

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.353 of 2021**

Shivani Kaushik

... .. Petitioner/s

Versus

Union of India & Ors.

... .. Respondent/s

with

**Civil Writ Jurisdiction Case No. 17398 of 2018**

Rohit Kumar

... .. Petitioner/s

Versus

The State of Bihar and Ors

... .. Respondent/s

with

**Civil Writ Jurisdiction Case No. 9639 of 2021**

Gaurav Kumar Singh

... .. Petitioner/s

Versus

The Union of India & Ors.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 353 of 2021)

For the Petitioner/s : Ms. Shivani Kaushik ( In Person)

Mr. Mrigank Mauli

For the UOI : Mr. (Dr.) K.N.Singh (ASG)

For the State : Mr. Ranjit Kumar, Sr. Advocate

Mr. Lalit Kishore, AG

Mr. Anjani Kumar, AAG-4

Mr. S.D. Yadav, AAG-9

For Respondent No. 5 : Mrs. Binita Singh

For Respondent No. 6 : Mr. Shivender Kishore, Sr. Adv.

For PMC : Mr. Prasoon Sinha

For DMCH : Mr. Bindhyachal Rai

For GMC : Mr. Rabindra Kr. Priyadarshi

For the Intervener : Mr. Rajiv Kumar Singh

(In Civil Writ Jurisdiction Case No. 17398 of 2018)

For the Petitioner/s : Mr. Manish Kumar No 13

For the State : Mr. Subhash Prasad Singh, GA-3

For Respondent No. 6 : Mr. Kumar Ravish

Ms. Parul Prasad(Amicus Curiae)

(In Civil Writ Jurisdiction Case No. 9639 of 2021)

For the Petitioner/s : Mr. Sumeet Kumar Singh  
For the UOI : Mr. (Dr.) K.N. Singh (ASG)  
Mr. Anshuman Singh, CGC  
For AIIMS, Patna : Mr. Binay Kumar Pandey

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

**and**  
**HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)**

13 30-04-2021

**Re : IA No. 01 of 2021 & 02 of 2021**

in

**CWJC No. 353 of 2021 and other analogous matters**

In response to our observations made and certain directions issued in our order dated 29.04.2021, Mr. Anjani Kumar, learned Additional Advocate General No. 4 appearing on behalf of the State of Bihar has furnished to this Court few facts in respect of, (i) increase in the number of beds at the Employees State Insurance Corporation (ESIC), Hospital, Bihta, (ii), providing necessary facilities to Indira Gandhi Institute of Medical Sciences (IGIMS), Patna which is a Dedicated Covid Hospital (DCH) and has been declared by the State Government to be used exclusively for COVID-19 treatment and, (iii) acquisition and Supply of medical oxygen to COVID Care Centres (CCCs), Dedicated COVID Health Centres (DCHCs) and Dedicated COVID Hospitals (DCHs).

We have been informed that the ESIC, Hospital,

Bihta is presently functional with 60 beds for treatment of COVID patients and the said capacity is being enhanced to 140-150 beds. In addition, in the campus of the said hospital, the Patna District Administration is making arrangements for establishing a DCHC having capacity of 100 beds. Further, the Bihar Medical Services and Infrastructure Corporation Limited (BMSICL) has been directed by the State Government to supply medicines to the said hospital and a pathological laboratory is being established for tests, with the help of *Care India*, an NGO.

In respect of IGIMS, Patna, it has been informed that presently the District Magistrate, Patna is ensuring continuous supply of oxygen in the said hospital on the basis of number of patients admitted in the hospital. We have already noted in our previous order that IGIMS has capacity of 1070 beds. We reiterate our observations and directions recorded in our previous orders for maintaining uninterrupted supply of medical oxygen in the said hospital.

