

**THE HIGH COURT OF JUDICATURE FOR MADHYA
PRADESH AT JABALPUR**
(Division Bench)

W.P. No.8914/2020

(In reference (Suo Motu) Vs. Union of India and others)

Coram:

Hon'ble Shri Justice Mohammad Rafiq, Chief Justice

Hon'ble Shri Justice Vijay Kumar Shukla, Judge

Presence:

Shri Naman Nagrath, learned Senior Advocate with Shri Jubin Prasad, Advocate appeared as *Amicus Curiae*.

Shri Purushainda Kaurav, learned Advocate General with Shri Swapnil Ganguly, learned Deputy Advocate General for the respondents/State.

Shri Jitendra Kumar Jain, learned Assistant Solicitor General and Shri Vikram Singh, learned counsel for the Union of India.

Shri Shivendra Pandey, learned counsel for the Respondent No.5/Indian Medical Association.

Shri Ajay Gupta, learned counsel with Shri Shreyash Pandit, learned counsel for Respondent No.8/Madhya Pradesh Nursing Home Association.

Shri Abhinav P. Dhanodkar, learned counsel for the intervenor/Shanti Manch Samiti.

Shri Abhishek Arjariya, Shri Rishabh Singh, Shri Yadvendra Dwivedi, Ms. Priya Raysen, Shri Anuj Agrawal, Shri Praveen Kumar Niwaskar, Shri Sanjay Kumar Verma, and Shri Yash Sharma, learned counsel appeared for the respective intervenors.

Whether approved for reporting : No

Heard through Video Conferencing.

ORDER

(22.9.2021)

Per Mohammad Rafiq, Chief Justice:

The State Government has filed the 12th Interim Action Taken Report in compliance of the order of this Court dated 10.8.2021.

This Court on 10.8.2021 after taking note of the 11th interim Action Taken Report submitted by the State filed in compliance of its earlier order dated 19.7.2021, passed a detailed order on different six subject/headings.

The first issue was regarding setting up of Oxygen Generation Plants. Submission was made that although, efforts are being made to complete the installation of all the planned oxygen plants by 15.9.2020, but in any case, all such oxygen plants would be positively setup in all District/Civil Hospitals by end of the month of September, 2021. The State in the 12th Interim Action Taken Report has now submitted that out of 190 plants, which were to be installed, 108 plants have already been made functional, 36 plants have been delivered from the concerned agency and are in the process of installation and for installation of remaining plants, the preparatory work at the level of CMHOs is in progress.

Second point was regarding the status of CT Scan Machines to be installed in all the Districts of the State. This Court had taken note of the assurance given by the State that the CT Scan Machines are likely to be installed in all the districts by 30.9.2021 and/or 4.10.2021, Shri Purushaindra Kaurav, learned Advocate General submitted that the process of setting up of CT Scan Machines in the State is going on in full swing, the only issue is

with regard to supply of the CT Scan Machines as the demand of such machines in the country has undergone an increase. Nonetheless the State Government is expected to achieve the target by 4.10.2021.

Third issue was with regard to position of Ventilators in all the districts, for which it was stated in the 11th Action Taken Report that out of 52 Districts in the State, 51 Districts are already having ventilators. District Niwari, which was newly created, 10 ICU Beds are proposed to be setup in the Community Health Centre. In remaining 51 districts, total 567 ventilators are available in all the District Government Hospitals. Shri Purushaindra Kaurav, learned Advocate General submits that as of now there is sufficient availability of ventilators in all the districts of the State. Even otherwise demand/pressure for the requirement of ventilators has come done substantially.

Fourth issue was with regard to status of I.C.U./H.D.U (High Dependency Unit) Beds, for which it was stated in the 11th Action Taken Report that while in June 2021 total 12150 beds were available in the different Government Hospitals but this number in September, 2021 has increased to 16,977. Besides this, while in June, 2021 there were 6060 beds in Medical Colleges and now in September, 2021 this number has increased to 7595. On this also, learned Advocate General submits that there is sufficient availability of Oxygen/ICU/HDU/PICU beds Hospitals and/or Medical Colleges. Moreover, pressure/demand in the hospitals for such beds has substantially come down following improvement of the Corona situation in the State.

As regards the status of vaccination, which was the fifth issue, this Court had in the last order taken note of the assurance given by the State Government on the basis of its statement given in the 11th Action Taken Report that as per the supplies of vaccines so far received, the Government is expected to cover the entire 18 plus population by inoculation with the first dose by the end of September, 2021. Further, due to focused and concentrated efforts, it is going to provide full immunization cover to the entire 18 plus population by the end of December, 2021.

Shri Purushaindra Kuarav, learned Advocate General has invited attention of this Court towards the chart given in the 12th Interim Action Taken Report filed today showing that the coverage of first dose of vaccination in respect of 18 plus population in most of the districts of the State is more than 80%, while in some districts like Agar and Bhopal is as high as 98%, whereas in remaining districts it is more than 70%. However, the chart indicates that the percentage of second dose of vaccination to the 18 plus population in most of the districts is less than 20%, although in some of them it is more than 20%. But in districts like Bhopal, it is 46%, in Gwalior and Jabalpur 30% and in Ujjain it is 38%.

We require the State Government to step up the efforts to provide the second dose of vaccination to all the 18 plus population once when the vaccination becomes due on completion of the requisite period after the first dose, in a speedy manner so as to achieve the target of 100% vaccination by the end of December, 2021.

This Court places on record its appreciation of the work undertaken so far by the State Government with regard to establishment of Oxygen

Generation Plants, CT Scan Machines, Oxygen/ICU/HDU/PCU beds in all the District Government Hospitals. This Court also appreciate the all out efforts put in by the officials of the State and applauds their performance with regard to inoculation of the sizeable population of the State. We hope and trust that the State Government shall live up to its assurance of covering the entire 18 plus population by immunization with the first and second dose by the end of the year, 2021.

As regard review of the capping charges, Shri Purushendra Kaurav, learned Advocate General submitted that the State Authorities had convened a meeting with all the stakeholders including representatives of M.P. State Nursing Home Association and representatives of the Private Hospitals and representatives of the various departments of the State Government and had also taken inputs from the learned amicus curiae. They are going to soon come out with a policy decision on this aspect to rationalize the capping charges for treatment of Covid patients so as to be prepared to face with the third wave of Covid-19, if, God forbids, it ever comes.

As regard refund of the charges for the vaccination provided to the private hospitals under the old policy of Central Government, such amount has already been refunded to the various hospitals in lieu of the return of the vaccines details of which have been given in the 12th Interim Action Taken Report. The details of the report are taken on record.

Matter to come up again on 21.10.2021 to see the further progress.

(Mohammad Rafiq)
Chief Justice

(Vijay Kumar Shukla)
Judge