

PIL No. 26 of 2021

Mr.Naresh Maimom Petitioner

- Versus -

Union of India & 5 others.
..... Respondents

For the Petitioner	::	Mr.S.Serto, Advocate
For respondent No.1	::	Mr.S.Suresh, ASG
For respondents Nos.2 and 3	::	Mr.N.Kumarjit, AG, Manipur
For respondent No.4	::	Mr.M.Devananda, Advocate
Date of Order	::	10.05.2021

BEFORE

HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR

AND

HON'BLE MR.JUSTICE KH.NOBIN SINGH

The CJ (Oral):

[1] Admit.

[2] Mr.S.Suresh, learned ASG, takes notice for respondent No.1. Mr. N.Kumarjit, learned Advocate General, Manipur, takes notice for respondent Nos. 2 and 3. Mr. M.Devananda, learned counsel, takes notice for respondent No.4. They waive further notice and seek time to file their affidavits-in-reply.

Notice to respondent Nos.5 and 6, returnable on 18.05.2021.

[3] This writ petition, filed in public interest, raises various issues in relation to the ongoing crisis faced by our nation due to the second wave of the COVID-19 pandemic. Primarily, the petitioner, an Advocate by profession, seeks to highlight issues and difficulties being faced by the people of Manipur due to insufficiency of oxygen supplies and hospital infrastructure.

[4] While so, it is significant to note that the Supreme Court passed an order on 06.05.2021 in **Union of India vs. Rakesh Malhotra & another [Special Leave Petition (Civil) Diary No.11622 of 2021]** in relation to oxygen supplies and concomitant issues. A National Task Force was constituted by the Supreme Court to facilitate a public health response to the pandemic, based on scientific and specialized domain knowledge. The terms of reference of the Task Force were detailed therein and include assessment and making recommendations for the entire country based on the need for, availability and distribution of medical oxygen, apart from formulating and devising the methodology for allocation of medical oxygen to the States and Union Territories on a scientific, rational and equitable basis. The Task Force also has to make recommendations for augmenting available supplies of oxygen, based on present and projected demands likely during the pandemic. More particularly, the Task Force has to constitute sub-groups/committees for each State/ Union Territory for the purpose of conducting audits to ensure accountability for proper distribution of oxygen supplies made available to them. These audits are to determine whether supplies allocated by the Union of India reach the concerned State/Union Territory; the efficacy of the distribution networks in distributing supplies meant for hospitals, healthcare institutions and others; whether the available stocks are being distributed on the basis of an effective, transparent and professional

mechanism; and accountability with regard to utilization of oxygen supplies allocated to each State and Union Territory. The Task Force is also to review and suggest measures necessary for ensuring availability of essential drugs and medicines and the remedial measures to ensure preparedness to meet the present and future emergencies that may arise during the pandemic. The Task Force is also to make general recommendations with regard to other issues of pressing national concern to find effective responses to the pandemic.

[5] In the light of the comprehensive mandate visited upon the National Task Force and the committees to be constituted by it, it would be appropriate to await the suggestions and recommendations that emerge from the exercise undertaken by these identified experts and the response of the Supreme Court thereto. It would therefore not be proper for this Court to issue any directions at this stage as to how the available supplies of oxygen in the State of Manipur should be utilized. Though Mr.M.Devananda, learned counsel, would assert that the Regional Institute of Medical Sciences, Imphal, respondent No.4 herein, has a far greater requirement of oxygen compared to its present allocation, we are of the opinion that this is also an issue that would have to be placed before the committee that would be constituted for the State of Manipur by the National Task Force, in terms of paragraph No.25 of the aforestated order dated 06.05.2021.

[6] It would however be necessary for the State of Manipur to inform this Court as to the steps being taken for making available sufficient ICU beds; for maintaining uninterrupted power supply to local oxygen plants; and for making the oxygen plants at Thoubal and Churachandpur operational at the earliest, apart from exploring the possibility of installing more oxygen plants. The Union of India would

have to indicate as to what effective measures have been taken and are being taken in terms of the aforesaid order dated 06.05.2021 passed by the Supreme Court.

[7] Further, this Court must take note of the fact that a curfew has been imposed in various parts of the State of Manipur, including Imphal city, and citizens attending to their near and dear ones, admitted in hospitals due to the pandemic or other medical conditions, are being put to great inconvenience in providing them necessary aid and succour. This Court is informed that no facilities are available in some major hospitals, such as RIMS, Imphal, and JNIMS, Porompat, for catering to the nutritional needs of patients and food has to be supplied from elsewhere. The patients' families must necessarily attend to these needs. The State Government shall therefore ensure that appropriate measures are taken to facilitate movement of the attendants of patients for supply of essentials, including food, to them.

[8] Replies shall be filed before the next date with advance copies to all the learned counsel appearing in the matter.

[9] Post on 18.05.2021.

Copies of this order shall be furnished to all the learned counsel through Whatsapp/e-mail.

JUDGE

CHIEF JUSTICE

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