

\$~20-24,26-28,30.

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **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**  
**RAKESH MALHOTRA**

..... Petitioner

Through: Petitioner in person.

versus

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF**  
**INDIA AND ORS**

..... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan  
Sharma, ASG, Ms. Monika Arora,  
CGSC, Mr. Anil Soni, CGSC, Mr.  
Shriram Tiwary, Mr. Amit Gupta, Mr.  
Akshay Gadeock, Mr. Sahaj Garg,  
Mr. Vinay Yadav, Advocates.

Mr. Rahul Mehra, Senior Advocate  
with Mr. Satyakam, ASC Mr. Gautam  
Narayan, ASC, Mr. Anuj Aggarwal,  
ASC and Mr. Chaitanya Gosain,  
Advocate for GNCTD.

Ms. Malvika Trivedi, Sr. Advocate  
Mr. Tanmay Yadav, Ms. Eysha  
Marysha, Mr. Abhisree Sujanya Ms.  
Nihaarika Jauhari, Advocates.

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

+ **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, CM APPL. 15251/2021**  
**CM APPL. 15252/2021**

**BALAJI MEDICAL AND RESEARCH CENTER..... Petitioner**

Through: Mr. Mahesh Agarwal, Mr. Rishi

Agrawal, Mr. Karan Luthra, Mr. Ankit Banati, Advocates.

Mr. Ajay Kohli, Ms. Priyanka Ghorawat, Mr. Raghav Marwaha, Advocates for Delhi Heart and Lung Institute.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.  
Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

+ **W.P.(C) 4971/2021**

GANESH DAS CHAWLA CHARITABLE TRUST (REGD)

..... Petitioner

Through: Ms. Prabhsahay Kaur, Advocate.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.  
Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

+ **W.P.(C) 4984/2021 & CM APPL. 15279/2021**

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

Through: Mr. Priyadarshi Manish with Mrs. Anjali J. Manish, Advocates.  
Mr. Ajay Kohli, Ms. Priyanka Ghorawat, Mr. Raghav Marwaha, Advocates for Delhi Heart and Lung Institute

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.  
Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

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

BATRA HOSPITAL AND MEDICAL RESEARCH CENTRE

..... Petitioner

Through: Mr. Sidharth Dave, Sr. Advocate with Ms. Varuna Bhandari with Ms. Bhakti Vardhan, Mr. Tushar Thareja, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.  
Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam

Narayan, ASC, Mr. Anuj Aggarwal,  
ASC and Mr. Chaitanya Gosain,  
Advocate for GNCTD.

+ **W.P.(C) 5001/2021**

**MAHARAJA AGRASEEN HOSPITAL CHARITABLE TRUST**

..... Petitioner

Through: Mr. Alok Kr. Aggarwal, Adv. Ms.  
Anushruti, Adv. Ms. Supreet Bimbra,  
Adv and Ms. Simran Arora,  
Advocate.

versus

**UNION OF INDIA AND ORS**

... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan  
Sharma, ASG, Ms. Monika Arora,  
CGSC, Mr. Anil Soni, CGSC, Mr.  
Shriram Tiwary, Mr. Amit Gupta, Mr.  
Akshay Gadeock, Mr. Sahaj Garg,  
Mr. Vinay Yadav, Advocates.  
Mr. Rahul Mehra, Senior Advocate  
with Mr. Satyakam, ASC Mr. Gautam  
Narayan, ASC, Mr. Anuj Aggarwal,  
ASC and Mr. Chaitanya Gosain,  
Advocate for GNCTD.

+ **W.P.(C) 5002/2021**

**M/S BHAGAT CHANDRA HOSPITAL** ..... Petitioner

Through: Mr, Sachin Datta, Sr. Advocate with  
Mr. Dinesh Sharma, Ms. Ritika  
Jhurani, Ms. Jipsa Rawat, Advocates  
Mr. Ajay Kohli, Ms. Priyanka  
Ghorawat, Mr. Raghav Marwaha,  
Advocates for Delhi Heart and Lung  
Institute

versus

**UNION OF INDIA THROUGH SECRETARY & ANR...** Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan  
Sharma, ASG, Ms. Monika Arora,  
CGSC, Mr. Anil Soni, CGSC, Mr.  
Shriram Tiwary, Mr. Amit Gupta, Mr.

Akshay Gadeock, Mr. Sahaj Garg,  
Mr. Vinay Yadav, Advocates.  
Mr. Rahul Mehra, Senior Advocate  
with Mr. Satyakam, ASC Mr. Gautam  
Narayan, ASC, Mr. Anuj Aggarwal,  
ASC and Mr. Chaitanya Gosain,  
Advocate for GNCTD.

+ **W.P.(C) 5003/2021**

M/S JAIPUR GOLDEN HOSPITAL ..... Petitioner

Through: Mr, Sachin Datta, Sr. Advocate with  
Mr. Dinesh Sharma, Ms. Ritika  
Jhurani, Ms. Jipsa Rawat, Advocates  
with Mr. D.K. Baluja, Medical  
Director, Jaipur Golden Hospital  
Mr. Ajay Kohli, Ms. Priyanka  
Ghorawat, Mr. Raghav Marwaha,  
Advocates for Delhi Heart and Lung  
Institute.

versus

UNION OF INDIA THROUGH SECRETARY & ORS.. Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan  
Sharma, ASG, Ms. Monika Arora,  
CGSC, Mr. Anil Soni, CGSC, Mr.  
Shriram Tiwary, Mr. Amit Gupta, Mr.  
Akshay Gadeock, Mr. Sahaj Garg,  
Mr. Vinay Yadav, Advocates.  
Mr. Rahul Mehra, Senior Advocate  
with Mr. Satyakam, ASC Mr. Gautam  
Narayan, ASC, Mr. Anuj Aggarwal,  
ASC and Mr. Chaitanya Gosain,  
Advocate for GNCTD.

+ **W.P.(C) 5024/2021**

SHANTI MUKAND HOSPITAL ..... Petitioner

Through: Mr. Maninder Singh, Sr. Advocate,  
Mr. Viraj Datar, Sr. Advocate and  
Mr. Aarush Bhatia, Advocate.  
Mr. Sacchin Puri, Sr. Advocate with  
Mr. Sudhir Mishra, Mr. Ritwik Nanda

and Ms. Petal Chandhok, Advocates.  
For Venketeshwar Hospital.

versus  
UNION OF INDIA & ORS

.. Respondent

Through:

Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.  
Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

**27.04.2021**

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**ORDER 2**

1. Mr. Vijay Dev, Chief Secretary, GNCTD has joined the proceedings, and has informed us that he held the meeting, in terms of our order passed yesterday with the suppliers and the hospitals and nursing homes. Only one re-filler of cylinders had joined the meeting despite all being intimated. He states that by today evening, an order would be issued which would ensure that existing contractual arrangements are honoured to the extent possible. He further submits that to ensure certainty about the arrival of Oxygen, hospitals and nursing homes have been asked to provide data with regard to their existing contracts, which information has now been received till today afternoon. The suppliers have also been asked to disclose about the supply

of liquid Oxygen by them for the next 72 hours, so that the aspect of certainty can be taken care of and the hospitals and nursing homes also know as to, by when, they would receive the allocated quantities of liquid medical Oxygen. Let the said order be passed at the earliest, and circulated and implemented without any delay. Thereafter, the same be also placed before us.

2. From the hearing that has transpired today, it is clear to us that the GNCTD has to pull up its socks to address the aspect of distribution of not only liquid Oxygen to the larger hospitals, but also the Oxygen cylinders which are used by various smaller hospitals and nursing homes, apart from individuals. At present, even after supply of tons and tons of liquid Oxygen to these re-fillers and convertors, there is no account being kept as to how they are further supplying Oxygen cylinders to hospitals, nursing homes and individuals. They appear to be holding large stocks of liquid Oxygen but not supplying the same to the hospitals, nursing homes and individuals. This is what is leading to, if we may say, an artificial shortage on the one hand, and black marketing on the other hand.

