate directions:*

*a. Several providers have reported that they are not being entertained at petrol pumps due to fear of Covid-19 contamination, as a result of which they are forced to restrict their coverage areas.*

*b. For those ambulances with oxygen, similar issues are faced at the premises of oxygen vendors, which again restrict the ability of ambulances to make provision for oxygen.*

*The afore-referred aspects ought to be looked into by the GNCTD and adequate provision made for the same.”*

11. Mr. Rao submits that even though the charges for Ambulances have been fixed, charges for Hearse/ Mortuary Services have not been fixed by the GNCTD. We direct the GNCTD to fix the rates for Hearse/ Mortuary Services to be provided for the deceased Covid-19 patients. He further submits that his office has undertaken the task of verification of number of the service providers in this field, and the same are annexed as Annexure 12 & 13 to the present report. Since these lists have been verified, we direct the GNCTD to forthwith proceed to provide links to the same on their *delhiflightscorona.in* website. The links should be included with proper index to the site. The notified rates for Ambulances, and those that may be notified for Hearse/ Mortuary Services should also be indicated. The orders

issued, and those that may be issued in that respect should also be linked at the same location on the website.

12. The other aspect raised by the learned Amicus is that the Ambulances/ Hearse Services are not being entertained at Petrol Pumps due to fear of Covid-19 contamination. Similarly, in respect of the Ambulances fitted with Oxygen supply, the Oxygen vendors are wary of entertaining such service providers. The State should sanitise the Petrol Pumps through their local police and, wherever necessary, assistance may be provided. Status report in this regard be filed by 20.05.2021.

13. Mr. Rao submits that one aspect on which the respondent GNCTD should start thinking, planning and providing for, is with regard to the provisioning for the basic medication required for care and management of Covid-19 patients. The GNCTD should place before this Court a short note on how it is planning to deal with the situation. The estimations that the GNCTD may have made with regard to requirements of Medication and other equipments needed for treatment of COVID-19, as well as planning for provision of the same for use by the public, should be disclosed. The issue with regard to the availability of blood for treatment of Covid-19/ Non Covid-19 patients should also be looked at.

14. The learned Amicus has included in the note for today, a note on issues qua insurance policy coverage for Covid-19. He has raised several issues which are arising in relation to the insurance claims and which may arise with the passage of time. Let the said note be circulated, with any further suggestions that may be collected, along with a copy of this order by the learned Amicus to the Insurance Regulatory and Development Authority of India (IRDA). The IRDA should look at the aspects raised by the learned

Amicus, and the IRDA should place before this Court their response within two weeks. This aspect shall be considered on 25.05.2021.

15. Mr. Rao has also raised the issue with regard to the testing for COVID-19. He submits that apart from the RT-PCR Test, which is considered as the gold standard, and the Rapid Antigen Test (RAT), indigenous tests namely “*Feluda*” and “*Ray*” are also available, which have been approved by the ICMR. These are cheaper tests, and the results are also available faster when compared to the RT-PCR Test. Mr. Rao submits that as per the statement made by the concerned Minister, the sensitivity and specificity of the “*Feluda*” Test is more or less the same as the RT-PCR Test. He submits that “*Ray*” Test is only an improved version of “*Feluda*” Test. Mr. Anurag Ahluwalia who appears for the ICMR shall report to this court tomorrow i.e. 11.05.2021 – as to why the “*Feluda*” and “*Ray*” Tests have not gained popularity just like the RT-PCR Test. They should also disclose the bottlenecks, if any, in adopting the said tests along with the RT-PCR Test as the gold standard. This aspect shall be considered on 11.05.2021.

16. Mr. Rao has pointed out that this Court had passed orders on 19.04.2021 and 22.04.2021 with regard to the cooked food supply to daily wage labourers, and migrant labourers. We direct the State to file a report with regard to the steps taken for provision of cooked food supply to daily wage labourers and migrant labourers. This aspect shall be considered on 17.05.2021.

17. During the course of hearing, our attention has been drawn to our order dated 20.04.2021, and in particular to paragraphs 7,8 and 9 thereof.

