

THE HIGH COURT OF MADHYA PRADESH

W.P. No.8914/2020

[In Reference (Suo Motu) vs. Union of India and others)
with

W.P. No.20889/2020

(Sushil Kumar Patel vs. Union of India and others)

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Jabalpur, Dated: 26.04.2021

Heard through Video Conferencing.

Mr. Naman Nagrath, Senior Advocate with Mr. Jubin Prasad, Advocate appeared as *Amicus Curiae* in W.P.No.8914/2020.

Mr. Sanjay Kumar Verma, Advocate for the petitioner in W.P. No.20889/2020.

Mr. P.K. Kaurav, Advocate General, Mr. Pushendra Yadav, Additional Advocate General and Mr. Swapnil Ganguly, Deputy Advocate General for the respondents/State along with Mr. Mohammad Suleman, Additional Chief Secretary, Directorate of Health Services, Govt. of M.P.

Mr. Jitendra Kumar Jain, Assistant Solicitor General for the Union of India.

Mr. Shivendra Pandey, Advocate for the Indian Medical Association (respondent No.5 in WP No.8914/2020).

Mr. Shreyas Pandit, Advocate for the Madhya Pradesh Nursing Home Association (respondent No.8 in WP No.8914/2020).

Mr. A.M. Mathur, Senior Advocate along with Mr. Sanjay Agarwal and Mr. Abhinav P. Dhanodkar, Advocates for the intervenor/ Shanti Manch Samiti (IA No.4353/2021 in WP No.8914/2020).

Mr. Manoj Sharma, Advocate – President, High Court Advocates' Bar Association, Jabalpur (IA No.4396/2021 in WP No.8914/2020).

Mr. Subhash Upadhyay, Advocate for the intervenor in W.P. No.8914/2020.

Mr. Ajay Raizada, Advocate for the intervenor (IA No.4349/2021 in WP No.8914/2020).

Mr. Girish Patwardhan, Advocate for the intervenor (IA No.4389/2021 in WP No.8914/2020).

I.A. No. 4353/2021 (W.P. No.8914/2020):

The application for intervention has been filed by Shanti Manch Samiti *inter alia* on the grounds of scarcity of Oxygen, shortage of beds in the hospitals and manipulation with the data of deaths and positive patients.

For the stated reasons, the same is **allowed**. The intervenor is permitted to intervene in the matter and make submissions.

Mr. A.M. Mathur, learned Senior Counsel appearing for the intervenor – Shanti Manch Samiti, submitted that the Government of India has recently issued an order to convert the LPG tankers for transportation of Oxygen, on payment of charges of Rs.1,000/-, but the State authorities are not granting the requisite permission.

Mr. P.K. Kaurav, learned Advocate General, on instructions from Mr. Mohammad Suleman, Additional Chief Secretary, Directorate of Health Services, Govt. of M.P., submitted that the permission for conversion of few LPG tankers for transportation of Oxygen has already been granted by the competent authority and as of now, there is no such application pending with them. However, if and when any new application is received, the same shall be considered favorably.

I.A. No. 4396/2021 (WP No.8914/2020):

The application has been filed by Mr. Manoj Sharma, President of the High Court Advocates' Bar Association, Jabalpur inviting attention of this Court towards an incident, which took place at a certain place near Varanasi. According to him, an Oxygen Tanker bearing No. UP 78 BT 5405, which had started from Bokaro and was to reach Sagar in the State of Madhya Pradesh to provide Oxygen, was stopped by the police authorities of the State of Uttar Pradesh and

diverted to Jhansi. However, later on, with the intervention of the State Government officials, the tanker was released but delivery of the Oxygen to hospitals at Sagar in the process was delayed by fifteen hours and the State Government had to rush the Oxygen from other places to hospitals at Sagar.

Mr. Manoj Sharma, learned counsel also submitted that the Government of India in its Ministry of Home Affairs (Disaster Management Division) by an order No.40-6/2020-DM-I(A) dated 23.04.2021, with reference to their earlier order No.40-3/2020-DM-I(A) dated 22.04.2021 issued under Section 10(2)(L) of the Disaster Management Act, 2005 in compliance of the direction of the Chairperson, National Executive Committee, has issued certain directions taking various measures to ensure uninterrupted supply of Medical Oxygen anywhere in the country.

In the opinion of this Court, it is the responsibility of the Central Government, which is allocating the quota of Oxygen to various States, to get its directives complied and ensure seamless and hindrance free supply of Oxygen to the destined places involving inter-state movement. It is expected of every State including State of Uttar Pradesh, not to stop/obstruct the movement of Oxygen so as to divert the same to its hospitals, which as per the allocation made by the Central Government is meant for another State. Recurrence of such incident may lead to chaos and disrupt the timely supply of Oxygen to the hospitals, which is in the ongoing crisis very crucial to save lives.

On query by the Court as to what steps are being taken by the Central Government to ensure compliance of its order dated 23.04.2021 and to ensure that such incidents do not occur in future, Mr. J.K. Jain, learned Assistant Solicitor General sought time to seek instructions and give response on or before the next date of hearing.

I.A. No.4397/2021:

The application has been filed by learned *Amicus Curiae* seeking orders to call for action taken and status report pursuant to

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directions issued vide order dated 19.04.2021 and for further directions.

The matter was heard for some time on the aforesaid interlocutory applications.

Mr. P.K. Kaurav, learned Advocate General submitted that he shall file his response to interlocutory applications i.e. I.A. No.4397/2021 filed by learned *Amicus Curiae* and I.A. No.4353/2021 filed by Mr. Abhinav P. Dhanodkar, Advocate.

List the matter on **28.04.2021 on top of the list.**

(Mohammad Rafiq)
Chief Justice

(Atul Sreedharan)
Judge

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