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W.P.Nos.10486, 10812, 11644, 11653 and 11674 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*)

Upon the new government taking over in the State of Tamil Nadu, there have been changes in key personnel. Learned Advocate-General appearing for the State, however, makes over a report prepared by the Health Secretary and it is evident that continuity in the office of the Health Secretary has been maintained to ensure that there is no loss of momentum or lack of rhythm in the continuing measures to fight the pandemic in the State.

2. As of now, the number of cases continues to increase on a daily basis, but there may be some indication that the rate of increase may be tapering off. On May 6, 2021, there were 24,898 new cases; on May 7, there were 26,465 additional cases; on May 8, the figure was 27,397; and, on May 9, it was 28,897. At present,

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slightly over 1.25 lakh persons remain affected by the virus in the State, though most of them are not in hospitals or clinics, but in self-isolation at home and some of them may also be asymptomatic.

3. Learned Advocate-General has referred to an order of the Supreme Court passed on May 6, 2021 by which a National Task Force has been constituted, inter alia, to assess and make recommendations for distribution of medical oxygen for the entire country, review and suggest measures necessary for ensuring the availability of essential drugs and medicines, plan and adopt remedial measures to meet future emergencies arising during the pandemic, suggest measures to augment the availability of personnel and facilitate the sharing of best practices and make recommendations in regard to other issues to find an effective response to the pandemic.

4. In view of the comprehensive directions, including the rational and equitable distribution of oxygen, vaccines and drugs, it is for the National Task Force to come out with plans and allocations. However, till such time that the National Task Force announces the allocations in consultation with local officials, it is the Union which is

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tasked with the responsibility of ensuring the continuous supply of oxygen, vaccines and drugs to the States and Union Territories.

5. As far as the supply of oxygen to the State is concerned, the State's demand about a week back was for 475 MT of oxygen on a daily basis. Against this, the allocation of May 8, 2021 provides for 419 MT, including a daily 40 MT supply from Palakkad in Kerala till May 12, 2021. The State now perceives that, with the rising numbers, the demand for oxygen will hit 800 MT within the next few days and seeks augmented supply of oxygen. It has also been reported in a section of the media that local residents have stopped vehicles carrying oxygen from Palakkad to travel to Coimbatore and the neighbouring areas in view of the perceived shortage of oxygen supply in Kerala. The State and the Centre should find ways of effective supply to the south-western region of the State since supply from Sriperumbudur or elsewhere in north or central Tamil Nadu may be logistically difficult to reach the south-western part of the State and, at any rate, less efficient than ensuring supply from neighbouring Palakkad which is about 40 km away. It has been submitted on behalf of the State that the Sterlite facility in

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Thoothukudi may begin production this week with an anticipated 40 MT per day initial supply.

6. In the light of the present allocation of medical oxygen and the rising need of the State, it is necessary to think of a plan 'B'. Oxygen generators have apparently been set up by the Defence Research and Development Organisation at short notice at some places. This avenue must be explored, as also indicated in the previous order. If, as the experts suggest, a third wave may be in the offing, it is necessary to be over-prepared and not require the resources being put to use rather than being unprepared and rue for not having garnered additional resources. The object of the exercise is to prepare for the worst and hope that the worst does not hit us.

7. The reports filed on behalf of the State indicate augmentation of beds, particularly oxygenated beds. It is not necessary to repeat the figures which have been indicated, but, by and large, the State seems to be addressing the issue appropriately. Together with the strict lockdown measures which have been put in place now, it is hoped that the number of additional cases would

taper off within the next few days.

8. In Puducherry, the cases are also on the rise, but there does not appear to be any dearth of oxygen, given the limited demand for it in the Union Territory. However, there are complaints that beds may not be available, though the Union Territory insists that there are sufficient beds in government hospitals and private facilities commandeered for such purpose.

9. Both Tamil Nadu and Puducherry seem to be crying out for the requisite supply of drugs and vaccines. In Tamil Nadu, the vaccination for persons below the age of 45 has not been possible because of the lack of the number of doses. In Puducherry, the position appears to be somewhat better with about 2 lakh doses in hand out of slightly over 4 lakh doses that had been allocated and supplied to the Union Territory. Similarly, Remdesivir appears to be in short supply in both the State and the Union Territory. Puducherry has a little over 700 vials left for distribution. In Tamil Nadu, additional centres have been opened up in cities other than Chennai for supply of Remdesivir to private persons. However, some

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misgivings have been aired about patients not having appropriate representatives to depute to collect the drug from the government centres and an appeal has been made to ensure direct supply to the private hospitals upon the private hospitals providing adequate documentation in such regard. This is one area that should be looked into by the State with immediate effect as all patients may not have available representatives to stand in queue at government outlets to obtain the drug and, in any event, verification of the requirement together with proper certification may be better done at a government to private hospital basis with a degree of accountability if it is ultimately found that the private hospital may have tinkered with the details or eligibility criteria.