It is important to note here, as has been informed on behalf of the State of Bihar that BMSICL is in the process of installing two cryogenic LMG tanks of 20KL capacity each. Further, BMSICL is in the process of entering into an

agreement with Linde Company for supply of liquid oxygen to IGIMS, Patna for next five years. It has further been stated that the said two cryogenic tanks shall be installed within one month. The Court appreciates the efforts being made by the respondents for ensuring continuous supply of oxygen in IGIMS, as we have been informed. **We consider it appropriate to direct the respondents to ensure that the said two cryogenic tanks are installed positively within one month from today.**

Mr. Lalit Kishore, learned Advocate General, Bihar, who has also joined the today's proceeding, has informed this Court that till arrangement is made for supply of medicines by BMSICL to IGIMS, in order to provide free medicines to the COVID patients in the said hospital, IGIMS shall ensure providing required medicines free of cost and the cost so borne by the IGIMS shall be reimbursed by the State Government.

In respect of acquisition and supply of medical oxygen, it has been stated that a Committee of eight officials has been constituted to monitor, review and coordinate the demand, supply and availability of medical oxygen in all the districts of the State of Bihar.

In respect of lifting/ acquisition of medical oxygen,

we had noted in our previous Order that out of quota of 160 MT LMO, required to be lifted from suppliers situated outside the State of Bihar, the respondents have been able to show details regarding lifting of 110 MT only and there is no clue as to from where the rest of the 50 MT of LMO is to be lifted and transported to the State of Bihar. Mr. Anjani Kumar, today states, based on the instructions received by him, that 194 MT of oxygen has been allocated as quota for the State by the Central Government, out of which 34 MT is to be obtained from the Air Separation Units (ASU), which are being operated within the State of Bihar. It has further been mentioned that out of the balance quota of 160 MT LMO, 20 MT is to be lifted from Air Water, Jamshedpur, 30 MT from Linde Jamshedpur, 30 MT from Inox Bokaro, 20 MT from SAIL (Steel Authority of India Limited), Bokaro, 20 MT from Vedanta Electro Steel, Bokaro, 20 MT from Linde SAIL, Durgapur and 20 MT from SAIL, Burnpur. It has also been stated that out of the quota allocated by the Central Government, as on 28.04.2021, 119 MT and as on 29.04.2021, 107 MT of LMO was received by the State. The State has the capacity to generate 34 MT of medical oxygen. Accordingly, it has been submitted that as on date, out of total allocation of 194 MT of LMO, the State of Bihar has

been able to procure 134 MT, i.e 34 MT from ASU and 100 MT by way of LMO and steps are being taken to lift rest of 60 MT per day by further enhancing lifting and transportation capacity.

It can be easily noticed on perusal of our previous orders that there has been some significant improvement in acquisition of LMO by the State compared to the past, which the Court expects, will improve supply of medical oxygen in the State of Bihar for treatment of patients. **The Court, however, directs the respondents to ensure that effective and visible steps are taken for procuring total quota of oxygen for the State.**

We had directed the Principal Secretary, Health Department, Government of Bihar to put on the website of the department the details of all COVID Care Centers (CCCs), Dedicated COVID Health Centers (DCHCs) and Dedicated COVID Hospitals (DCHs). Mr. Anjani Kumar has informed this Court that the details in respect of COVID Care Centers (CCCs), Dedicated COVID Health Centers (DCHCs) and Dedicated COVID Hospitals (DCHs) are now available on the website of the Department. Mr. Mrigank Mauli, learned *Amicus Curiae* is requested examine as to whether the said part of the order dated 29.04.2021 has been complied with by the

respondents in its true letter and spirit.

Dr. Bhadani, who heads the technical team deputed by the Central Government, under the order of this Court, has informed that the team has visited NMCH, Patna and has stated that at-least in one of the healthcare establishments, medical oxygen is being produced by means of PSA plant. A peculiar aspect has emerged to the effect that for less number of beds in PMCH compared to that of NMCH, more demand of oxygen cylinders is being made. Mr. Mrigank Mauli, learned *Amicus Curiae* has agreed to accompany Dr. Bhadani to visit the concerned places to assess the circumstance in which a hospital with less number of admitted patients is requiring more oxygen compared to another hospital having more number of patients admitted therein.

