

CRM-W-548-2021 IN
CRWP-242-2021

101

Rishi v. State of Haryana and others

Present: Mr. Rupinder Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate as Amicus Curiae.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Mr. Vikas Mohan Gupta, Additional Advocate General, Punjab.

Mr. Pankaj Jain, Senior Standing Counsel with
Mr. Jaivir Chandail, Additional Government Pleader for
UT, Chandigarh.

Mr. J.S. Toor, APP for UT, Chandigarh.

Case has been heard through Video Conferencing on account of
COVID-19 Pandemic.

This is an application moved by Amicus Curiae for revival of
the Criminal Writ Petition which was disposed of by this court vide order
dated 23.4.2021.

It has been, *inter alia*, contended by Mr. Khosla that a grave
situation has arisen in all the three States in view of non-availability of
essential drugs such as *Remdesivir* and *Tocilizumab*. Oxygen, ICU Beds,
ventilators and oxygen concentrators are in short supply due to which
number of deaths are being reported. According to him, an impression is
percolated in the general public that no help is forthcoming from any
quarter. He, thus, vehemently contends that the petition be revived.

We accept his prayer and hereby revive the petition.

Another prayer has been made in the application for
impleadment of Union of India through its Secretary, Ministry of Health and

Family Welfare. He submits that it has come to his knowledge that PGI and Government Hospital, Sector-16, Chandigarh have exhausted their capacity of treating the critical patients. He has placed reliance on the status reports by way of short affidavits of Director, Health Services, UT, Chandigarh and Director, Health and Family Welfare, Punjab, Chandigarh. According to him, it is clear from the status reports filed by State of Punjab and UT, Chandigarh that infrastructure to fight with pandemic situation is grossly inadequate. It is almost at its edge and can tilt over any time. Before the situation gets out of hands, intervention of this court is imperative. On perusal of the status reports, we feel that the situation is indeed grave. Prayer made in this application for impleadment of Union of India as a party is justified.

We, thus, allow this application and direct that Union of India through its Secretary, Ministry of Health and Family Welfare be impleaded as respondent No.6 in the array of parties. Amended memo of parties be taken on record.

At this stage, Mr. Satya Pal Jain, Additional Solicitor General of India with Mr. Dheeraj Jain, Advocate who is available on Video Conferencing accepts notice. He submits that as Ministry of Home Affairs has an important role to play on all the issues and be also impleaded as one of the respondents.

We accept his prayer and direct that Secretary, Ministry of Home Affairs, Government of India, New Delhi be impleaded as respondent No.7 in the array of parties. Registry to do the needful.

It is not clear why status report has not been filed by the State of Haryana so far despite the directions given vide order dated 23.4.2021.

Before, we draw a conclusion that there has been a wilful disobedience of the order of this court, we grant one opportunity to Mr. Ankur Mittal to seek instructions from the Chief Secretary, Haryana and apprise the court. We also direct that the Chief Secretary, Haryana shall join the proceedings through video conferencing at 1.00 PM today.

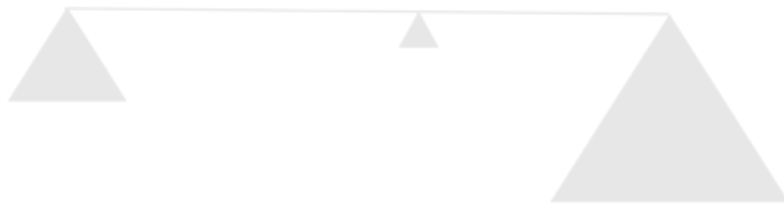
(RAJAN GUPTA)
JUDGE

April 30, 2021
gbs

(KARAMJIT SINGH)
JUDGE



सत्यमेव जयते



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In the morning session, this court had noticed that status reports have been filed by State of Punjab as well as UT, Chandigarh pursuant to order dated 23.4.2021. However, no status report was forthcoming on behalf of State of Haryana. As a result, we directed the Chief Secretary, Haryana to join proceedings. In the post-lunch hearing, he has joined the proceedings and apprised the court that there has been sudden dearth of oxygen as some plants in Roorkee, Rewari and Baadi (Barotiwala) have collapsed. As a result, oxygen has been sought from the plants from Rourkela and Angul in Odisha by means of road, rail and other means. Even Indian Air Force has flown a few sorties to fetch the oxygen from these far flung places. He submits that all efforts are being made to meet the demand of deficit oxygen in the State of Haryana. He has assured the court that the status report shall be filed

within two days giving further progress in this regard.

On behalf of State of Punjab, it has been submitted that capacity of beds has been enhanced in the State of Punjab. All efforts are being made to supply oxygen and essential drugs in those parts of the State where the covid surge is more than the other parts. According to him supply of medical oxygen has been increased. He has referred to the status report filed by the State of Punjab in this regard.

Mr. Pankaj Jain, learned Senior Standing Counsel for UT, Chandigarh has submitted that a policy decision has been taken to supply the essential drugs such as *Remdesivir* and *Tocilizumab* directly to the Government and private hospitals and not through the private distributors/chemists.

Mr. Satya Pal Jain has submitted that a Virtual Central Control Room has been set up by the Government of India and if the three States have any difficulty in any of the aforesaid issues, they can get in touch with the control room and the matter would be looked into forthwith.

As regards the issue of hoarding of oxygen cylinders, oxygen concentrators and essential medicines such as *Remdesivir* and *Tocilizumab*, needless to observe that the respective investigating agencies of all the three States in their own jurisdiction, even central agencies, are at liberty to take cognizance and initiate action.

We have proposed that the categories of patients may be segregated into three parts, such as critical, mild to moderate and mild and the plan be drawn up accordingly. Learned counsel representing all the three States assure the court that this proposal shall be examined and response shall be given in the next status report to be filed on their behalf.

CRM-W-548-2021 IN
CRWP-242-2021

-3-

We expect that all the three States shall file another status reports on or before the next date of hearing. It shall also be ensured that the order dated 23.4.2021 whereby it was directed that nodal agencies be created in every District, is complied with in letter and spirit. In case of failure to do so, this court will examine whether there is any willful disobedience of the orders passed by this court by any District in States of Punjab and Haryana.

To come up on 4.5.2021.

Appearance of the Chief Secretary, Haryana through video conferencing is exempted till further orders.

(RAJAN GUPTA)
JUDGE

April 30, 2021
gbs

(KARAMJIT SINGH)
JUDGE

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