



HIGH COURT OF CHHATTISGARH, BILASPUR

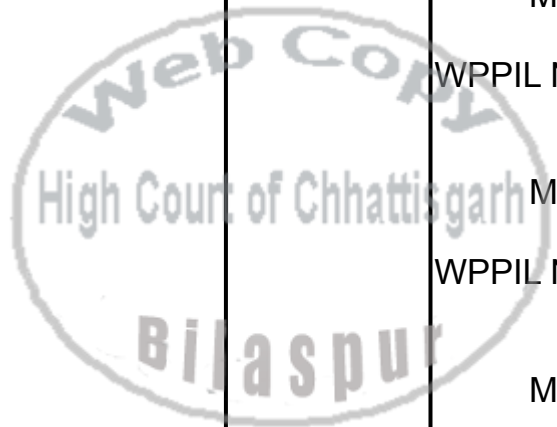
Order Sheet

WPPIL No. 27 of 2020

Suo Moto WP (PIL) **Versus** State Of Chhattisgarh

WPPIL/46/2021, WPPIL/47/2021, WPPIL/48/2021,

07/05/2021	<p>Mr. Prafull N Bharat, Advocate appears as <i>Amicus Curiae</i>.</p> <p>Mr. Rakesh Pandey, Advocate for petitioner in WPPIL No.46/2021.</p> <p>Mr. Awadh Tripathi, Advocate for petitioner in WPPIL No.47/2021.</p> <p>Mr. Tushar Dhar Diwan, Advocate for petitioner in WPPIL No.48/2021.</p> <p>Mr. Satish Chandra Verma, Advocate General & Mr. V. Giri, Senior Advocate with Shri Chandresh Shrivastava, Deputy Advocate General and Mr. Vikram Sharma, Deputy Government Advocate for the State.</p> <p>Mr. Ramakant Mishra, Assistant Solicitor General for the Union of India / respondent No.4.</p> <p>Mr. Abhishek Sinha, Advocate for respondent</p>
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Railways.

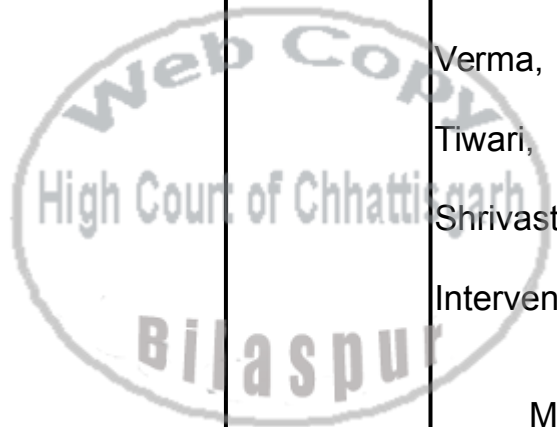
Mr. Ashish Shrivastava, Advocate for respondent
SLSA.

Mr. Kishore Bhaduri, Mr. Sandeep Dubey, Mr.
Palash Tiwari, Mr. Devershi Thakur, Mr. Gautam
Khetrapal, Mr. Shivang Dubey, Mr. Raj Bahadur Singh,
Mr. R.R. Soni, Mr. S.R. Sinha, Mr. Sameer Singh, Mr.
Atul Kesharwani, Mr. Rohitsava Singh, Mr. Virendra
Verma, Mr. Nishikant Sinha, Mr. Curtis Collin, Mr. Anshul
Tiwari, Mr. Soumitra Kesharwani, Mr. Anumeh
Shrivastava, Mr. Avi Singh, Advocates for the respective
Interveners.

Mr. Himanshu Choubey, Intervener in person.

I.A. No.43/2021, an application filed on behalf of
Intevener seeking permission to intervene in the matter.

On 4.5.2021 this Public Interest Litigation,
registered *suo motu* by this Court, along with WPPIL
No.46/2021 was taken up for hearing on different
applications filed by different counsel representing
Interveners.

