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

+ **W.P.(C) 4984/2021**

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

Through: Mr. Priyadarshi Manish with
Mrs.Anjali J. Manish, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Tushar Mehta, SGI with
Mr.Chetan Sharma, ASG, Ms.Monika
Arora, CGSC, Mr. Anil Soni, CGSC
with Mr. Shriram Tiwary, Advocate.
Mr. Rahul Mehra, Sr. Advocate and
Mr. Satyakam, ASC, GNCTD.

+ **W.P.(C) 4985/2021**

BATRA HOSPITAL AND MEDICAL RESEARCH CENTRE

..... Petitioner

Through: Mr. Siddharth Dave, Sr. Advocate
with Ms. Varuna Bhandari Gugnani,
Mr. Bhakti Vardhan Singh and
Mr.Tushar Thareja, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Tushar Mehta, SGI with
Mr.Chetan Sharma, ASG, Ms.Monika
Arora, CGSC, Mr. Anil Soni, CGSC
with Mr. Shriram Tiwary, Advocate.
Mr. Rahul Mehra, Sr. Advocate and
Mr. Satyakam, ASC, GNCTD.

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

ORDER
% **23.04.2021**

CM APPL. 15279/2021 in W.P.(C) 4984/2021

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 4984/2021 & W.P.(C) 4985/2021

1. Issue notice. Learned counsels for the respondent nos.1 & 2 accept notice. Let notice be issued to respondent no.3/INOX Air Products Ltd. returnable on 26.04.2021. Notice be also served through email.
2. Both these petitions have been preferred by the respective hospitals to seek urgent and immediate relief for supply of medical oxygen for treatment of serious COVID patients in their respective hospitals.
3. Mr. Mehra has submitted that so far as supply of medical oxygen in cylinders is concerned, the GNCTD has issued an order dated 22.04.2021, which enlist the names of units/re-fillers with contact numbers of the Nodal Officers, who may be contacted for the purpose of refilling of gas cylinders required by nursing homes and small hospitals. So far as larger hospitals and government hospitals are concerned, the two re-fillers and enlisted at serial nos.5 & 6. The said order reads as follows:-

“ORDER

<i>S.No.</i>	<i>Name</i>	<i>Nodal Officer</i>	<i>Hospital Units</i>
1.	<i>Paramount Cryo Gases Mundka Delhi 9312255841</i>	<i>Sh.Satish Tomar DM NLD, 9711008279</i>	<i>Any Hospital may contact these units for refilling of oxygen cylinders, subject to availability of stock.</i>
2.	<i>Salasar Gases Phooth Khurd, Delhi 9560535162</i>	<i>Sh.Aakash Malik, DM KNJD, 8744073088</i>	
3.	<i>Aggarwal Gases Bawana 9650236000</i>	<i>Sh.Ramesh Kumar, DM MPD 8744073150</i>	
4.	<i>Multan Air Bawana 8826674242</i>	<i>Sh.Mahesh Gupta, DM PGD, 8744073251</i>	
5.	<i>Kanha ji Gases Swaroop Nagar Delhi 9990524554</i>	<i>Sh.Jagdish Rai, DM Subhash Place, 8744073134</i>	
6.	<i>Bhardawaj Gases & Hardware Store 8700418652</i>	<i>Sh. Vijay Kumar, DM NRLD, 8744073103</i>	

In supersession of this office order No.PA/SS-II/H&FW/2020/Covid-19/Part-VI/449 dated 19.04.2021, following arrangements, in addition to the existing arrangement the Hospital Unit has with their respective suppliers are made as under for filing of Medical Oxygen cylinder, in case of emergency to various Hospitals/Nursing Home across Delhi:

The order shall come into force with immediate effect until further orders.”

4. Learned counsel for the petitioner/M/s. Bram Health Care Private Limited submits that his client has approached the refilling unit i.e.

Paramount Cryo Gases Mundka Delhi since 05:00 am in the morning, but to no avail. He also complains that the Nodal Officers are not lifting the calls being made to them.

5. Mr. Udit Prakash, Special Secretary, Department of Health, GNCTD has also jointed the proceedings. He is the over all in-charge and Nodal Officer for the GNCTD for the purpose of monitoring the supply of medical oxygen in Delhi. He has been made aware of the aforesaid grievances of both the petitioners and has been instructed to immediately take steps.

6. We have suggested to Mr. Mehra that, looking to the number of hospitals and nursing homes in Delhi who are treating serious COVID patient, it may be desirable to have more officers to work with Mr. Udit Prakash, whose numbers should also be circulated to all concerned so that the grievances with regard to the shortage of medical oxygen could be attended more efficiently. He states that necessary steps will be taken in this regard. He has also offered that in case any of the hospitals/nursing homes are not able to get positive response from the concerned Nodal Officers, in that eventuality, either he or Mr. Satyakam may be contacted before preferring a petition before this Court. He submits that his mobile number and Mr. Satyakam's mobile number will be circulated to all the nursing homes and hospitals dealing with the COVID patients in the NCT of Delhi.

