

ITEM NO.1 Court 5 (Video Conferencing) SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).11694/2021

UNION OF INDIA Petitioner(s)

VERSUS

MOHAMMED ARIF JAMEEL & ANR. Respondent(s)

Date : 07-05-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. Tushar Mehta, SG
Ms. Aishwarya Bhati, ASG
Mr. Rajat Nair, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Amit Mahajan, Adv.
Mr. Prashant Singh B, Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. Gurmeet Singh Makkar, AOR
Mr. B. V. Balaram Das, AOR

For Respondent(s) Mr. Sajan Poovayya, Sr. Adv.
Mr. Vikram Hegde, AOR
Ms. Hima Lawrence, Adv.
Mr. Shantanu Lakhotia, Adv.
Mr. Pratibhanu Kharolla, Adv.

Mr. Devdutt Kamat, Sr Adv
Mr. V.C.Shukla, Adv.
Mr. Aditya Bhat, Adv.
Mr. Anantha Mohan Rao, Adv
Mr. Ankit Verma, Adv.
Anantha Narayana M.G. AOR

UPON hearing the counsel the Court made the following
O R D E R

1 The Union of India has moved these proceedings under Article 136 of the Constitution to challenge an order of a Division Bench of the High Court of Karnataka dated 5 May 2021. While granting liberty to the State Government to

submit an additional representation containing its projected requirement of oxygen for at least the next week, the High Court has directed the Union Government to reconsider the representation made on 30 April 2021. The Union Government has been directed to consider the representation within four days. As an interim measure, the Union Government has been directed to increase the cap on the supply of oxygen to the State of Karnataka with immediate effect to 1200 MT per day. The High Court has also observed that depending upon the decision taken by the Union Government on the representation, the Court would consider passing further orders during the course of the next week on the quota of oxygen for the State of Karnataka.

- 2 Mr Tushar Mehta, learned Solicitor General of India, urged in the course of his submissions, that the issue of allocation is of pan-India concern and allocations would become unworkable if directions are issued under Article 226 of the Constitution. Moreover, it has been submitted that the Union Government is willing to engage with the State government and convene a meeting for resolving the demand of the State of Karnataka for the supply of oxygen.
- 3 The allocation for the State of Karnataka stood at 802 MTs prior to 30 April 2021 and has been increased to 856 MTs from 1 May 2021 and 965 MTs from 5 May 2021. The minimum requirement of the State, as projected by the State Government on 5 May 2021, was 1162 MT. The High Court has furnished adequate reasons for issuing a calibrated *ad-interim* direction. The direction of the High Court is evidently an *ad-interim* direction, subject to such calibration as would be necessitated after the State of Karnataka and the Union Government have mutually attempted to resolve the issue. The order of the High Court does not preclude a mutual resolution by the two governments, since the proceedings are still pending.

- 4 The order of the High Court is based on the need to maintain at least a minimum requirement as projected by the State Government until a decision on the representation is taken and the High Court is apprised. Hence, without enquiring into the wider issues sought to be raised at this stage (and keeping them open) there is no reason to entertain the Special Leave Petition. The Special Leave Petition is disposed of.
- 5 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER