

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3427/2000.

C.H. Sharma and others.

-VERSUS-

The State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.J. Gilda, Advocate (Amicus Curiae) for the
Petitioners.

Shri F.T. Mirza, Special Counsel with Shri D.P. Thakre,
Addl.G.P. for Respondent Nos. 1 to 3 and 7.

Shri S.M. Puranik, Advocate for Respondent No.5.

Ms. M. Chandurkar, Advocate for Respondent No.6.

Shri P.D. Sharma, Advocate for Intervenors.

CORAM : SUNIL B. SHUKRE
& G.A. SANAP, JJ.

DATE : JANUARY 25, 2022.

Heard.

2. Perused the affidavit filed in response to the order of this Court, passed on the last date i.e. 13.01.2022. At that point of time, this Court had expressed concern over non-availability of IV Fluids, Mask, Gloves, Medicines and other essentials required for treating various patients, including Covid patients, and this concern was expressed in the context of rise in number of Covid-19 cases in recent times.

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3. Perusal of the affidavit discloses that after 13.01.2022, the respondents have taken prompt steps for increasing the supplies and boosting up the stocks of IV fluids, Masks, Gloves, Medicines, Medical equipments and gadgets in the Government Hospitals situated in Vidarbha Region. A chart showing quantity of Medicines, Gloves, IV fluids, Masks etc., has been annexed to the affidavit. We have also gone through it. It appears that some Government Medical Colleges i.e. G.M.C. Akola, G.M.C. Chandrapur, Superspeciality Hospital, Nagpur, Dr. Babasaheb Ambedkar Hospital, Nagpur have given their figures mechanically and without any application of mind. This can be seen from the fact that there is no change whatsoever in the stock of medicines in between the period from 13.01.2022 to 21.01.2022 in these hospitals. We direct the respondents to file on record upto date figures in respect of stock of medicines, gloves, IV fluids, Masks, Gadgets, which would also include various items and sub-items under all these heads.

4. Shri Mirza, the learned Special Counsel appearing for the respondents submits that after this Court issued directions on 13.01.2022, urgent meeting was held by the Secretary, Medical Education and necessary directions were issued by him, as a result of which now there is much improvement in the stock of Medicines, IV fluids and other essentials in all these hospitals. We appreciate the efforts taken in an intensified manner by the Secretary, Medical

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Education and we hope that same efforts would continue henceforth in prompt procuring the medical equipments and medicines required for treating the patients, as soon as the demand for the same is received from the Government Medical Hospitals situated in Vidarbha Region.

5. The learned Amicus Curiae submits that the delay in procurement of these medical essentials and their supply to different Government Hospitals is mainly due to centralized purchasing process. He submits that if the purchasing process is de-centralized, many of the problems and issues would be resolved. He invites our attention to the various orders passed by this Court in the past and particularly to order passed on 09.02.2017, 02.03.2017 and 27.04.2017. Relying on these orders, he submits that it is time for the Finance Department now to grant its approval for de-centralizing the process of purchase and empowering the Deans of the Government Hospitals and Medical Colleges in the Vidarbha Region to make purchases of medical essentials at their level.

6. We prima facie find substance in the arguments so made by the learned Amicus Curiae.

7. In the order passed on 09.02.2017, this Court had expressed its anguish over the centralized purchase process, when it said that de-centralization of the process of purchase of medical essentials was necessary as it would go a long way in avoiding the

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unnecessary expenditure and sparing the valuable time of the Heads of the Department of the Hospitals who are otherwise required to pursue the matter at different desks in Mantralaya. This Court then also observed that the Hospitals would be run in a better manner, if the Heads of the Department are permitted to function with sufficient discretion at their respective locations, where their Colleges are situated, rather than running after the various desks in the Mantralaya. This Court had also then observed that even if the purchases were permitted to be made at the local level, one should not be apprehensive about the quality of the purchases made locally, as it is now a settled law that the Dean who would make such purchases would be required to follow the procedure as prescribed by law, and would have no power to act in the matter as per his own whims and fancies.

8. In the other order dated 02.03.2017, this Court had recorded the statement of the then learned Government Pleader that the issue of allowing the Dean to make local purchases of medical essentials was actively under consideration of the State Government, and that the proposal was pending with the Finance Department. This Court then had also recorded the statement of the then learned Government Pleader that the State would be in a position to clarify the issue after a period of two weeks.

9. In the order passed on 27.04.2017, this Court again

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noted the fact that the file regarding the issue of de-centralization of purchases was pending with the Finance Department and that steps were being taken to process the file expeditiously.

10. It is seen that after 27.04.2017, no decision whatsoever has been taken on the file regarding the issue of de-centralization of purchases pending with the Finance Department, at least as per the record of the case. Infact, we are of the view that in the interest of efficient management of Hospitals and making available proper treatment to patients being admitted to the Government Hospitals in an effective and quicker manner, it is necessary that the Deans of these colleges are permitted to make purchases of all the medical essentials at their respective levels, as noted by this Court in its order dated 09.02.2017. We may add here that, there should be no apprehension on the part of the State Authorities to entertain a feeling that if such permissions are granted, some or other irregularities would be committed by the Deans. As already noted in the order dated 09.02.2017, there is in place a procedure determining the manner in which such purchases should be made transparently and the settled law would tell us that every authority of the State and every Officer of the State is bound to follow the prescribed procedure in reaching a decision regarding spending government money for making purchases in a manner as would uphold the principles of fairness, transparency and good governance.

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Therefore, time has come for the State of Maharashtra to consider the issue of de-centralizing the process of purchase of medical essentials in the light of the observations made by us just now and also from time to time. The State of Maharashtra while granting such permission can also impose additional regulations including fixation of the financial limits, out of abundant precaution. We therefore, expect the Finance Department of the State of Maharashtra to take a decision in the matter in accordance with law, and as indicated hereinabove, at the earliest, and inform this Court accordingly in due course of time, preferably within a period of three months from the date of this order.

11. Stand over after three weeks.

JUDGE

JUDGE

Rgd.