

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P. (PIL) No.1301 of 2020**

Court on its own motion

Versus

The State of Jharkhand & Ors. Respondents

With

W.P. (PIL) No.1302 of 2020

The Court on its own motion on the letter of
Arun Kumar Dubey**Versus**

The State of Jharkhand Respondent

With

W.P. (PIL) No.1308 of 2020

Court on its own motion

Versus

The State of Jharkhand Respondent

With

W.P. (PIL) No.2328 of 2020

Rajeev Kumar Petitioner

Versus

The State of Jharkhand & Ors. Respondents

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

For the Petitioner : Mr. Rajendra Krishna, Sr. Advocate

[In W.P.(PIL) No.1301 of 2020]

: Mr. Rajeev Kumar (In Person) [In

W.P.(PIL) No.2328 of 2020]

Ms. Sonal Tiwary, Advocate

Mr. Anup Kumar Agarwal, Advocate

For the State : Mr. Rajiv Ranjan, AG

: Mr. Sachin Kumar, AAG-II

For the RIMS : Dr. Ashok Kumar Singh, Advocate

For the U.O.I. : Mr. Rajiv Sinha, A.S.G.I.

For the RMC : Mr. L.C.N. Shahdeo, Advocate

ORAL ORDER**27/Dated: 17th April, 2021**

Matter has been heard through video conferencing and there is no complaint whatsoever regarding audio and/or visual quality.

2. Reference may be made to the order dated 13.04.2021.

In pursuant thereto, apart from other directions, the Principal Secretary, Health and Family Welfare Department was directed to appear in person.

Today, one memo has been filed for exemption from personal appearance of the Principal Secretary, Health and Family Welfare Department. Referring to same, learned Advocate General appearing for the State of Jharkhand has sought for exemption from personal appearance of Principal Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand for the reason that he is in urgent meeting convened by the Hon'ble Chief Minister of the State of Jharkhand.

We, after considering the reason for exemption from personal appearance, deem it fit and proper to exempt the officer from personal appearance for today.

3. We, in furtherance of the order dated 12.04.2021, had passed directions vide order dated 13.04.2021 to the effect, which reads hereunder as:

“11. We are, in view of the aforesaid fact as referred hereinabove, think it proper to post these cases on 17.04.2021 with a direction upon the Principal Secretary, Health and Family Welfare Department to apprise this Court about up-date pertaining to purchase of CT scan machine as also the decision of the Governing Body scheduled to be held today on 5:00 p.m.”

This Court had shown its concern about non-availability of CT-Scan machine, which is most required machine to detect the infection in the lungs of a person suffering from Covid-19 virus, at RIMS, which is a premier institute in the State of Jharkhand and; as also the RT-PCR machine and paucity of Scientists and Laboratory Technicians at RIMS, whose services are required for testing the persons suffering from Covid-19 virus, whereupon this Court was informed by the Principal Secretary Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand that CT-Scan machines would be purchased soon. It has further been informed by him that so far purchase of CT Scan machine is concerned, the matter is at advance stage before the Co-ordination Committee for taking post-facto approval.

The issue of non-working condition of Electric Crematorium was also raised by learned counsel for the petitioners by making a submission that due to large

scale death by Covid-19 virus the dead bodies are not being burnt in time as such there is long queue, therefore, this Court considering that aspect of the matter had put a query upon Commissioner, Ranchi Municipal Corporation as to in how much time the Electric Crematorium will be made functional.

This Court has further directed, after issue having been raised about non-functioning of other Electric Crematorium, which has been constructed at Ghagra Ghat (near Swarnarekha river), Ranchi, to file an affidavit as to how to make the Electric Crematorium at Ghagra Ghat, Ranchi functional.

In that view of the matter, we directed for personal appearance of Principal Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand, the Director, RIMS as also the Civil Surgeon, Ranchi.

4. Today, after considering the reason for exemption, we have exempted the personal appearance of Principal Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand, as per our order referred herein above.

Director, RIMS is present through on-line mode. However, Civil Surgeon, Ranchi is not present

5. Mr. Rajiv Ranjan, learned Advocate General, representing the State of Jharkhand as also Director, RIMS by referring to affidavit filed on behalf of Director, RIMS have submitted that meeting of Governing Body (Extraordinary), RIMS was held on 13.04.2021 at 5.00 pm under the chairmanship of Minister of Health, Education and Family Welfare, Govt. of Jharkhand wherein decision has been taken to approve purchase of 256 Slice CT Scan on repeat order basis, Single Plane Cath. Lab. and Bi-Plane Cath. Lab. from companies on L1 bidder basis. The Governing Body has further approved the purchase of Echo Cardiography Machine from GeM and 23 numbers of Dual Chamber Pacemakers on the basis of single bid on 'retender'.