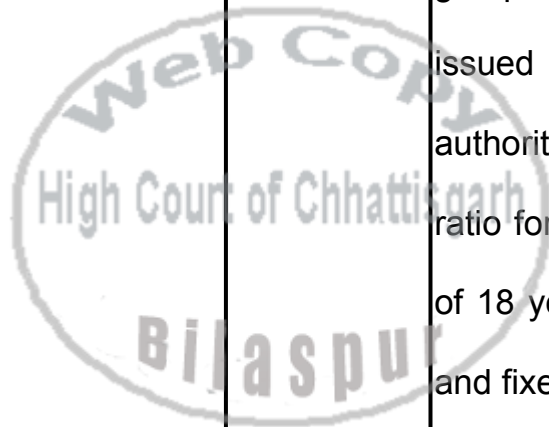




Upon hearing learned counsel for respective Interveners, *Amicus Curiae* as also learned Advocate General for the State, this Court made certain observations and also proposed question for consideration. The question proposed by this Court is with regard to the Circular dated 30.4.2021 issued by the respondent State for the purpose of vaccinating the residents of State of Chhattisgarh who are in the age group of 18 to 44 years on priority basis. We have also issued direction to have discussion with the higher authorities of the concerned departments and to fix the ratio for vaccinating the persons who are above the age of 18 years and below 45 years in an equitable manner and fixed the case for today.

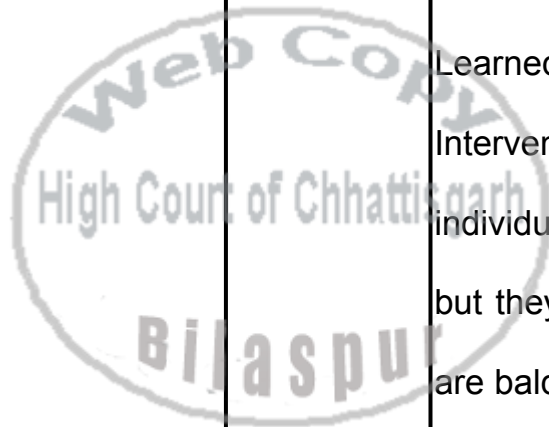
When the matter is taken up for hearing today, learned Advocate General for the State submitted that detailed reply to I.A. Nos.43, 53 to 56, 59 & 63 to 74 has been filed on the part of the State.

With respect to I.A. No.43/2021 filed by Shri Devershi Thakur, learned counsel representing Intervener- Shrikant Dindore, brother of a prisoner in Durg jail being given ill treatment on the pretext of giving





information about condition of jail during the period of Covid-19 pandemic and threat of spread of corona virus, learned Advocate General for the State submits that ground raised in I.A. No.43/2021 is having no relevance with the subject matter on which present PIL has been *suo motu* registered by this Court. The grievance raised by the Intervener is purely personal in nature. The Intervener may file a duly constituted writ petition for redressal of his grievance as raised in this application. Learned Advocate General also points out that the Intervener has levelled so many allegations against individuals and it is for them to reply those allegations, but they are not in the party array. Allegations levelled are bald and vague. He submits that before approaching this Court by filing application seeking intervention in PIL *suo motu* registered by this Court dealing with Covid-19 pandemic issue, the intervener has not approached any competent authority by making application/complaint. He also submits that on the last date of hearing i.e. on 4.5.2021, this Court considered the submissions of the State with regard to the arrangements made in jails for the Covid-19 affected prisoners and rejected the IA's raising the issue. He submits that application for





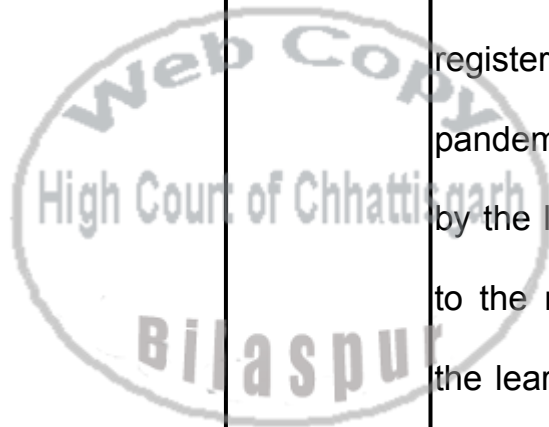
intervention be dismissed.

Mr. Devershi Thakur, learned counsel representing the Intervener submits that condition in jails is not good, they are highly crowded and there are chances of spread of Covid-19.

Considering the submissions made by learned counsel for the parties, we are not inclined to entertain this intervention application in this PIL *suo motu* registered by this Court dealing with issue of Covid-19 pandemic. On 4.5.2021 considering the data submitted by the learned counsel for respondent SLSA with regard to the number of infected prisoners and submission of the learned Advocate General that the situation is under control, we have rejected I.A. Nos.29, 30, 31, 32, 33, 33A, 34A, 35, 36 37 & 38. Consequently, I.A. No.43/2021 is dismissed. However, the Intervener will be at liberty to approach appropriate authority / forum by filing appropriate proceeding for redressal of his individual grievance, if any survives with him.

I.A. Nos.52, 53, 54 & 55 of 2021;-

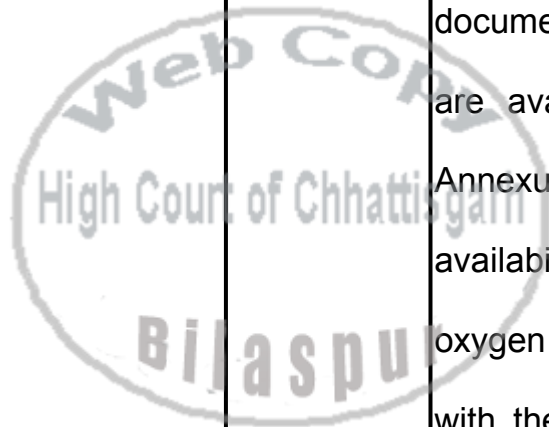
I.A. No.52/2021 is an application for intervention,





whereas I.A. No.53/2021 is an application seeking direction of this Court to provide sufficient Oxygen cylinders to the hospitals and timely RTCPH report to the Covid suspects.

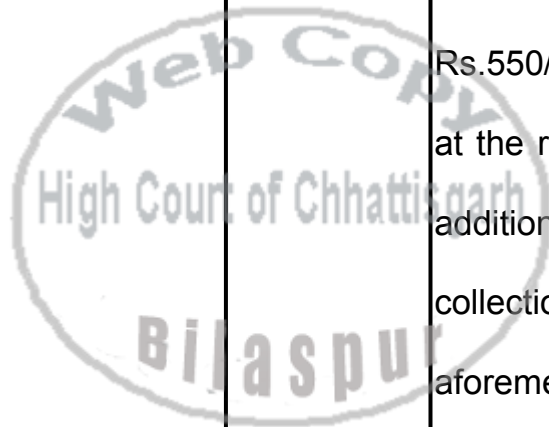
Learned Advocate General for the State submits that I.A. Nos.52 & 53 of 2021 are filed in a very casual manner. Intervener has not worked on the issue in appropriate manner by collecting requisite data and documents. He submits that sufficient oxygen cylinders are available in the State. He submits that a chart Annexure D-4 has been filed along with reply showing availability of beds, oxygen cylinders, tanks, plant, oxygen concentrators. In the chart, availability of oxygen with the State has been very specifically shown to be 383.3212223 MT per day and oxygen consumption is shown as 174.595325 MT per day. The State is having surplus oxygen and in a position to supply oxygen to its neighbouring States also. Submission made by learned counsel for the Intervener in the application (IA No.53) is not correct. It is also pointed out that after receipt of RTPCR report from the laboratory, the same is immediately forwarded to the concerned Covid-19 patient/suspect through message. There is no delay in





informing test report by the laboratories to Covid-19 patients. He also submits that the State Government has fixed the charges for Covid-19 test i.e. RTPCR, Rapid Antigen and TruNet tests, by private hospital and pathology centers. The concerned hospitals and pathology centers are also directed to display rate list of Covid-19 test at the conspicuous place in the hospital/centre. To support his submission, he referred to documents Ex.D-1 & Ex.D-2. Document D-2 shows that Rs.550/- is fixed for RTPCR Test and if test is to be done at the residence or any private place of the patient then additional amount of Rs.200/- is to be paid towards collection charges. It has been mentioned that aforementioned charge includes all other charges like transportation, sample collection, PPE Kit etc. Likewise, Rs.1300+200/- is fixed for TruNet test and Rs.150+200/- for rapid antigen test. This submission made by learned Advocate General supported with documents has not been controverted by learned counsel for the Intervener. In fact, he submits that the condition has now been improved.

Learned Advocate General further pointed out that considering the complaints received from different sects





and modes, the State Government has already fixed per day treatment charges in private hospitals. He submits that charges are under package including all the charges required for the treatment under particular category and also specified what are not included in the charges fixed by the State Government. The rates fixed by the State Government for treatment is extracted below for ready reference:-

Hospital Rates for per day admission (in Rs.)

Category of hospital	Moderate Sickness	Severe Sickness	Very Severe
	Isolation Beds including supportive care, oxygen & PPE Kit	ICU without ventilator	ICU with ventilator
NABH	6200/-	12000/-	17000/-
Non NABH	6200/-	10000/-	14000/-

Cost of treatment includes registration charges, bed charges, nursing & boarding charges, Surgeons, Anaesthetists, Medical Practitioner, Consultants fee, medicines & drugs, cost of prosthetic devices, implants etc., pathology, radiology test, food to patient etc.

In view of submissions made by learned Advocate General for the State as also by learned counsel for

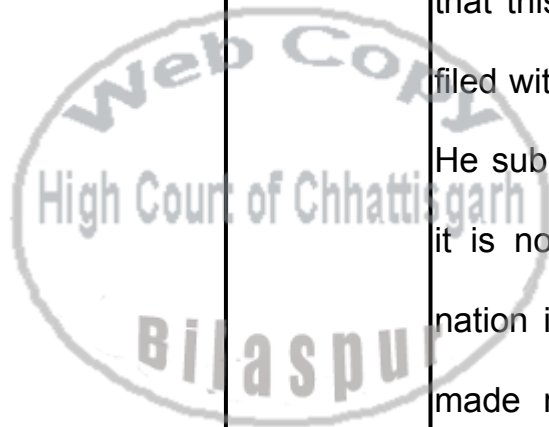


Intervener, we are of the view that nothing remains to be adjudicated in these applications and accordingly, the same are closed.

I.A. No.56/2021:

This intervention application has been filed praying for a direction to the respondent State authorities to provide medical facilities in District Korba.

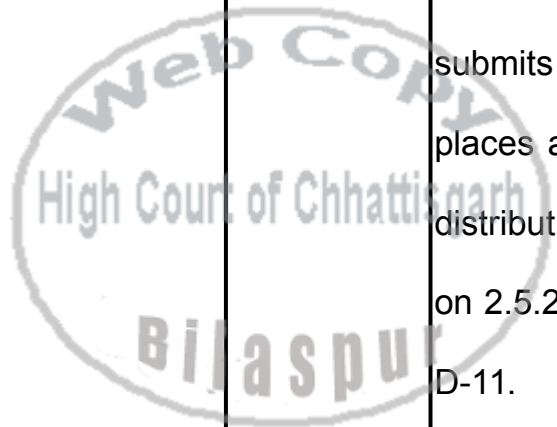
Learned Advocate General for the State submits that this intervention application has also been casually filed without collecting materials and placing it on record. He submits that looking to Covid-19 pandemic situation, it is not only the State of Chhattisgarh but the entire nation is suffering. The State Government has already made request to the Central Government to provide ventilators. Meeting of the High Level Committees of the Central Government and the State Government has also been held. The State Government on its part also made efforts to purchase/procure ventilators from private persons and purchase order has already issued on 12.4.2021, which is placed on record as Annexure D-10. He submits that maximum RTPCR test is being conducted with the available resources and maximum capacity. The State Government has increased number





of laboratories in comparison to situation which stood in March, 2020 to March, 2021. Grievance raised by the Intervener with regard to exorbitant charges for CT Scan at NK Hospital, Korba has also been considered by the State Government and price/rate for medical check-up and tests has already been fixed by issuing order in this regard. He pointed out that the State Government has taken in its control supply of Remdesivir injections, which are being used in treatment of Covid-19 patients. He submits that not only for District Korba but for all relevant places and districts, the State Government is supplying/distributing Remdesivir Injections. A list of supply made on 2.5.2021 & 3.5.2021 is placed on record as Annexure D-11. Distribution of Remdesivir Injection is made looking to the necessity and situation prevailing which does not remain constant. In the list supply/distribution of Remdesivir Injection to the dedicated Covid hospitals and Covid Care Centres has been shown.

On a query being put by this Court to the learned Advocate General for the State with regard to availability of Remdesivir Injections to the private hospitals also, he replied that for that also the State Government is taking care of and the Nodal Officers have been appointed in





this regard.

Learned counsel for the Intervener submits that now there is improvement in the situation with regard to facilities and treatment provided within District Korba.