7. Mr. Mehta, the learned ASG has stated that he has received a communication of Mr. Piyush Goyal, the Additional Secretary in the Ministry of Home Affairs, informing him that a Virtual Central Control

Room, which was set up in 2020, has been further strengthened to monitor efficient and adequate availability of medical oxygen in States/Union Territories. The said communication also states that the States/Union Territories should publish and intimate all hospitals within their jurisdiction about their Nodal Officers contact details—which in the case of NCT of Delhi is Mr. Udit Prakash, who should be contacted in case of shortage of oxygen etc. The Nodal Officers of States/Union Territories are part of Virtual Central Control Room. Due to resurgence of COVID cases, the Virtual Central Control Room has been strengthened to include senior officers of Additional Secretary/Joint Secretary level from various Ministries/Depts. viz. Health (Nipun Vinayak, IAS, Joint Secretary), DPIIT (Sumita Dawra, IAS, Addl. Secretary), MHA (Piyush Goyal, IAS, Addl. Secretary), MoRTH (Amit Vardan, Joint Secretary), Steel (Rasika Chaube, Addl. Secretary) etc, who are monitoring the production, movement, availability and efficient usage of medical oxygen across the country.

8. In response to our query, whether a senior officer from the Indian Railways is also a part of the said Virtual Central Control Room, Mr. Mehta on instruction states that Mr. Manoj Singh, Executive Director (Railways) is also part of said control room.

9. Looking to the aforesaid, we would expect all Hospitals and Nursing Homes in the NCT of Delhi to approach the Nodal Officer, Mr. Udit Prakash, and such other Officers whose names and numbers in the NCT of Delhi shall be circulated shortly, in the first instance, to meet their requirements of Medical Oxygen. For purposes of re-filing Oxygen

cylinders, the Nodal Officers/ re-filling agencies in the above extracted order may be contacted. However, in case, the requirements are still outstanding and not met, before preferring a petition before this Court, Mr. Satyakam, ASC, GNCTD and/ or Mr. Rahul Mehra, learned Senior Advocate, who have generously offered to make their service available for the said purpose, shall be contacted.

10. The Nodal Officer Mr. Udit Prakash should, without delay, update on the Virtual Central Control Room, the requirements for Medical Oxygen, while also indicating how much of the allocated Oxygen has been received for the day.

11. Mr. Mehra has shared the particulars of the Medical Oxygen received by the NCT of Delhi in the last few days. Though, there has been some improvement in the last couple of days, there is still a shortfall of about 100 MT, inasmuch as, the NCT of Delhi is receiving about 380 MT of Medical Oxygen, as opposed to allocation of 480 MT per day.

12. Mr. Mehra submits that the shortfall is primarily on account of the allocations made from the plants of LINDE, Durgapur , LINDE Rourkela RSP BOO-1/2, and LINDE Kalinganagar TATA-KPO1/2, which are situated between 1200-1600 Kms away. He has emphasised that an assurance had been given by Mr. Mehta, learned Solicitor General on 21.04.2021, that the allocation for 480 MT of Medical Oxygen would be met. However, that has not fructified, primarily for the reason that the three points of supply are situated, as aforesaid, at Durgapur, Rourkela & Kalinganagar.

13. Mr. Mehra has beseeched us to look at the possibility of the

allocation being re-worked, so that the NCT of Delhi can get Medical Oxygen from shorter distances.

14. The matter of allocation, as we have already observed in our earlier orders, is something that is undertaken by the Central Government, and we believe that the same is done by taking into account all the relevant factors and circumstances, including the requirements that have to be met all across India.

15. We have put it to the learned Solicitor General that the Empowered Group, which has looked into the aspect of mapping the production and needs of every State and Union Territory, looks at the possibility of making re-allocation, so as to, reduce the distance between the point of production and point of supply. This would make the process of transportation to & fro more efficient, since shorter trips would mean that the same cryogenic tankers would be able to make more trips, if necessary, for making supply during the day.

16. Mr. Mehta states that he is not in a position to make a statement in this regard. However, he states that the suggestion would certainly be examined. He has suggested that a Competent Officer of the GNCTD could send a communication in this regard, which shall then be considered at the appropriate level. Let the Chief Secretary, Health, GNCTD examine the entire allocation plan, and on that basis make his suggestion, and place it before the Central Government and on the Virtual Central Control Room without any delay. As and when the same is made, the same may be examined by the Empowered Group at the earliest possible, looking to the urgency in the matter. However, in the event the

Empowered Group is of the view that the allocation should not be changed, it may, at least, examine making of interim arrangement till the Railways are in a position to transport the Oxygen from the aforesaid 3 Plants to the NCT of Delhi as the assured 480 MT of Medical Oxygen has not been able to reach the NCT of Delhi – primarily because the aforesaid three suppliers are situated at a considerable distance from the NCT of Delhi.

17. During the course of hearing, Mr. Dave, learned senior counsel appearing for Batra Hospital And Medical Research Centre informs that they have received 2.5 MT of Liquid Oxygen, which would last till about 09:00 P.M. His concern is that if further supply is not made before that time arrives, the hospital would be left with no supply, and the critical patients may suffer.

18. We direct the respondents to keep in mind the aforesaid submission of Mr. Dave, and take necessary steps in this regard, not only in relation to the two hospitals before us, but all others who are serving serious COVID patients, and other patients who are in need of Medical Oxygen.

19. We have also enquired from learned counsels to take instructions whether CNG cylinders could be converted for storage of Medical Oxygen. If that could be done, the storage capacity, which is presently in use for storage of CNG, particularly that which is mobile, could be utilised for transportation of Medical Oxygen, and providing the same to hospitals on an emergent basis. Both Mr. Satyakam and Ms. Monika Arora state that they would take instructions in this regard, and report on the next date of hearing.

20. List on 26.04.2021.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 23, 2021

Sr/N.Khanna