3. The reluctance of the gas re-fillers to comply with the directives issued by the GNCTD to provide the requisite information appears to be for the obvious reason that they do not wish to maintain transparency in the matter of supply of Oxygen cylinders. We will not countenance this conduct on their part. We make it clear that in case any of the Oxygen re-fillers do not provide the requisite data to the GNCTD on the portal i.e <https://cfwcst.delhi.gov.in/>, strict action would be directed to be taken against them, not only by the GNCTD, but also by this Court.

4. The GNCTD should inform the Court about the stocks of liquid and

gaseous Oxygen held by the re-fillers as at 10:00 A.M tomorrow when the matters are taken up.

5. The other aspect placed before us today is with regard to the availability of essential drugs, such as Remedesivir, Dexamathasone, Fabiflu, Tocilizumab, Doxycycline, etc., which are required for the treatment of COVID 19 patients. It has been suggested by Mr. Trivedi, Sr. Advocate, and we find merit in her suggestion, that an online portal should be created, which should display the live updated current position with regard to the supply of essential drugs by the manufacturers to the distributors, by distributors to the retailers, and by the retailers to the customers. The position should be updated on real time basis, so that the aspect of availability is known to all, and transparency is maintained. This will, to a great extent, curb black marketing of essential drugs required for treatment of COVID-19. We also direct the GNCTD to call for records from all the pharmacies in the hospitals with regard to the supplies of Remedesivir, and other essential drugs such as Dexamathasone, Tocilizumab and Fabiflu, Doxycycline,etc, and the sales that they have made, and to conduct random audits and checks of the stocks of the phramacies, to catch black marketeers. We direct all pharmacies in hospitals/ nursing homes to comply with this direction without delay. Instances of non-compliance be brought to the notice of this Court for taking appropriate action.

6. Mr. Aggarwal has drawn our attention to a circular issued by the GNCTD on 25.04.2021 to all the hospitals and nursing homes which, inter alia, requires the hospitals and nursing homes to ensure “*All patients reaching the Hospitals should be attended to immediately and taken to the*



*triage area. This process should not take more than 10 minutes.” and “ In triage area there should be adequate provision of Oxygen and medication for the patient who require the same. Provision of refreshment may also be made”*

7. Mr. Aggarwal submits that the hospitals are inundated with COVID-19 patients in need of Oxygen and medication. The hospitals have limited capacities and infrastructure. They are reeling under severe shortage of Oxygen and even essential drugs. In these circumstances, it is unfair and unreasonable on the part of the GNCTD to issue such like orders, when they themselves do not comply with them in their own hospitals.

8. Mr. Vikram Dutt Dev, Principal Secretary, Health and Family Welfare, GNCTD states that the said order has been issued to douse the grievance of the COVID patients, who raise a grievance with regard to their not being treated when they reach the hospital/ nursing homes.

9. We have even earlier communicated to Mr. Mehra, that mere issuance of such like circulars by the GNCTD is of no avail. If there is a specific instance of any hospital or nursing home not performing its duties in these times, action may be called for, but issuance of such like general circulars, which, in present times are not only difficult but practically impossible to comply with, and only create anxiety in the minds of those serving in the hospitals and nursing homes, should be avoided. To a specific query as to whether the hospitals run by the GNCTD themselves are able to meet the standards sought to be laid down by the GNCTD in this circular, we have not got a clear answer, since we all are aware that they are not able to provide to the patients who are reaching the hospitals, within 10 minutes, Oxygen and medication, much less refreshments. We are, therefore, of the

opinion that such like circulars should not be issued, which are meaningless, and which cannot be enforced but can lead to other legal complications for the concerned hospitals and nursing homes at a later stage. The responsibility of the GNCTD towards the people does not get discharged with issuance of such like circulars alone.

10. We direct the GNCTD to file a report, after making enquiries from all the hospitals and nursing homes, with regard to the deaths which have taken place in the said hospitals and nursing homes on account of shortage of Oxygen. The particulars of all such deaths i.e. the name of the patient; the ward/ rooms in which they were admitted; the time of death and; the reason for death should be indicated in a tabular form. The affidavit in this regard by filed within 4 days.

**VIPIN SANGHI, J**

**REKHA PALLI, J**

**APRIL 27, 2021**

*Sr/N.Khanna*