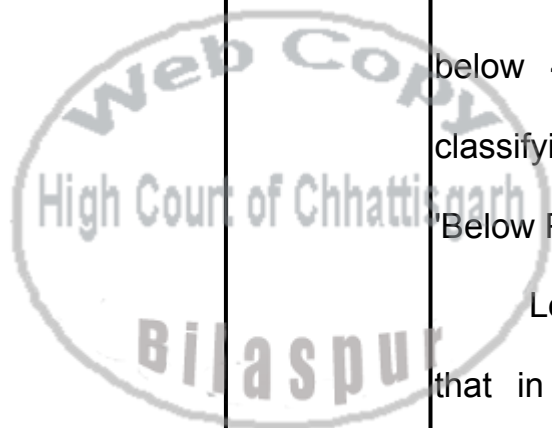
In view of above, I.A. No.56/2021 stands closed.

IA Nos.59 & 62 to 74;

Challenge is made to the Circular dated 30.4.2021 issued by the State Government for vaccination of residents of Chhattisgarh who are above 18 years and below 45 years of age by giving prioritisation and classifying them as 'Antouday Ration Card Holder', 'Below Poverty Line' and 'Above Poverty Line'.

Learned Advocate General for the State submits that in view of the order passed by this Court, a Committee has been constituted for reconsidering the Circular dated 30.4.2021 and fixing the norms for vaccinating the persons coming within the age group of 18 to 44 years in 3rd phase of vaccination. He also pointed out that a detailed reply has been filed on this aspect by the State Government mentioning therein the reasons for giving prioritisation to the classes of citizens.

We have also come to know from different sources that after passing of the order dated 4.5.2021 by this

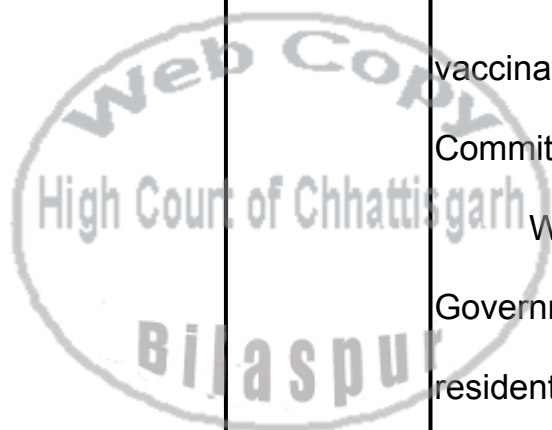




Court, the State Government has totally stopped vaccination drive. This Court while passing detailed order on 4.5.2021 has not passed any order of stay restraining the respondent State authorities from continuing with its vaccination drive and only made observation that prioritisation and classification, as it now stands, would not sustain in view of constitutional mandates.

Learned Advocate General submits that vaccination is stopped till the decision is taken by the Committee constituted.

We do not appreciate the action of the State Government in totally stopping the vaccination to the residents of the State coming within the age group of above 18 years and less than 45 years. The vaccination is a life saving measure from the disastrous corona virus. Considering the life threat due to Covid-19 pandemic, need of hour is maximum vaccination in the shortest possible time, we set the respondent State authorities concerned at liberty to equally distribute the vaccines available with the State Government as on date, (as informed on the last date of hearing that total 1,50,000 vaccines are available) among the three classes of



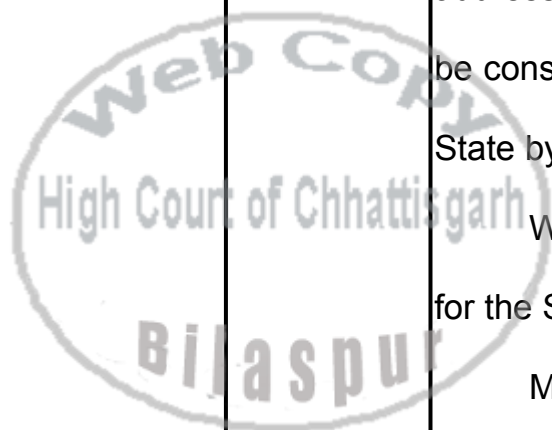


citizens i.e. ACH, BPL, APL, as classified by the State Government in the Circular dated 30.4.2021, in the ratio of 1/3 to each class and continue with the vaccination for the time being.

