$~7,11,13 - 15

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 3031/2020 & C.M. No. 15227/2021, C.M. No. 15228/2021,C.M. No. 15229/2021, C.M. No. 15358/2021, C.M. No. 15359/2021,C.M. No. 15360/2021, C.M. No. 15361/2021,C.M. No. 15362/2021,C.M. No. 15363/2021, C.M. NO. 15481/2021, C.M. 15482/2021, C.M NO. 15652/2021, CM NO. 15653/2021, C.M. NO. 15845, CM. NO. 15869/2021, C.M.No. 15962/2021, C.M. Nos. 16081-85/ 2021.**

RAKESH MALHOTRA ..... Petitioner

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF INDIA AND ORS ..... Respondent

\+ **W.P.(C) 5256/2021 & CM APPL. 16155/2021, CM APPL. 16156/2021**

MANISHA CHAUHAN ..... Petitioner

versus

GOVERNMENT OF NCT OF DELHI- & ANR. ..... Respondent

\+ **W.P.(C) 5050/2021 & CM APPL. 15464/2021, CM APPL. 15465/2021, CM APPL. 15466/2021, CM APPL 15694/2021**

BHAVREEN KANDHARI ..... Petitioner

versus

GOVT OF NCT OF DELHI & ORS. ..... Respondent

\+ **W.P.(C) 5100/2021 and CM APPL. 15623/2021**

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH
ROHELLA
Signing Date:28.05.2021 07:03

MANISHA GUPTA ..... Petitioner

versus

GOVT, OF N.C.T OF DELHI & ANR. ..... Respondent

\+ **W.P.(C) 5241/2021**

SH. MANJIT SINGH ..... Petitioner

versus

GOVT, OF N.C.T OF DELHI ..... Respondent

MEMO OF APPEARANCE

For Petitioners

Petitioner in person in W.P.(C) 3031/2020
Mr. Sanjeev Sagar and Ms. Nazia Parveen, Advocates in W.P.(C) 5256/2021
Mr. Krishnan Venugopal, Senior Advocate with Mr. Manan Verma, Mr.Aditya N Prasad, Mr. Kaushik Mishra & Ms. Anmol Srivastava, Mr. Piyush Sharma, Mr. Shivendra Singh, Advocates in W.P.C No. 5050/2021.
Mr.Sacchin Puri, Senior Advocate with Mr.Praveen K. Sharma and Mr.Dhananjay Grover, Advocates for the petitioner in W.P.(C) Nos. 5100/2021
Ms. Karuna Nundy, Mr. Sarthak Maggon & Ms. Upasana, Advocates in W.P.(C.) No. 5102/2021.
Mr. Vivek Sood, Sr. Advocate with Mr. Anish Chawla, Advocate in W.P.(C) No. 5241/2021

For Respondents.

Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Aishwarya Bhati, ASG along with Ms. Monika Arora, Mr. Amit Mahajan, Mr. Anil Soni & Mr. Anurag Ahluwalia, CGSCs, Mr. Kirtiman Singh, CGSC Mr. Syed Husain Adil Taqvi, GP, Mr. Jivesh Kr. Tiwari, Ms. Nidhi Parashar, Mr. Kanu Aggarwal, Mr. Kritagya Kumar Kait, Mr.Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg & Mr. Vinay Yadav, Mr.

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH
ROHELLA
Signing Date:28.05.2021 07:03

