

Mr.Naresh Maimom

..... Petitioner

- Versus -

Union of India & 5 others.

..... Respondents

For the Petitioner

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Mr.Serto T.Kom, Advocate

For respondent No.1

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Mr.S.Suresh, ASG

For respondents Nos.2 and 3

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Mr.Lenin Hijam, Addl. AG, Manipur

For respondent No.4

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Mr.M.Devananda, Advocate

Date of Order

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14.07.2021

**BEFORE**

**HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR**

**AND**

**HON'BLE MR.JUSTICE KH.NOBIN SINGH**

**The CJ (Oral):**

[1] Mr. Serto T.Kom, learned counsel, appears for the petitioner. Mr.S.Suresh, learned ASG, appears for the Union of India. Mr. Lenin Hijam, learned Additional Advocate General, Manipur, appears for the State authorities, and Mr.M.Devananda, learned counsel, appears for RIMS, Imphal.

[2] Additional reply affidavit dated 12.07.2021 filed by respondent No.1 along with Annexures-R/1 to R/7 and additional reply affidavits dated 05.07.2021 and 13.07.2021 along with Annexures-A/1 to A/3, filed by respondents No.2 and 3, are taken on record.

[3] The reply now filed by the Central Government demonstrates that the authorities have reverted back to the initial proposal of setting up two separate Oxygen plants of 1000 LPM each at RIMS, Imphal. However, it is distressing to note that even as on date, neither of these two plants has been commissioned. One plant is yet to be installed while the other, though installed, is not functional owing to a leaking pipe. Mr.S.Suresh, learned ASG, would state that the same would have to be replaced and as per Mr.M.Devananda, learned counsel, it would take a week's time as it has to be flown in from Bangalore. This is the situation despite the assurance held out by the Central Government, in its letter dated 22.05.2021, that both these plants would be made operational at the very latest by 30.06.2021!

The reason cited by the Central Government for not installing the second oxygen plant is that RIMS, Imphal, did not identify a suitable site. However, Mr.M.Devananda, learned counsel, would inform this Court that the site was identified and approved by the authorities concerned on 10.07.2021. The task of installing and commissioning these plants seems to have been entrusted to a third party, viz, NBCC Limited. However, there appears to be complete lack of communication and co-ordination amongst the parties concerned in relation to the actual installation and commissioning of the plants. So much so, there is no consensus even as to the manner in which the oxygen produced by the second plant would be utilized, i.e. whether it is to be conveyed through pipes or through oxygen cylinders. In any event, it is not for this Court to mediate amongst these parties and resolve any differences that they may have with regard to implementation of the project. The need of the hour is speedy installation and commissioning of these plants so as to meet future demands for oxygen supplementation, if they arise. There shall accordingly be a

direction to the Central Government; RIMS, Imphal; and the NBCC Limited, to forthwith conduct joint meetings, physically or virtually, and resolve all pending issues and difficulties that are hampering the speedy installation and commissioning of the plants. The target date stipulated by the Central Government for commissioning of these plants is now stated to be 15.08.2021. It is for the authorities concerned to ensure that all pending issues are quickly resolved so as to achieve the desired result at least by the said target date.

The material placed on record by respondent No.1 indicates that the first oxygen plant's equipment was brought by air from Bangalore to Jorhat in Assam, in the first instance, and it was thereafter transported by road to Imphal. This, perhaps, is one of the reasons why the commissioning of this plant was delayed. No explanation is forthcoming as to why the equipment was not flown straight to Imphal when direct flights are operating between Bangalore and Imphal. Mr. Suresh, learned ASG, shall get instructions in this regard by the next date of hearing and explain as to why this circuitous route was chosen for bringing the equipment to Imphal. He shall also ascertain as to why 12 out of the promised 16 oxygen plants have not yet been established and commissioned in the State of Manipur. The status and stage of the pending projects in relation to these 12 oxygen plants shall be made known by way of an additional reply affidavit.