The technical team has already been asked by this Court to determine and assess total requirement of oxygen in the State of Bihar in the prevalent situation as also the future requirement, considering unhindered rise in the rate of COVID cases in the State, the total availability of oxygen and other connected aspects. The Court expects Dr. Bhadani to submit his report in this regard by Monday (03.05.2021).

In our opinion, considering the dismal healthcare

infrastructure which the State has and since it is facing an unexpected situation of exponential rise of COVID cases, which is worsening every day, and the fact that despite our observations and Orders, no blueprint has been prepared, there is dire need of constitution of a committee of experts from different fields to perform advisory role to the Government and discharge other functions as may be assigned to it, to deal exclusively with the challenge arising out of the outbreak of Covid-19 pandemic. The Court will consider passing appropriate orders in this regard on Monday (03.05.2021). The Court will also consider any proposal coming from the State Government in respect of constitution of such committee. Extraordinary situations require extraordinary solutions and action. The present spike of COVID cases, in the Court's opinion, cannot be managed and led by the same establishment i.e the Department of Health, Government of Bihar, created to look after healthcare system in the normal situation, without the aid of a team of experts. Further, it is undeniable that huge number of cases of COVID 19 infected patients are being reported and there is dire need of enhancing the facilities in terms of isolation centers /CCCs, DCHCs apart from Dedicated COVID Hospitals (DCHs). Creation of such centers require



planning and infrastructure.

There is a newly constructed building by the name of Shatabdi Bhawan, adjacent to the High Court campus, for use by the lawyers during the Court's working days. Certain grievances have been raised relating to lack of adequate infrastructure in the CCCs and therefore, suggestion has been made for utilizing the said space as a CCC to accommodate the learned lawyers practicing in the Court, in case they are infected with COVID-19 virus, the disease is mild and the main requirement is of their isolation and care. So as to ponder over the aforesaid aspect, links of today's *online* proceeding were sent to the learned members of the Coordination Committee of the three associations of the Advocates of Patna High Court, who have joined the proceedings.

Mr. Lalit Kishore, learned Advocate General in his capacity as Chairman, Bihar State Bar Council has opposed the said proposal of establishing a CCC exclusively for lawyers as, according to him, Bar Council Building is adjacent to the said Satabadi Bhawan and majority of the members of Bihar State Bar Council are opposed to the idea of establishing a CCC in the Shatabdi Bhawan. He has also submitted that the State Government is also opposed to the said idea in as much as in

case a CCC is established exclusively for lawyers, the same may generate demand for similar facility from other groups of the society. He has submitted that even otherwise the resources of the State is stretched out and it does not have the manpower to spare for establishing a CCC exclusively for lawyers.

The members of the Coordination Committee of the three Associations have not raised any serious objection over establishing the said centre for limited purpose.

In view of the stand taken on behalf of the State Government of Bihar, as presented by Mr. Lalit Kishore, learned Advocate General that the State shall not provide any assistance to CCC, if established, the Court desired to know from Dr. Bhadani as to whether the possibility of providing some infrastructure/manpower by the non-governmental organizations, which are engaged in the State of Bihar in providing such facilities, can be explored, for establishing a COVID Care Centre in a portion of the afore-said building. Dr. Bhadani has assured that he will visit the site with the representatives of the NGO and learned *Amicus Curiae* and inform this Court accordingly. The Court will consider passing necessary orders in this regard on Monday (03.05.2021) after examining the report to be submitted by Dr. Bhadani in this

regard. In the meantime it shall also be open for the Ld. members of the Coordination Committee of the three Associations to explore the possibility of establishing a CCC exclusively for lawyers at the Shatabdi Bhavan, at their end.

List this case on Monday (03.05.2021), to be taken up at 11 a.m.

**(Chakradhari Sharan Singh, J)**

**( Mohit Kumar Shah, J)**

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