

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-W-560-2021 AND
CRWP-242-2021

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Rishi v. State of Haryana and others

Present: Mr. Rupinder Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate as Amicus Curiae.

Mr. Baldev Raj Mahajan, Additional Advocate General with
Mr. Ankur Mittal, Additional Advocate General, Haryana.

Mr. Atul Nanda, Advocate General, Punjab with
Mr. Vikas Mohan Gupta, Additional Advocate General, Punjab.

Mr. Pankaj Jain, Senior Standing Counsel with
Mr. Jaivir Chandail, Additional Government Pleader for
UT, Chandigarh.

Mr. J.S. Toor, APP for UT, Chandigarh.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Dheeraj Jain, Advocate for Union of India.

Mr. Anupam Gupta, Senior Advocate with
Mr. Karan Bhardwaj, Advocate for the applicant in
CRM-W-560-2021.

Case has been heard through Video Conferencing on account of
COVID-19 Pandemic.

Matter has been taken up today. This court called upon Mr.
Rupinder Khosla, learned Amicus Curiae to address on various issues. At
the outset, he highlighted the question of scarcity of oxygen. We have,
however, impressed upon him to make submissions on this issue on the next
date, if necessary as the matter is pending before the Hon'ble Supreme
Court.

He has emphasized the need for more ventilators in GMSH-16,

Chandigarh. According to him, only six ventilators are functional at the moment and the hospital is facing difficulty in view of large number of patients pouring in for medical help. Apart from this, he has highlighted that there is wastage of vials which are opened for vaccination in all the three States. According to him, this needs to be avoided at all costs as the country is facing paucity of vaccine after the eligible age group has been lowered to 18 years. As per Mr. Khosla, in Himachal Pradesh, no such vaccine wastage has been reported. The court has been informed that shelf life of vial once opened is about four hours. If requisite number of persons to be vaccinated are not available within this time period, rest of the quantity normally goes waste. He has also referred to the ambulance facilities being provided by the Government which are over burdened. As a result, certain private parties are providing this facility but at a higher cost, making it a business venture. According to him, there is scarcity of para medical staff as well which needs immediate attention of the Government.

Mr. Atul Nanda, learned Advocate General, Punjab has brought to the notice of this court that 82 ventilators have been supplied to the State of Punjab, out of which 71 are faulty. He further submits that 24 containers are available with them. The State has raised a demand for more. However, if six containers are arranged at the earliest, it would ease out the situation in Punjab somewhat. About 85000 injections of *Remdesivir* have been supplied whereas demand of 37000 injections is still pending. He further submits that Punjab needs about 4 lakh vials of Covishield vaccine immediately.

A query is put to him about the monitoring of the situation in the rural areas where virus has spread rapidly. He submits that he shall file a

short affidavit on the next date of hearing. Prayer is accepted. It is, however, directed that affidavit be filed by an officer not below the rank of Principal Secretary, Health, Government of Punjab.

Mr. Mahajan, learned Advocate General, Haryana submits that medical officers as well as final year medical students have been taken in the loop for providing tele consultation.

A query has been put to Mr. Mahajan about the wastage of vaccine, if any, in the State of Haryana. He submits that he shall respond to this query on the next date of hearing. According to him, a cap has been put on the rates/charges of treatment by private hospitals and they are being closely monitored. About the spread of disease in the rural areas, he submits that a plan has been drawn up and Senior Administrative Officer has been deputed for every District in Haryana to monitor the situation. Physical inspection in all rural areas/Districts is being carried out. This court, however, needs a detailed report of the work done at the ground level. The status report may, thus, be filed in this regard by an officer not below the rank of Additional Chief Secretary, Health.

As far as Union Territory, Chandigarh is concerned, Mr. Pankaj Jain, Senior Standing Counsel submits that in view of the order passed by this Court on 7.5.2021, a common strategy has been drawn up by the Administration of all the three Districts. It has been decided that the Deputy Commissioners of all the three Districts, such as, Chandigarh, Mohali and Panchkula and Director Health Services of the three States shall hold meetings twice a week to review the situation and to take measures accordingly.

He has filed a status report on behalf of Chandigarh

Administration. According to him, 'Uniform Anti-Corona Measures' are being undertaken in the tricity. A meeting was convened by the Governor, Punjab, who is also Administrator, UT, Chandigarh at Raj Bhawan on 11.5.2021 to discuss this issue. Same was attended by Advisor to UT, Administration, both the Chief Secretaries and Senior Standing Counsel, UT, Chandigarh. It was highlighted that War Room meetings were being held regularly by the Administrator with Deputy Commissioners of Mohali and Panchkula, other officials and Doctors at PGIMER. Administrator was also in touch with Chief Ministers of Punjab, Haryana and Himachal Pradesh to tackle the Covid-19 situation in the region. In addition, two committees as stated in the foregoing paragraph had been constituted. In case of emergency any where in the tricity, the concerned authorities would provide oxygen, medicines and medical equipment like ventilators etc. to each other to avoid any untoward incident. A request has also been made that a separate quota of 5 MT of liquid oxygen be exclusively kept for PGIMER. As regards supply of drugs, such as, *Remdesivir* and *Tocilizumab* in tricity, any private hospital was free to make application to Director, Health and Family Welfare via email address, i.e. dhsut@yahoo.co.in. Same would be made available rationally at the earliest. Besides, steps had also been taken to ensure rational use of oxygen. A senior PCS officer has been deputed to see supply of oxygen to private hospitals as per daily quota, is made in time.

Mr. Anupam Gupta, learned Senior counsel has highlighted that though publication of the availability of beds has been started by UT, Chandigarh but it is not in consonance with the established practice being followed in other States particularly, Haryana. At the outset, Mr. Pankaj

Jain submits that the same format shall be adopted and accurate information shall be publicised therein.

Mr. Gupta has also highlighted that the PGIMER, Chandigarh being a premier medical institute is also catering needs of nearby States, such as Punjab, Haryana, Himachal Pradesh and Jammu and Kashmir. It needs to be ensured that it does not face any problem in technical and support or oxygen supply.

Mr. Satya Pal Jain, learned Additional Solicitor General of India submits that after the order dated 7.5.2021 was passed by this Court, Government of India has increased the oxygen supply to Punjab from 227 MT to 247 MT and to Haryana from 267 MT to 307 MT. He further submits that the request made by the State of Punjab for supply of six more containers and release of pending quantity of *Remdesivir* injections and vaccine shall be looked into forthwith. As regards 71 faulty ventilators to the State of Punjab, he submits that the matter shall be examined immediately and necessary steps taken for rectifying the fault, if any, at the earliest. He further submits that sufficient number of PSA Generators have been supplied to various Government Hospitals in UT, Chandigarh which all are functional now. The request of 5 MT of oxygen for PGIMER exclusively, would also be processed expeditiously.

As regards the wastage of available quantity of vaccination, we feel that States need to examine whether Rule 24 of the Haryana Services Rule (General) needs to be invoked in case of Government employees to explore whether Government offices can be made fully functional at the earliest. The Rule reads as under:-

“Every government employee shall get himself

vaccinated and re-vaccinated at any time when so directed by the Government by general or special order.”

State of Punjab may also examine whether there is any pari materia provision in the Punjab Rules as well which makes vaccination compulsory for Government employees. In this context, learned counsel may also assist in light of the provision contained in Section 22(2)(h) of the Disaster Management Act.

As regards ambulance issue, apart from Government facility, we feel that the nodal agencies in all the Districts may monitor the ambulance facilities being provided by the private operators. They may call upon voluntary agencies, NGOs etc. for providing additional ambulances. They would also ensure that tele-consultancy is available to general public 24x7. Services of doctors/final year medical students may be sought and such phone numbers be widely publicised. On next date of hearing the court would consider seeking report regarding tele-medicine facilities from the concerned Deputy Commissioner/Additional Deputy Commissioner of the Districts who are designated as Nodal Officers.

Government of India may examine the possibility of providing more ventilators to GMSH-16, Chandigarh hospital as the same is centrally located and patients normally approach the said hospital in the first instance. As regards the need for supporting staff, the issue may be examined by the Secretary, Health. If it is found that more staff is required in this emergency situation, he is at liberty to recruit the same on contract basis, in case a provision to this effect exists in the rules.

Before parting with the order, we may add here that all the States being aware of the critical care PGIMER, Chandigarh is providing

keeping in view its advanced medical expertise, they may cooperate in every respect in order to ensure that its functioning remains smooth and efficient.

All the three States may impress upon the private diagnostic centres to reasonably slash their rates for CT Scan for Covid patients.

At this stage, Mr. Atul Nanda, learned Advocate General, Punjab has highlighted that under Corporate Social Responsibility (CSR) incorporated in Section 135 of the Companies Act, it is obligatory for the Companies to contribute at least 2% of their profit as social responsibility to the society in this period of crisis generated due to pandemic. It is left to the three States to ask the corporate houses to participate in fighting the crisis by providing ambulances, oxygen beds, ventilators, CT Scan machines etc. to Government Hospitals so that economically weaker strata of the society has easy access to such facilities. The States shall apprise the court about response, if any, received in this regard.

Adjourned to 18.5.2021.

It needs to be kept in mind that in *Paschim Banga Khet Mazdoor Samity and others v. State of West Bengal and others, 1996(4) SCC 37*, Hon'ble Supreme Court had directed that immediate medical help is right to life. Similar view echoed in cases titled as *State of Punjab and others v. Ram Lubhaya Bagga and others, 1998(4) SCC 117* and *Pt. Parmanand Katara v. Union of India and others, 1989(4) SCC 286* wherein it was directed to give priority to the health of citizens.

(RAJAN GUPTA)
JUDGE

May 12, 2021
gbs

(KARAMJIT SINGH)
JUDGE