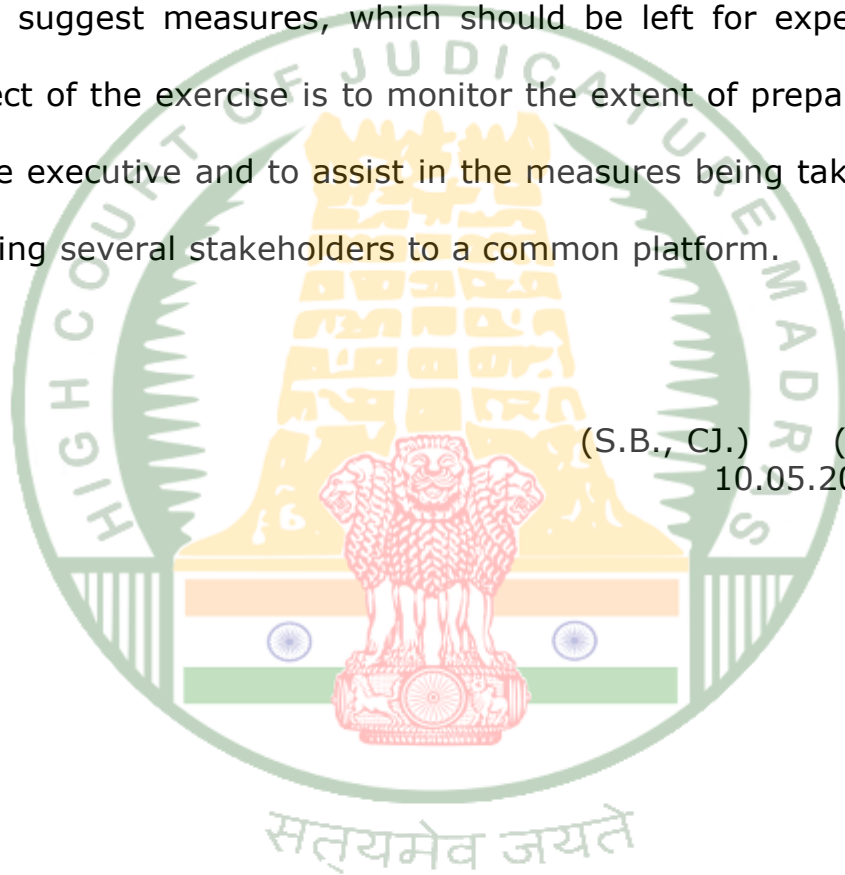
10. Learned Additional Solicitor-General has assured to take up the case of both the State and the Union Territory with the Centre, at least till such time that the National Task Force set up by the Supreme Court order gets down to the nitty-gritties of allocation and the like. It is necessary that immediate urgent measures be taken, both to augment the supply of oxygen in the State and of vaccines and drugs to both the State and the Union Territory.

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11. The matters will next appear on May 12, 2021 at 2.15 pm.

12. It is once again made clear that it is not the business of this Court to suggest measures, which should be left for experts to do. The object of the exercise is to monitor the extent of preparedness of the State executive and to assist in the measures being taken, if only by bringing several stakeholders to a common platform.

sasi/bbr



(S.B., CJ.) (S.K.R., J.)
10.05.2021

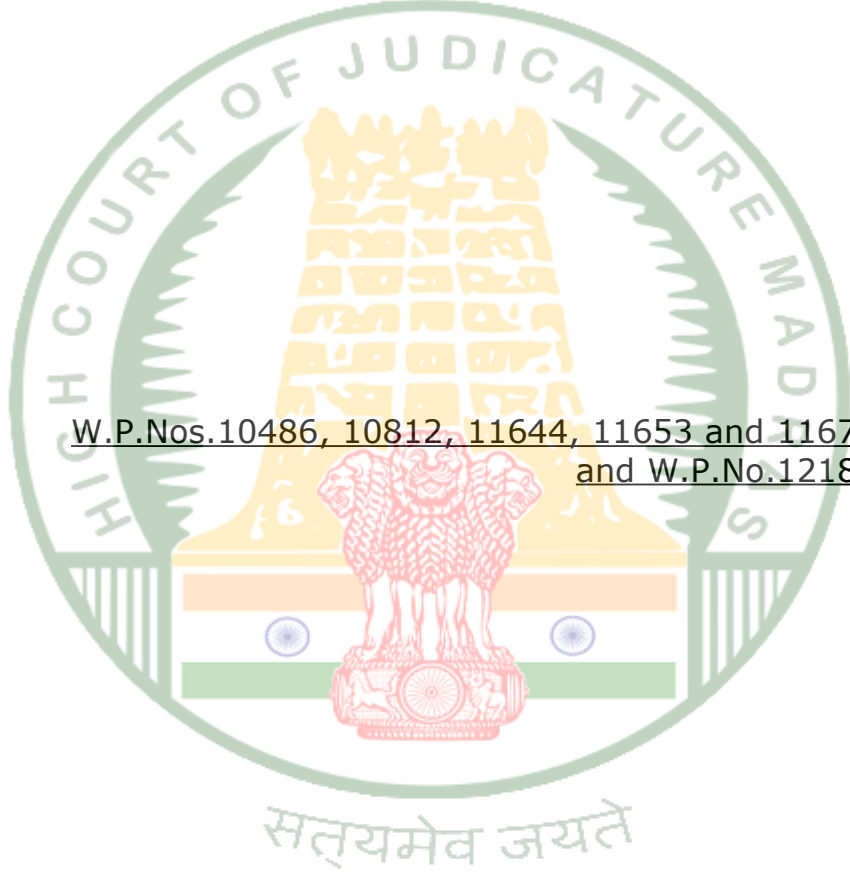
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W.P.No.10486 of 2021 etc.

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