[4] Another serious aspect that requires to be taken note of is the lack of proper communication between the Central Government and the State Government. This communication gap becomes crucial in the context of the recommendations said to have been made by the Central Government's two-member team, which visited Manipur to study the conditions contributing to a higher incidence of Covid cases in

the State. The Interim Report made by this team is placed on record along with the additional reply of respondent No.1. Disturbing to note, the report is neither signed nor dated. It was not even addressed to anyone in particular. It is the claim of the State Government that this report was not even been made available to it.

More worrisome is the fact that the recommendations, 9 in number, made by the team in the concluding portion of this report do not even spell out in clear terms as to what steps have to be taken by the State Government to address each of the issues highlighted therein. Making general and vague recommendations would not achieve the desired result as the very purpose of the two-member team, deputed by the Central Government, coming to Manipur for physical inspection was to study the ground realities obtaining here so as to make concrete proposals and recommendations for improving the situation. However, the recommendations set out in the interim report fall far short of the required standard. The Central Government shall therefore draw up detailed recommendations based on the findings of the team and communicate the same to the State Government immediately so as to enable it to take appropriate measures in terms thereof. That apart, the State Government shall also independently assess as to what is required to be done to meet the challenges posed by the pandemic and disclose its action plan to meet the future challenges that may arise in the event of a third wave.

[5] In this regard, it would be appropriate that a competent official of the State Government assist this Court by participating in the next video-conference hearing so as to inform this Court of all the steps that have been taken and the steps that are proposed to be taken in the context of this pandemic. The Principal Secretary, Department of Health, Government of Manipur, is therefore requested to join and

participate in the next hearing of this case through video-conference, along with his supporting team to assist him. The Principal Secretary may also address the issue of how the State proposes to augment the vaccination drive undertaken by it, in the light of the clear reluctance on the part of a lot of people to avail the benefit of such vaccination. It would be necessary for the State machinery to ascertain whether the hesitancy of people in this regard is attributable to ignorance of the advantages of getting vaccinated or whether it is due to other health reasons or due to non-availability of vaccination facilities nearby. Several villages in the State of Manipur are situated in remote hilly areas and it would not be possible for the residents of such villages to physically access the vaccination centres that may be located at the district headquarters. In such a situation, the State would have to provide vaccination facilities at the door-step, instead of requiring the beneficiaries to come forward on their own and travel long distances. Whether any such steps are being taken shall also be disclosed on the next date of hearing. The State shall also explain as to what measures are being taken to educate people about the advantages of getting vaccinated and how their fears and apprehensions as to the possible side effects are being allayed.

A newspaper report in the Sangai Express dated 08.07.2021 states to the effect that Mr.Rajesh Bhushan, Secretary, Ministry of Health & Family Welfare, Government of India, addressed a letter to Dr.Rajesh Kumar, Chief Secretary, Government of Manipur, pointing out six aspects that need to be focused upon to curb the spread of the virus in the State. These aspects include enforcement of strict containment measures, ramping up of testing and vaccination, augmenting health care infrastructure, etc. The Principal Secretary shall also address the steps taken

pursuant to the aforestated communication received from the Central Government and the measures that are being adopted to focus on these six critical aspects.

[6] Further, Mr.S.T.Kom, learned counsel, would assert that, as pointed out by the Central Government's team, the treatment of Covid patients in hospitals is falling short due to the failure of senior faculty members to participate in the treatment process. This aspect of the matter shall also be addressed by the Principal Secretary on the next date of hearing. Similarly, the recommendation with regard to establishing an integrated command system may also be adverted to by giving full details of what steps have been taken to set up a centralized State machinery to attend to all Covid related issues.

[7] Mr.S.T.Kom, learned counsel, would also point out that as per the additional reply filed by the State authorities, opening of ICU/HDU beds in the remaining district hospitals and some selected CHCs is still being studied. It would be necessary for the State to explain the steps that have been taken pursuant to such studies. Mr.Lenin Hijam, learned Additional Advocate General, would state that the next additional reply filed by the authorities of the State would address this issue.

[8] Post on 29.07.2021.

[9] Registry is directed to print the name of Mr.Lenin Hijam, learned Additional Advocate General, Manipur, in the cause list.

[10] Copies of this order shall be furnished to all the learned counsel through Whatsapp/e-mail.

JUDGE

CHIEF JUSTICE

*Opendro*