

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cont. Case (Civil) No. 220 of 2019

Jyoti Sharma Petitioner
Versus
The State of Jharkhand and Ors. Opp. Parties
with

W.P. (C) No. 918 of 2019

Pushpa Sales Private Limited Petitioner
Versus
State of Jharkhand and others Respondents
with

W.P. (C) No.01 of 2021

Vijeta Projects and Infrastructure Ltd. Petitioner
Versus
State of Jharkhand and Ors. Respondents

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

For the Petitioners: Mr. Vimal Kirti Singh, Sr. Advocate
For the State : Mr. Rajiv Ranjan, Advocate General

Oral Order

12 / Dated : 03.05.2021

The instant contempt case has been filed for non-compliance of order dated 11.05.2017 passed in W.P.(PIL) No.2405 of 2016 whereby and whereunder the following directions have been passed by a Co-ordinate Division Bench of this Court which reads as hereunder :-

“... ..

The poor people of Jharkhand including Adivasi and BPL holders as on date, who approach the hospital for treatment and in the event advised for better

treatment outside the State, cannot afford treatment as there is no Scheme of the State Government to release fund for those poor people and, therefore, it is necessary to complete the entire Sadar Hospital with 500 beds within a year.

Considering the submissions made by the parties and after going through the pleadings, we direct the respondents to complete the construction of portion of 200 beds of Sadar Hospital and make it operational by the end of July 2017 and the rest portion of 300 beds of Sadar Hospital with all facilities will be completed by the end of December, 2018. This Court directs the Additional Chief Secretary, who is in-charge of Health, Medical Education and Family Welfare Department to monitor the same and we further direct the Finance Secretary to sanction the fund and release financial assistance for this purpose. This Court also directs the Chief Secretary to look into the matter through her independent source and to seek information from time to time about the position of the construction. Any violation of the order will amount to contempt of Court and any citizen can approach the Court for that purpose. All the departments which are involved in the process will co-operate each other with the Health Department.

We direct the Registry of this Court to communicate a copy of this order to the Chief Secretary and to Additional Chief Secretary, Health, Medical Education and Family Welfare Department and also to Finance Secretary to ensure proper compliance of this order.

The writ petition is, accordingly, disposed of.”

Considering the gravity and urgency of the issue, this Court had passed an order on 03.03.2020 by issuing a direction upon the Chief Secretary of the State to file affidavit as to in what manner he is monitoring the construction of the hospital and why there has been delay.

Again we have passed an order on 11.09.2020 directing the Chief Secretary, State of Jharkhand to file an affidavit stating therein as to whether 300 beds in Sadar

Hospital have now become operational or not and in terms thereof, an affidavit has been filed which has been taken note of in the order dated 16.10.2020 wherein it has been stated that the deadline of 31.12.2020 has been fixed for completion of the project given to the contractor with a further direction upon the Chief Secretary to strictly monitor the construction so that it can be completed by 31.12.2020.

The matter was again taken up on 06.04.2021. The order dated 11.05.2017 passed in the writ petition and subsequent order passed by this Court in the instant contempt case having not been complied with, therefore, the Chief Secretary has again been directed to take up the matter seriously considering the surge in the pandemic COVID-19 and non-availability of the beds fully supported with oxygen to be supplied through pipeline, as has been directed to the constructed but has not been completed.

It has been informed to this Court that the State Government has taken strict action against the contractor for coming in the way of compliance of the Court's order dated 11.05.2017 by making reference of an order passed in W.P.(C) No. 918 of 2019 and W.P.(C) No. 01 of 2021 and accordingly, we have directed the office to list writ petitions being W.P.(C) No. 918 of 2019 and W.P.(C) No. 01 of 2021, along with this contempt case, as would be evident from the order dated 06.04.2021.

Accordingly, the case was posted on 13.04.2021 and it has been informed to this Court on behalf of the writ petitioner of writ petition being W.P.(C) No. 01 of 2021 that State Government has taken decision to debar the writ petitioner in participating in the future tender which has been assailed in the aforesaid writ petition wherein an ad-interim order has been passed.

The matter was again directed to be posted on 19.04.2021 and the learned counsel for the writ petitioner in W.P.(C) No. 01 of 2021 has submitted that a deadline of 30.06.2021 has been fixed for completion of the work in entirety but taking into consideration acute surge in COVID-19 pandemic as also the paucity of oxygen supported beds for the increasing number of patients, sincere endeavor would be taken by the contractor to complete the remaining work, more particularly, pertaining to installation of liquid oxygen plant of the capacity of 5000 MT.