In the affidavit, it has been stated that supply order for purchase of Single Plane Cath. Lab. Bi-Plane Cath. Lab. And Echo Cardiography machine is being issued forthwith.

It has further been stated that the Governing Body of RIMS, in view of urgency of requirement of COVID-19 testing, approved the proposal of appointment of four Scientists and eight Laboratory Technicians on contract basis, besides approving the creation of their regular posts. The vacancies of the same have been advertised vide memo no. 1930 dated 16.04.2021.

In course of hearing, the Director, RIMS has orally submitted that tomorrow is the date scheduled for appointing four Scientists and eight Laboratory Technicians on contract basis.

It has further been submitted that for strengthening of Microbiology Department for Covid-19 testing, UNISEF has approved and will send one RT-PCR machine to the Microbiology Department, which is likely to be received in few days. Further, National Health Mission has also promised to supply one RT-PCR machine to RIMS within a week.

Learned Advocate General has submitted that post facto approval for purchase of CT-Scan machine has been approved by the Chief Minister of the State and as such the same is in the process of purchase and it will soon reach its destination at Ranchi.

6. Heard learned counsel for the parties.

7. Mr. Rajendra Krishna as also Mr. Rajeev Kumar, learned counsel representing the petitioner/intervener, by referring to the affidavit filed by them, has drawn attention of this Court that there is acute shortage of medicines for treating Covid-19 patients such as Remdesivir Injection, Favipiravir, Doxycycline tablet and even the tablets of Fluguard, Vitamin-C and Zinc are not available in the open market.

They have further submitted that Remdesivir Injection and Favipiravir Tablets are being black-marketed at high cost. They further submits that the health situation in the State of Jharkhand is worsening day by day and because of non-supply of medicines like Remdesivir Injection and Favipiravir Tablets, the people are facing great difficulty and even dying due to lack of such medicines, which are required for giving treatment to persons suffering from Covid-19.

They further submit that even Oxygen is not available in the respective hospital of the State of Jharkhand and due to lack of adequate supply of Oxygen, the patients are dying.

They further submit by countering the submission made by learned Advocate General about facilitating the oxygen supported bed in the Sadar Hospital, Ranchi, which is stated to be 242 in number, which according to them is absolutely false because peoples are not getting bed at Sadar Hospital. In support of the argument, they have annexed paper-cutting of daily newspaper showing ground reality that due to non-availability of bed, the persons are dying.

They have further brought attention of the Court towards exorbitant rates being charged by the Private

Hospitals for CT-Scan Test as also for other pathological tests.

8. Learned Advocate General, in response to such contention, has submitted that so far medicines like Remdesivir Injection and Favipiravir Tablet are concerned, the Central Government has rationed it and, therefore, the State of Jharkhand is not getting adequate supply of these medicines, leading to scarcity of such medicines in open market.

9. The Drug Controller of the State of Jharkhand has also participated in the proceeding, who has initially submitted that there is rationing of Remdesivir Injection from the Central Government, therefore supply is inadequate. She further submits that other medicines like Favipiravir Tablets is concerned, the same is being ordered to the respective CNFs but there is no adequate supply from the CNFs leading to scarcity of this medicine.

10. We, on the basis of statement made by Drug Controller of the State of Jharkhand, supported by learned Advocate General of the State, deemed it fit and proper to call upon learned A.S.G.I to participate in the proceeding through on-line mode.

11. Mr. Rajiv Sinha, learned A.S.G.I appearing for the Union of India, on instruction from the Health Ministry, Government of India, has apprised this Court that there

is no rationing of Remdesivir Injection by the Central Government rather it has been contended that no order has been placed by the State of Jharkhand for supply of Remdesivir Injection showing its inadequacy.

12. On such counter submission made by learned A.S.G.I about Remdesivir Injection, the Drug Controller took U-turn by making submission that there is no such control by the Central Government with respect to Remdesivir Injection rather her submission is that order is being placed to CNFs but they are not providing adequate supply and same is the situation with respect to Favipiravir Tablet.

13. In response to such submission, learned counsel for the petitioner/intervener has submitted that even the Doxycycline, Fluguard, Vitamin-C and Zinc tablets are out of market.

14. We, after having heard learned counsel for the parties and considering the submission made by Drug Controller of the State of Jharkhand in respect to inadequate or no supply of Remdesivir Injection and Favipiravir Tablet, are very surprised how such statements were made by authority like Drug Controller to the effect about rationing of medicines like Remdesivir Injection by the Central Government.

Further there is pathetic situation in the State of Jharkhand, due to non-availability of beds, oxygen-supported beds and even the patients are not in a situation to live in isolation in the house since they are not made available with the required medicines due to non-supply of such medicines. While on the other hand, it has been informed to this Court that injections like Remdesivir and tablets like Favipiravir are being black-marketed.

This is a serious issue of concern that on the one hand the Drug Controller is submitting that the supply of like Remdesivir Injection and Favipiravir Tablets are being made available to top medical shops but peoples are not getting.

The question herein is also that on what basis the medicines are being supplied to top medicine shops and which are those top medicine shops and if according to the State, some of top medicine shops are being supplied such medicines whether list of it has been circulated to the public in general so that they could be able to purchase the same from the said so-called top medicine shops.

Further question would be why there is only supply to top medicine shops and why not the adequate supply to all medical shops so that people may get adequate

medicine for their treatment from every corner of the State, even residing in isolation.

15. This Court, after taking into consideration the aforesaid aspects of the matter as referred herein above and considering the fact the State of Jharkhand has not taken any sincere effort to procure adequate supply of such medicines since whatever queries has been made by Drug Controller of State of Jharkhand, she is not in a position to answer any of them, deem it fit and proper to pass following directions:

(I).The State Authorities to bring on record, by way of filing affidavit, as to what steps have been taken up-to 17th April, 2021 to secure adequate supply of Remdesivir Injection to combat the situation of Covid-19 Pandemic, as also what steps have been taken for adequate supply of Favipiravir Tablets.

(II).The Drug Controller is further directed to apprise this Court as to on what basis statement has been made that there is rationing of Remdesivir Injection by the Central Government and if any such communication is available with the Drug Controller, the same must be brought on record, as also about any criteria fixed for earmarking such medicine shops/hospitals.

(III).The Drug Controller shall bring on record up-to-date details of supply of Remdesivir Injection and Favipiravir Tablet to the medicine shops/hospitals, supported by relevant documents.

(IV).Whether the name of shops had been notified for people in general, by publishing in Daily Newspaper, to know as to in which medicine shops the medicines like Remdesivir Injection and Favipiravir Tablet have been notified. If yes, furnish its details and if no then why?

(V).The Principal Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand as also the Drug Controller of the State of Jharkhand shall ensure adequate supply of Remdesivir Injection and Favipiravir Tablet, and also other medicines like Doxycycline, Flugaurd, Vitamin-C and Zinc tablets; as also adequate supply of Oxygen forthwith.

The competent authority of the Central Government is directed to extend full co-operation in supply of such medicines, if required.

(VI).What steps have been taken to put check black marketing of these medicines at the time of scarcity of such medicines and what steps will be taken to put check on black-marketing of such medicines?

(VII).What are the parameters to decide as to which medicine shop will be provided with said medicines.

(VIII).The Deputy Commissioner, Ranchi and of other districts, are directed to monitor the rate of CT-Scan and other pathological tests, which is being charged by Private Hospitals in order to put check in charging exorbitant rates, by reflecting the rates in daily newspaper. They are further directed to make arrangement for entertaining complaint in this regard to deal with the issue by taking immediate steps.

The Principal Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand is further directed to monitor the steps taken by Deputy Commissioner(s) in this regard.

16. So far as steps taken for purchase of machines, as referred in preceding paragraphs is concerned, we hope and trust that the machines will be installed as early as possible as also the appointment for the post of four Scientists and eight Laboratory Technicians on contract basis, as advertised vide memo no. 1930 dated 16.04.2021 be filled up to combat the situation of Covid-19 pandemic.

17. We have perused the letter written by former judge of this Court, Hon'ble Mr. Justice D.P. Singh (Retd.) referring therein that his Rapid Antigen Report and his

wife's Rapid Antigen Report were found to be positive on 8th April, 2021 and as per the advice, he was suggested to be put on Oxygen support and be admitted to hospital for improvement but since 13th April, 2021, no beds with Oxygen support were made available in even one hospital and even not got any cylinder at home to acquire oxygen support. Finally, he was able to get one bed at Medanta Hospital, Irba on 16th April, 2021. There also the situation is very precarious since he could seldom be visited by a doctor and even medicines are not being administered to him and he was not put on oxygen support despite urgent need and further even the foods are not being provided at time.

Learned Advocate General appearing for the State of Jharkhand has assured to this Court that he will look into the matter by taking sincere immediate steps in this regard.

We hope and trust that the State will take all sincere steps so that a patient may be provided with all medical support which is required for persons suffering Covid-19.

18. One Interlocutory Application has also been filed by General Secretary, Advocate's Association, Jharkhand High Court in I.A. No. 2266 of 2021.

Learned Advocate General appearing for the State of Jharkhand has sought for time to seek instruction in this matter.

We make it clear that issue pertaining to allowing private path lab inside the RIMS premises will be considered at appropriate stage.

19. Let this matter be posted on **22nd April, 2021** as a first case on the top of the list.

20. On the next date, the Principal Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand; the Drug Controller of the State of Jharkhand and the Civil Surgeon shall appear in person through on-line mode.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)

Alankar/ -
N.A.F.R.