

GAHC020002332021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)
KOHIMA BENCH

Case No. : PIL(Suo Moto) 1/2021

1:IN-RE
KOHIMA, NAGALAND

VERSUS

1:THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND
AND CHAIRMAN OF THE NAGALAND STATE DISASTER MANAGEMENT
AUTHORITY, NAGALAND

2:THE PRINCIPAL SECRETARY
HEALTH AND FAMILY WELFARE DEPARTMENT
NAGALAND
KOHIMA

3:THE PRINCIPAL DIRECTOR
HEALTH AND FAMILY WELFARE DEPARTMENT
GOVT. OF NAGALAND
NAGALAND
KOHIMA

4:THE DISTRICT TASK FORCE HEADED BY THE DEPUTY COMMISSIONER
OF ALL THE DISTRICTS
NAGALAND

5:THE CHIEF MEDICAL OFFICERS OF ALL THE DISTRICT
NAGALAN

Advocate for the Petitioner :

Advocate for the Respondent : GOVT ADV NL

BEFORE
HON'BLE MR. JUSTICE SONGKHUPCHUNG SERTO
HON'BLE MR. JUSTICE S. HUKATO SWU

ORDER

Date : 24-05-2021

(Serto, J)

On 5/5/2021, the day this PIL was taken up on Suo Moto direction was issued to the respondents to file affidavit on the following 6 issues ; (i) the number of infected persons as per category such as critical, serious, mild etc district wise (ii) number of hospital beds category wise i.e. ventilator facilities with oxygen facilities etc made available across the State/district wise (iii) number of man power made available district wise specially for treatment of Covid persons (iv) contingency plans (v) availability of oxygen, medicine district wise (vi) how many persons have been given vaccine and what is the plan to reach everyone in the State.

As per the direction an affidavit has been filed by one Mr. Ajit K Ranjan, Joint Secretary Health & Family Welfare Department, Government of Nagaland on behalf of all the respondents.

2. Heard Mr. K. Sema, learned Adll. Sr. Advocate General appearing for the State of Nagaland, Mr. N. Mozhui, learned counsel appearing for the Health & Family Welfare Department and Mr. Taka Masa, learned senior counsel whom we have appointed as Amicus Curiae.

3. At the very outset, Mr. Mozhui in continuation of his submission made on 18/5/2021 submitted that oxygen plant at Dimapur Government Hospital is still awaiting certification from the concerned authority and the same is expected this week. He also submitted that as far as the other districts are concerned, all efforts are made to make oxygen plants functional by the end of this month. As regards the MOU that was to be

signed between the Government of Nagaland and one Dimapur based oxygen producing company namely, BMA Liquid Ait Ltd, the learned counsel submitted that the same has been signed and supply of oxygen from the plant has already started. He also submitted that the oxygen plant has capacity of producing 3.1 metric tone per cubic metre per day and the company has agreed to supply all the oxygen requirement of the State on priority. Mr. Mozhui also submitted that Rama Cylinders based in Gujarat with whom the State Government has signed an agreement for supply of oxygen cylinders has already sent 2 consignments and they would fulfill their contract of supplying the cylinders within 25 to 30 days.

4. After we have pointed out the disturbing trend on the ever increasing number of Covid-19 infected persons in the State especially, in the rural areas, some time has been devoted in deliberating certain related issues. Taking into consideration the views expressed during the deliberation the following observations/suggestions and directions have been made:-

(1)We have noted that when the pandemic strike the State last year the State Government set up quarantine centers for isolation of those who were found to be covid positive. In fact even in the villages, the villagers on their own had also set up such centers, but this time, we have noticed the absence of these facilities. Instead home isolation for those who are infected with covid have been by and large put to practice. However, taking into account the economic status of the people by and large it may be that only few privilege people who belong to higher economic strata may have the facilities for such isolation in their own homes. Therefore, we are of the view that before directing a person to stay under home isolation, the Surveillance teams constituted

by the Government should first see/verify whether the family has sufficient rooms and other facilities in the house where the infected person can be isolated, and if only such facilities are found, the person should be directed to stay under home isolation. In the event such person is kept under home isolation, the Surveillance team should stick a notice on the gate of the house stating that the inmate(s) of the house are under isolation so that people may avoid visiting them for such period as may be required. The Surveillance team should also ensure that none of the inmates of such house venture out till such time as directed by them. Since the persons in home isolation will not be allowed to go out their medical needs and other needs should be the responsibility of the Government. But for those persons who can afford, the Government need not take the responsibility of their needs except the medical advice. In case the Surveillance team finds that such family have no such facilities for home quarantine, the State Government should designate a place or places for keeping such persons in isolation. The State Government may explore possibilities of involving Village Councils/Churches and other CSOs and authorities concerned of the wards (in the case of towns) to set up such facilities. Needless to say but for such centers proper sanitization should be carried out at regular intervals and high standard of hygiene should be maintained and all medical needs should be met. The Government should provide all that is necessary for such exercises. As for the expenditures on food we are leaving it to the Government to explore ways and means in consultation with the Village Councils, NGOs including churches.

