

W.P.Nos.10486, 10812, 11644, 11653, 11674 and 11851 of 2021,
W.P.(MD) Nos.9485, 9119 and 9397 of 2021,
and W.P.No.12184 of 2020

THE HON'BLE CHIEF JUSTICE
and
SENTHILKUMAR RAMAMOORTHY, J.

(Order of the Court was made by *the Hon'ble Chief Justice*)

Status reports have been filed by the State of Tamil Nadu and the Union Territory of Puducherry indicating, inter alia, the measures taken to augment the number of beds, the supply of oxygen and distribution of essential drugs needed to tackle the pandemic. Unfortunately, on the vaccination front, there appears to be a standstill and it is unlikely that a full-fledged vaccination drive can be undertaken before adequate supplies are received.

2. The Central Government has filed papers disclosing a letter of May 16, 2021 issued by the Department of Pharmaceuticals and the Ministry of Health and Family Welfare enclosing an allocation and supply plan up to May 23, 2021. The State-wise allocation of Remdesivir till May 23, 2021 indicates 3,50,000 vials for Tamil Nadu and 22,000 for Puducherry. There appear to be certain anomalies in

the distribution, particularly on the basis of the positive cases in several States, and learned Additional Solicitor-General has been requested to look into the basis for the allocation. The company-wise supply plan for the same period has also been indicated. The papers filed on behalf of the Central Government refer to additional drugs which are necessary to deal with the virus. As far as Tocilizumab is concerned, it is indicated that the country is completely dependent on import of such product and there is only limited supply. However, the Drugs Controller General indicates that there are alternative domestically produced drugs which are either equivalent to or better than Tocilizumab viz., Itilizumab, Dexamethasone and Methyl prednisolone, which are available.

3. There has been the unfortunate death of a judicial officer today and the surge of cases in the State has come down marginally and, according to the State, the facilities in Chennai are adequate to meet the present requirements. There also appears to be an element of rationing of oxygen as the full complement of the allocated supply to the State may not have been received. One of the intervenors pointed out that oxygen was not being supplied to many private hospitals. The

State may look into the allocation of oxygen to the private and government hospitals in the State. In any event, the allocated supply is 519 MT against the State's projection of 800 MT of oxygen required daily.

4. In such context, some intervenors have pointed out that elderly patients suffering from COPD or other problems are being deprived of the regular supply of oxygen and it is difficult to find any alternative supply for such purpose. While the State takes care of the Covid patients and the emergency it faces on that account, the needs and concerns of the others must also kept in mind and addressed without compromising such cases in the wake of pandemic. Patients other than those afflicted by Covid-19, should be able to receive oxygen in the usual course and local authorities should take appropriate measures to ensure continuous supply for such purpose.

5. The State has now stopped the distribution of Remdesivir from the Nehru Stadium and has indicated in its report that the drug would be directly indented to the relevant hospital upon background checks being made and patients requiring the same being verified. According

to the State, the queuing-up for the drug at the Nehru Stadium in Chennai was itself posing a risk and, apart from a lot of people having to wait in mid-summer heat, the congregation was against the Covid protocol otherwise required to be maintained.

6. While the drug is directly reached to private hospitals, there must be a check on the price charged by the private hospitals, since one of the difficulties faced by ordinary citizens is the massive bills generated by private institutions affording health care facilities.

7. Some concerns have also been expressed on the under reporting of cases. Indeed, the ICMR guidelines pertaining to the recording of Covid deaths and the WHO guidelines in such regard have been placed. It is also necessary that accurate numbers are indicated so that the allocation of drugs, oxygen and even vaccines can be made based on the true figures. At any rate, the testing rates should not dip to artificially show lower numbers.

8. Several intervenors keep repeating that despite the Union Territory's assertion as to the augmentation of beds and facilities, in

Puducherry proper, there may not be adequate beds to deal with the number of cases. However, the figures furnished by the Union Territory indicate adequate supply of oxygen, Remdesivir and beds, including at Karaikkal, Mahe and Yanam. There does appear to be a dearth of beds, particularly oxygenated beds and ventilator beds in Puducherry proper as even the website reflects the same. It is, however, submitted on behalf of the Union Territory that several patients from the neighbouring bordering districts in Tamil Nadu have taken admission at the Puducherry hospitals which may have resulted in the shortage. Be that as it may, the endeavour to augment the number of beds should continue as the number of cases on a daily basis appears to be quite heavy, though the rate of increase has shown a dip.

9. The manner in which dead bodies have been kept in the hospital wards several hours after the death of the patient and the manner in which some deaths are not attributed to Covid and the protocol in such cases not maintained have also been highlighted by several appearing parties. It is submitted that the dead bodies of patients kept in the wards demoralise the other patients. Surely, the

authorities need to remove the dead bodies as soon as possible, but it is also to be appreciated that the number of deaths may be more than the mortuary facilities available at the hospital. However, the other aspect of the matter cannot be excused: if there has been a Covid death, even though the overwhelming factors may have been the other co-morbidities suffered by the patient, the protocol has to be maintained so that the body is disposed of in accordance with such protocol and the body does not become a source for further infection.