At this stage, learned Advocate General submits that the State Government will comply with the direction issued by this Court in its letter and spirit. However, the State Government has engaged a Senior Counsel to address the constitutional issues involved, which are to be considered for sustainability of the action taken by the State by issuing Circular dated 30.4.2021.

We have heard Mr. V. Giri, learned Senior Counsel for the State.

Mr. Giri, learned Senior Counsel submits that an application for modification of the order dated 4.5.2021 has been filed for consideration of this Court. He further submits that as the Committee constituted pursuant to direction issued by this Court on 4.5.2021, has yet not arrived at any final conclusion and this Court has opined for distribution of vaccines available with the State Government fixing ratio for the purpose of vaccination, the application filed by the State today for modification of the order dated 4.5.2021, may be considered. He



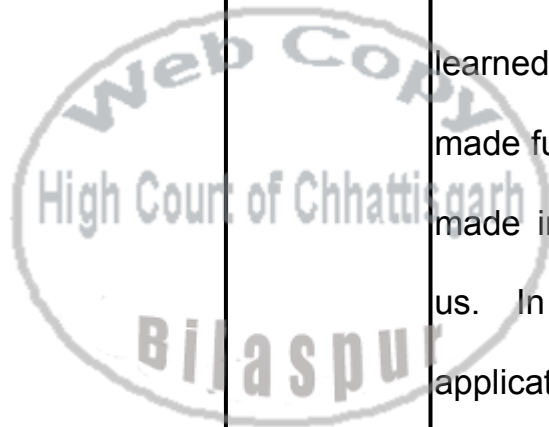


submits that Circular dated 30.4.2021 has been issued after taking into consideration various aspects/factors, which do not violate Article 14 of the Constitution of India. He further submits that as per Circular issued by the Central Government, the discretion is left with the State Government to fix norms for 3rd phase of vaccination.

Application for modification of the order dated 4.5.2021 said to have been filed on behalf of the State does not form part of the record. Submissions made by learned Senior Counsel representing the State or to be made further, can be appreciated based on the pleadings made in that application, which is presently not before us. In view of above, we are unable to consider the application for modification of the order dated 4.5.2021 today.

In the said circumstance, learned Senior Counsel for the State submits that nearest possible date may be given for hearing on the application for modification of order dated 4.5.2021.

At this stage, Mr. Avi Singh, Advocate submits that yesterday he has also filed an application for intervention praying for a direction that vaccines for Covid-19 be included in the National List of Medicines.



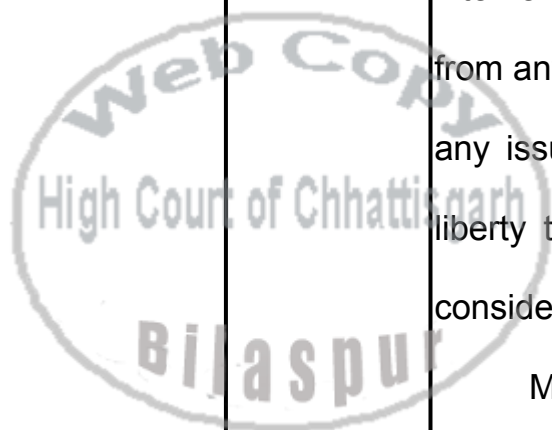


This intervention application is also not available on record, hence, no orders can be passed on it. However, we observe that the issue, as raised by learned counsel, might be having importance for consideration but we are of the view that instead of filing intervention application, a duly constituted petition ought to have been filed for proper consideration of issue raised.

We further make it clear that henceforth no intervention application shall be considered in this PIL from any of the applicant. The persons who want to raise any issue dealing with Covid-19 pandemic, they are at liberty to file properly constituted petition which will be considered in accordance with law.

Mr. RK Mishra, learned Assistant Solicitor General is directed to file response on the issue raised by learned Advocate General in the reply as well as with regard to guidelines/orders issued by the Central Government for making available vaccines to each State under the quota.

Mr. Mishra submits that the matter may be taken up for hearing after 12.5.2021 because the case dealing with different issues relating to Covid-19 pandemic is fixed for hearing before the Hon'ble Supreme Court on 10.5.2021.





Mr. Mishra is directed to file the response positively by the next date of hearing.

The liberty granted by this Court for continuing with the vaccination in the ratio of 1/3 to each class specified by the State Government, shall govern the field for the time being. The State Government shall start the vaccination immediately.

List the matter on **17.5.2021** along with other connected matters.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