(2) Regarding testing of persons, we have heard reports from sources that fees are collected from people who are tested. As we raise this concern,

Mr. Mozhui, learned counsel clarified that fees are taken only from persons who come voluntarily on their own for testing. He also submitted that random testing is going on everywhere and people who are tested in such exercises are not charged any fees. In our fight with the pandemic it has been everyone's opinion that testing is very important. Unless people are tested, there is no way one can know whether they have been infected with the virus or not. The earlier the infected persons are identified further spread of the virus by such persons can be prevented. Since we are in the midst of the virus spreading far and wide even in the rural areas, we are of the view that fees should not be charged even from persons who come on their own for testing. We have followed closely on daily basis as to how many people are tested for covid infection in the State. Everyone present in today's hearing agreed that number of testing in a day is still less than desired. Therefore, testing facilities should be increased and testing should be ramp-up. Accordingly, we direct the respondent No.1 to increase testing facilities and place them even at the level of PHCs and CHCs. We are aware that RT-PCR testing facilities are available only at 3 places i.e. at Dimapur, Kohima and Tuensang. The State may explore feasibility of establishing such facilities even at other strategic places. However, for the PHCs and CHCs facilities of testing by True Nat or Rapid Antigen Test may serve the purpose.

(3)On the vaccination, as per the affidavit which shows the status as on 11/5/2021, so far 1,81,443 persons who are above 45 years of age inclusive of frontline and health workers have been vaccinated and out of that 51,650 persons have been given 2nd dose. Mr. Mozhui explained that there is shortage of supply of covishield all over the country however, orders have been placed for procurement of the same from Serum

Institute. Mr. Mozhui also submitted that on 12/5/2021, 36,580 doses of covishield has arrived in the State for administering to people with 18 years to 44 years of age and, vaccination is going on. In a State where the population is 22.8 lakhs the vaccination done so far is precious too little and it is still too far from the target. Therefore, while not belittling the efforts made by the State Government and all those who are working day and night, we are constraint to urge that the vaccine be made available at the earliest and vaccination drive also be done on war footing so that people of the State can be vaccinated at the earliest. We may also add here that the vaccination days fixed in a week for the age group of 18 to 44 years may be increased so that whatever available vaccine may be given to persons who come forward at the earliest. During the hearing it has come to light that many people are not willing to take the vaccine. Keeping in view the concerns expressed regarding the reluctance of people to take vaccine, we direct the respondent No.1 to take appropriate steps in coordination with Doordarshan, All India Radio and other print and digital medias to spread awareness so that any fear or reservation that is in the mind of the people would be removed and the vaccination drive taken up by the Medical Department would go on smoothly and the same is completed at the earliest. For the aged and physically challenged persons, we are of the view that the State Government should make special arrangements to reach out to them with the vaccine. Mr. Mozhui on instruction has assured us that necessary steps have been taken regarding this.

(4)Regarding the man power availability, the affidavit has given district wise as directed earlier but it has been suggested by the learned Amicus Curiae that it would be better if the CMO's are directed to submit a report

each on the man power availability at PHCs and CHCs and district hospitals. We find the suggestion reasonable because it would give us the clear picture about the availability of man power at the ground level. Therefore, the respondent Nos. 2 and 3 are directed to collect informations from respondent No.5 and file an additional affidavit.

5. We have seen in the Eastern Mirror dated 23/5/2021 that the CHC at Shamator has no Doctor inspite of the demand of the people of the area. If what has been stated in the newspaper is true, the State Government, in view of the circumstances we are in, should do everything at their command and post at least some Doctors at the CHC concerned. Since the need is urgent in view of the spread of covid-19 infection, we would expect that the State Government post the required number of Doctors and other man powers within a period of 5 days from today. We also direct that the required equipments, medicines and other requirements are made available in all the Government hospitals/PHCs/CHCs in the districts.

6. It has also been brought to our notice that charges for burials have been exorbitantly high for those who died due to covid infection. Since we are in war like situation, we would expect that the Government will take the burden at least for those who cannot afford. We also urge the Government to take appropriate action so that burial charges are not unreasonably high.

In view of the nature and scope of the PIL we are of the view that the Ministry of Health and Family Welfare should be made a party. As such the Registry is directed to do the needful and issue a notice to the Ld CGC.

List this matter again on 10/6/2021.

On that day, the respective respondents are expected to file affidavit of compliance on the directions given and observations made.

Let a copy of this order be given to the learned counsels through their e-mails.

Sd/-
JUDGE

Sd/-
JUDGE

Comparing Assistant