10. In several cases, there appears to be a lack of dignity in how the dead bodies are treated and all concerned should make every endeavour to accord a level of dignity to the departed, at least for the final time.

11. As far as the suggestion made to convert the ESI hospitals into Covid centres is concerned, the Central Government has submitted that there are two large ESI hospitals which are controlled by the Centre in the State of Tamil Nadu and the remaining are administered by the State. However, it must be kept in mind that ESI hospitals are meant for those contributing to that fund and even

though Covid wards may be created in these hospitals, the entirety of the hospital cannot be converted into Covid units. However, the ESI dispensaries may be used as vaccination centres as and when the vaccination drive gets into full gear in the State and in the Union Territory.

12. It is hoped that the somewhat better results that now appear as a result of the lockdown and strict implementation continue in the same direction. There have been suggestions for the measures to be more stringent, but it is left to the government and the local authorities to look into such aspect of the matter keeping in mind that not all residents have the luxury of convenient accommodation within the walls of their residence.

13. Based on some media reports that children may be more vulnerable to the virus immediately or in the forthcoming months, some further plans need to be put in place by the State and the Union Territory to tackle the issue, though it is hoped that the third wave does not hit us. Children are more difficult to control, even if they are admitted to hospitals and beds are available. Children need

additional care and may not respond to unknown persons instructing them in the absence of their parents or known relatives. This area needs to be addressed so that there is a plan in place should the pandemic divert its attention to children in the near future.

14. The High Powered Committees looking into the cases of persons who remain in correctional homes should be revived at the instance of the Tamil Nadu State Legal Services Authority and the Puducherry Legal Services Authority for the purpose of ensuring that there is no overcrowding in the correctional homes and that persons, particularly undertrials, may be released temporarily on the same lines as indicated in the relevant orders passed by the Supreme Court on March 23, 2020 and May 7, 2021 in Suo Motu Writ Petition (C) No.1 of 2020.

These matters will next appear on 20.05.2021 at 2.15 pm.

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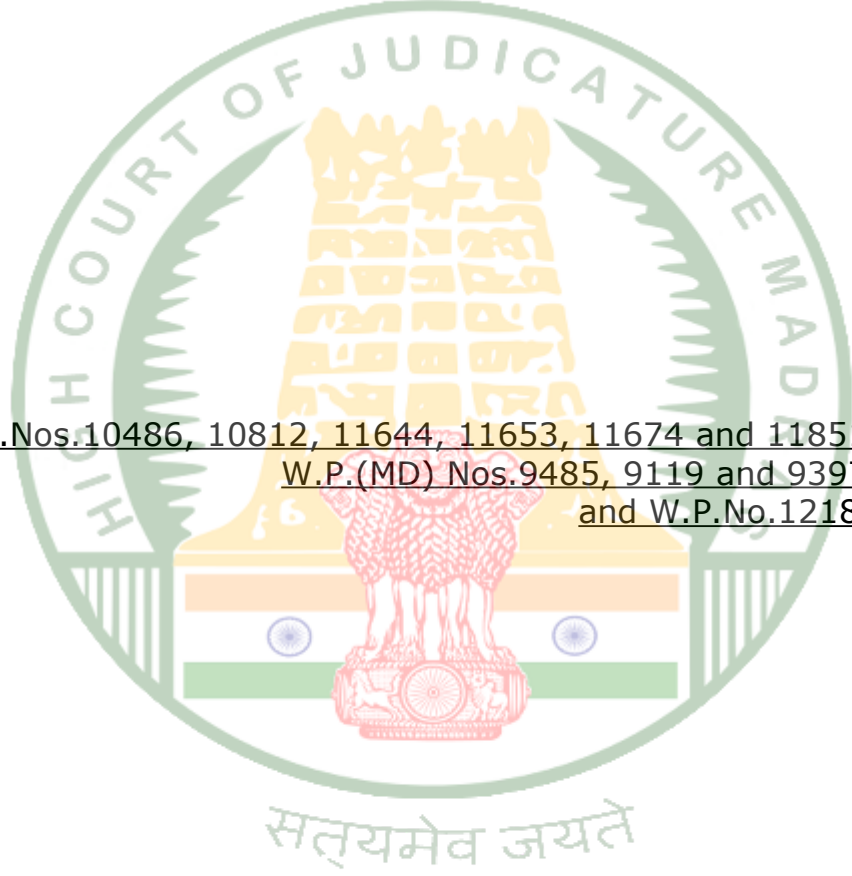
(S.B., CJ.) (S.K.R., J.)
17.05.2021

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W.P.No.10486 of 2021 etc.

THE HON'BLE CHIEF JUSTICE
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(sasi)



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