

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 Petitioners	:	None
For the State	:	Mr. Rajiv Ranjan, AG
For the RIMS	:	Dr. Ashok Kumar Singh, Advocate
For the U.O.I.	:	None
For the RMC	:	None

ORAL ORDER
28/Dated: 22.04.2021

The matter has been taken up through video conferencing.

2. Reference may be made to the order dated 17.04.2021, by which, queries and directions made by this Court as would be evident from paragraph-15 thereof, we have also directed for appearance of

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 through on-line mode.

3. Today, when the matter has been taken up, learned Advocate General, appearing for the State of Jharkhand, has sought for exemption from appearance through on-line mode of the Officers, namely, 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, by filing memo.

4. We have perused the memo, though, no such application, for exemption of appearance through on-line mode, has been filed but we after taking into consideration the reason assigned in the memo for exemption of appearance through on-line mode, prayer for exemption of the Principal Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand is allowed on the ground that he is suffering from Covid-19.

In course of such submission, it has been submitted by the learned Advocate General that Secretary of another department has been given additional charge to look after the affairs of the Department of Health, Medical Education and Family Welfare.

5. So far as the ground shown for non-appearance of the Civil Surgeon through on-line mode is concerned, since reason shown is that the Officer concerned is in hospital for getting treatment, therefore, this Court deems it fit and proper to exempt his appearance through on-line mode.

6. We have directed for appearance of the Drug Controller through on-line mode on the pretext that in spite of repeated queries made by

us regarding the steps taken in putting control on black marketing of the medicines like Remdesivir and Favipiravir and other related medicines with the Covid-19 Pandemic but she kept mum.

Such queries have been made by us taking into consideration the complaint made by the learned counsel for the petitioner/intervenor and as such, in order to provide an opportunity to the Drug Controller, we have adjourned the matter by posting on 22.04.2021 to file an affidavit replying to our queries and to follow the directions as would appear from paragraph-15 of the order dated 17.04.2021 but she has neither filed affidavit nor appear today. However, one memo has been filed showing the reason of non-appearance i.e., her engagement in granting license to the suppliers for supply of oxygen.

7. It is unfortunate on the part of Drug Controller to seek exemption on such ground, while on the other hand, it has been informed to this Court that she is busy in giving interviews to the media people.

The question is that in a State, Drug Controller has been appointed mainly to make adequate supply of medicines and to put check on black marketing of such medicines, in a situation like Covid-19 where the majority of people are not getting the life saving drugs, like Remdesivir and Favipiravir and other related medicines while on the other hand, such medicines are being black marketed, as such, *prima-facie*, it appears that the Drug Controller has failed in discharging her duties, even though to put check on black marketing is one of the statutory duty of the Drug Controller.

8. We cannot appreciate the conduct of the Officers like Drug Controller to evade the order passed by this Court sitting under Article 226 of the Constitution of India, which according to us *prima-facie*

appears to be disobedience as she neither filed affidavit as directed nor appeared. But we are refraining ourselves in passing adverse order today against the Drug Controller, rather exempting her for today from appearance through on-line mode considering the so-called reason of exemption as has been referred in memo filed on her behalf.

Accordingly, we hereby direct the Drug Controller of the State of Jharkhand to appear through on-line mode on 29.04.2021 and file affidavit in terms of the order dated 17.04.2021.

9. This Court, in course of hearing had made a query with respect to inadequate supply of oxygen and utilizing the unused ventilators lying in the Sadar Hospital due to lack of experts who operate such ventilators.

10. Learned Advocate General has informed to this Court that so far as maintaining the adequate supply of oxygen in different hospitals both private as well as Government across the State is concerned, sincere endeavour is being taken.

It has also been informed to this Court that in Sadar Hospital at Ranchi, the oxygen supported beds have been made available but oxygen cylinders which are being used in the said hospital can be replaced to be utilized to treat the mild affected patients from Covid-19 virus but for that, the supply of oxygen in such beds in the Sadar Hospital is required to be made which is already at the verge of completion and if the State Government will take sincere endeavour, the same can be done within few days.

Upon this, learned Advocate General, has submitted that he will instruct the Secretary, Department of Health, Medical Education and Family Welfare, to make an endeavour in this regard in order to

maintain adequate supply of oxygen at least in the Sadar Hospital where the infrastructure is already there.

He, in addition to this, has submitted that the State Government is taking keen efforts to make oxygen available through installing plant for the said purpose in different Sadar Hospitals across the State.

He further submits that he will also instruct the Secretary, Department of Health, Medical Education and Family Welfare, to shift unused ventilators lying in the Sadar Hospital to other private Covid Centers to treat the persons affected by the Covid-19 virus, so that, it may be used and scarcity of the ventilators be meted out.

He has also apprised that the State Government has made requisition for supply of 1500 ventilators.

11. So far as the supply of Remdesivir and Favipiravir medicines are concerned, it is submitted that sincere efforts would be made to put check on black marketing of these medicines and supply it to the medical shops/hospitals reflecting the names of such hospitals and medical shops for knowledge of the people at large by publishing it in the leading newspaper published from Ranchi and elsewhere.

He further submits that the State Government will take sincere endeavours for supply of medicines like Remdesivir and Favipiravir.

12. He, in the backdrop of these submissions has submitted that all such statements which have been made today before this Court as referred above will be brought on record by way of an affidavit as also on the next date of hearing, the Drug Controller will answer the queries and update with respect to the directions as has been directed in the order dated 17.04.2021 as under paragraph-15 thereof.

13. We, after taking into consideration such submission made by the

learned Advocate General of the State, deem it fit and proper to adjourn the matter for a week.

14. Accordingly, let these matters be posted on **29th April, 2021 as a first case on top of the list**, on that date, the Drug Controller, shall appear through on-line mode as also shall file affidavit in compliance to the order dated 17.04.2021.

15. Apart from that, the State Government will apprise the steps taken, in the meanwhile, to maintain the adequate supply of the life saving drugs to treat the persons affected from Covid-19 virus, to maintain the adequate supply of oxygen in different hospitals both private as well as Government and the steps taken to put control on black marketing of life saving drugs as also the further progress in the context.

(Dr. Ravi Ranjan, C.J.)

Rohit/-

(Sujit Narayan Prasad, J.)