We were informed that, as on 19.04.2021, in the named Central Government Hospitals, there were 1432 COVID beds. That apart, 250 beds were to be made available by DRDO, 250 beds by LHMC, and 36 beds in Safdarjung Hospital as per plan. That apart, in other hospitals and facilities, 2105 beds were claimed to have been made available by the Central Government in the NCT of Delhi. Thus, the Central Government claimed to have made available, in all, 4091 COVID beds for COVID patients in Delhi. We had required that the break up of the 4091 beds be provided along with details of of ICU/ Non ICU beds, and beds with/ without oxygen, and with/ without ventilator. The submission of Mr. Mehra that last year, when the Pandemic was much milder, the Central Government had made available 4112 beds in its hospitals and facilities at Delhi was noticed. We also took note of the statement of the Director, Ministry of Health and Family Welfare that the Central Government is endeavouring to make more beds available in the NCT of Delhi.

18. We had also observed that *“Considering the fact that the number of COVID patients, who are now needing hospitals if for greater than the numbers which were turning up last year – even during the peak of the pandemic, the Central Government should urgently look to allocate more beds among their hospitals for COVID patients. We direct the Central Government to look into the aspect of bed allocation for COVID patients keeping in view the prevailing circumstances, and report in this regard on the next date of hearing i.e. 22.04.2021.”* On 22.04.2021, we had taken note of the compliance report, as per which, 4091 beds were allocated in Central Government hospitals for COVID patients, however, the same included 1200 beds at Railways, Shakur Basti and Anand Vihar, which could not be



considered as full-fledged hospital beds. After noticing that 340 COVID beds had been made available at the Army Base Hospital in Delhi Cantonment, and the statement of the Central Government that it is intending to add further beds for COVID patients, we expressed the hope that the Central Government would look into the requirement of COVID beds, and work to enhance the availability of such beds in Central Government Hospitals and facilities.

19. According to Mr. Mehra, rather than increasing the number of the COVID beds, the same stands reduced to 3861 in Central Government Hospitals and Facilities. We direct the Central Government to examine the aforesaid aspect, and disclose the number of beds in the Central Government hospitals and facilities, category wise on 13.05.2021. The steps taken to augment the bed facility by the Central Government for COVID patients should also be disclosed.

20. Mr. Rao submits that after working on the Format prepared and shared by Mr. Alok Aggarwal, Advocate, he has forwarded to the GNCTD, the Performa which the different players in the supply chain should fill up online, so as to maintain transparency, and coordination in the matter of supply of LMO for the NCT of Delhi. Let the GNCTD report by 12.05.2021, the steps taken to implement the same Performa. If not already implemented, the same shall be implemented by them.

21. Mr. Rao has also submitted that the hospitals and the Nodal Officers have not been updating the data on the portal of the GNCTD with regard to the availability of beds. He states that the hospitals and nursing homes, he has spoken to, state that it too much work for them to perform. We cannot appreciate this submission for the reason that in every big or small hospital

and nursing home, there is bound to be a Management Wing where records with regard to the occupancy and availability of beds is maintained on a real time basis. In our view, it is not much to expect from the hospitals, and nursing homes, to update information with regard to the same every couple of hours. We, therefore, again direct all the hospitals and nursing homes to update the said data every two hours, as already directed. Non-compliance of this direction shall be viewed strictly.

22. Mr. Rao has next pointed out that in view of the high mortality caused by the Pandemic, and the distress that all sections of the community at large are going through, including the medical doctors, paramedical staff, and others, it is essential to address the needs of mental health of all concerned, including patients, their attendants, relatives, doctors and paramedic staffs, as also the general public who may, directly or indirectly, be suffering due to the Pandemic. It is suggested that the services of IBHAS could be roped in. Let Mr. Satyakam take instructions in this regard, and place the position before the Court, which shall be considered on 17.05.2021.

23. The learned Secretary, DSLSA has also offered that the services of the Counsellors appointed by the DSLSA i.e. one per district could also be availed of. He has shared with the Court, the particulars of the Counsellors district wise. The said list has also been shared with the learned Amicus, and with Mr. Satyakam. Let the particulars of the said Counsellors be also publicised by the GNCTD on their website, so that any one in need of any counselling could get in touch with the said Counsellors.

24. Lastly, Mr. Rao has submitted that there are issues arising with regard to the policy of the Government of India for receiving foreign aid and donations. He points out that individual donations of smaller quantities of

equipment are not being accepted. In this regard, Mr. Mahajan shall take instructions with regard to the existing policy for receiving aids and donations for COVID relief, and place the same before the Court.

25. List on 11.05.2021.

**VIPIN SANGHI, J**

**REKHA PALLI, J**

**MAY 10, 2021**

*Kk/bsr/nk*