This Court, after having considered such undertaking, has posted this case today i.e., on 03.05.2021. It requires to refer herein that across the country the people are dying due to paucity of oxygen. However it has been stated by the State that 240 beds have been made available supported with oxygen through cylinders. The question herein is that this Court has directed the State way back on 11.05.2017 to make operational all 500 beds in Sadar Hospital, but the

aforesaid order has not yet been complied with on one excuse or the other.

We have seen from the affidavit filed by the Chief Secretary of the State that the total amount as per the agreement for execution of the work is Rs.179.21 crore against which a sum of Rs.142.47 crore has already been paid in favour of Vijeta Projects and Infrastructure Ltd., the petitioner in W.P.(C) No. 01 of 2021 as also it has been submitted that 81% of the work has been completed but with respect to installation of oxygen plant, however, it has been submitted by learned counsel appearing for the writ petitioner in W.P.(C) No. 01 of 2021, the contractor, all sincere endeavor would be taken to install the liquid oxygen plant having the capacity of 5000 MT.

This Court, in order to get an update upon the issue pertaining to installation of liquid oxygen plant in the Sadar Hospital, has also interacted with the Deputy Commissioner, Ranchi who has been called upon to participate in the Court's proceeding through online mode since he is also looking after the supervision/inspection of the Sadar Hospital, Ranchi during the pandemic COVID-19, who on the basis of supervision and inspection of the work, has submitted before this Court that all the infrastructure has been made out by installing pipeline etc. but due to non-installation of liquid oxygen plant the same is not being

made functional by supplying oxygen through the aforesaid plant, however, efforts have been taken to create 240 oxygen supported beds through cylinder .

The question herein is that when the purpose of allotment of work making 500 beds in Sadar Hospital fully operational is to extend benefit to the poorer section of the society for which the Government has planned to install beds supported with oxygen to be supplied through oxygen plant but due to its non-completion the purpose of the project has not yet been achieved.

The further question is that if the liquid oxygen plant would be made operational, the cylinders which are being used for supplying oxygen to the beds, can be utilized elsewhere and that is the concern of the Court in the period of acute shortage of oxygen and cylinder.

It is also the case of the State that requisition has been made to obtain 17,000 more cylinders to fulfill the demand when such is the situation then why the work for installation of liquid oxygen plant has not yet been completed so that the oxygen cylinders can be utilized elsewhere.

We are considering the case pertaining to non-compliance of the order passed by the this Court in W.P.(PIL) No.2405 of 2016 dated 11.05.2017 and this Court is of the considered view that the order passed by this Court

dated 11.05.2017 has not been complied with even after lapse of about five years, therefore, the officers are in contempt. As would be evident from the affidavit that even the contractor has not done his part of duty due to non-completion of the project within the stipulated period. We make it clear that if anybody is coming in the way of compliance of the Court's order, such person will also be liable to be proceeded under Contempt of Courts Act for deliberately creating obstruction in compliance of the order passed by this Court and in such circumstances, an appropriate proceeding will also be initiated against the person concerned.

However, at this juncture, Mr. Vimal Kirti, learned counsel appearing for the writ petitioner in W.P.(C) No. 01 of 2021 has submitted that the matter may be posted day after tomorrow to give the details of the efforts taken and the earliest possible time to complete the work so that the people suffering from COVID-19 infection facing acute difficulties due to inadequate supply of oxygen, may not suffer or die as the situation is today.

Learned Advocate General, in course of submission, has submitted that in the Risaldar Nagar situated in the district of Ranchi, 100 oxygen supported beds have been prepared. In course of such submission, this Court has asked the learned Advocate General that why the State

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Government is not deliberating with the H.E.C. Management to use its Plant Hospital which is having full infrastructure like beds etc. to utilize it for the purpose of creating more oxygen supported beds. However, he submits that part of the Plant Hospital has been outsourced to a private hospital namely, Paras Hospital, but he admits that the Plant Hospital is having more space in a multi-storied building where the possibility can be explored for creating oxygen supported beds.

He, therefore, submits that on the next date of hearing he will apprise this Court on this issue also.

Accordingly and as prayed for on behalf of the contractor, namely, Vijeta Projects and Infrastructure Ltd., let this matter be posted day after tomorrow, i.e., on 05.05.2021 along with W.P.(C) No. 918 of 2019 and W.P.(C) No. 01 of 2021.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)