Vidur Mohan, Mr. Waize Ali Noor and Mr. Taha Yasin, Advocates for UNION OF INDIA in all the matters.
Mr. Rahul Mehra, Senior Advocate along with Mr. Satyakam, Mr. Santosh Tripathi, SC Mr. Gautam Narayan, Mr. Anuj Aggarwal & Mr. Anupam Srivastava, ASCs with Mr. Aditya P. Khanna, Ms. Dacchita Sahni, Ms. Ritika Vohra and Mr. Chaitanya Gosain, Ms. Aayushi Bansal, Advocates for GNCTD in all the matters.
Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae), Mr. Anandh Venkataramani, Mr. Vinayak Mehrotra, Ms. Mansi Sood, Mr. Karthik Sundar, Ms. Sonal Sarda, Mr. Areeb Y Amanullah, Advocates in all the matters.
Mr. Anil Grover, Senior Additional Advocate General for Haryana along with Ms.Bansuri Swaraj, Additional Advocate General for Haryana and Mr. Siddhesh Kotwal, Ms. Manya Hasija & Ms. Ana Upadhyay, Advocates.
Mr. Aseem Chaturvedi & Mr. Ajay Bhargav, Advocates for M/s INOX.
Mr. Divya Prakash Pande, Advocate for South Delhi Municipal Corporation.
Mr. Abhinav Tyagi, Advocate for M/s Seth Air Products.
Ms. Malvika Trivedi, Senior Advocate with Mr. Tanmay Yadav, Ms.Abhisree Saujanya, Ms. Nihaarika Jauhari, Ms. Eysha Marysha, Ms.Vidhi Jain, Advocates along with Ms. Kritika Gupta, applicant in person.
Ms. Garima Prashad, Senior Advocate with Mr. Abhinav Agrawal, Advocate.
Mr. Ankur Mahindro & Ms Sanjoli Mehrotra, Advocates for intervener.
Mr. Om Prakash & Mr. Pradeep Kumar Tripathi, Advocates for the applicant in C.M. No. 15651/2021.
Mr. Rohit Priya Ranjan, Advocate for M/s Goyal Gases.
Mr. Abhishek Nanda, Advocate for IRDAI.
Ms. Urvi Mohan, Adv. for DBOCWW Board.
Ms. Himanshi Nailwal with Mr. Ambuj Tiwari, Mr. Ankur Garg, Mr. Akhil Mitta, Advocates in C.M. No. 15922/21
Ms. Nitya Ramakrishnan, Sr. Adv. with Mr. Prasanna S, Ms. Vinoothna Vinjam and Mr. Ritesh D, Advocates in C.M. NO. 15962/2021.
Ms. Shweta Kabra, Advocate for India Glycols Limited.
Mr. Tushar Sannu, Standing Counsel, IHBAS and EDMC with Mr. Ankit Bhadouriya and Mr.Subham Jain, Advocates
Ms. Prabhsahay Kaur, Advocate for Bachpan Bachao Andolan.
Ms. Sakshi Popli, Additional Standing Counsel for NDMC.

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH
ROHELLA
Signing Date:28.05.2021 07:03

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE JASMEET SINGH

<u>O R D E R</u>

% **27.05.2021**

1. Ms. Parashar submits that in compliance of the directions issued in our order dated 20.05.2021 in paragraph 25, Mr. Suresh Puri, Director General and CEO, CMSS has been appointed as the Nodal Officer to monitor the aspect of supply and installation of the PSA Plants in the hospitals in the NCT of Delhi. She states that she would place the appointment order on record with the next status report. Let the same be done.

2. The GNCTD has placed on record the order dated 13.05.2021 – whereby Mr. G.P. Singh, DANICS has been entrusted with the task of looking after the installation and connectivity issues of PSA Systems and Oxygen Tanks whether received through donations, or through Central Government, or sanctioned by Delhi Government.

3. Mr. Mehra has drawn our attention to the list of documents dated 27.05.2021 which, *inter alia*, discloses the status in respect of several PSA Plants commissioned, or in the process of being commissioned in the NCT of Delhi. There are 41 PSA Plants that the GNCTD is in the process of procuring and installing. Apart from that, there are 18 PSA Plants, which have been installed/ are in the process of being installed in the NCT of Delhi by the Central Government.

4. From the status report, it appears that most of the plants are work in

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH
ROHELLA
Signing Date:28.05.2021 07:03

progress. We will consider the further progress made in this regard on 04.06.2021. Let the updated status be placed on record before that date.

5. The presence of counsels representing the LMO suppliers is dispensed with for the time being, since the shortage of LMO in the NCT of Delhi is no longer subsisting.

6. Mr. Rao has drawn our attention to paragraph Nos. 8 and 9 of our order dated 24.05.2021 in relation to the helpline numbers activated by the UOI, and their adequate publicity. Mr. Kirtiman Singh states that he shall circulate a note to the learned Amicus and share the same with Mr. Mehra, Mr.Satyakam and Mr. Narayan and all of them would hold a meeting over the weekend. Learned Amicus would place the suggestions which would emerge from the said meeting before this Court for consideration. Let this be done. We shall take up the said note for consideration on 03.06.2021.

7. On 10.05.2021, we had taken note of the note prepared by the learned Amicus on issues qua insurance policy coverage for Covid-19. We had permitted him to circulate the same with further suggestions that may be collected, along with a copy of our order dated 10.05.2021 to the Insurance Regulatory and Development Authority of India (IRDAI) – requiring the IRDAI to look at all aspects raised by the learned Amicus and place its response before this Court.

8. In compliance of that direction, the IRDAI has filed an affidavit on record. Mr. Nanda – who represents the IRDAI, has taken us through the salient aspects of the affidavit. It is disclosed that in the wake of Covid-19 pandemic, the IRDAI notified standard Covid-19 specific policies, namely, “Corona Kavach” and “Corona Rakshak” with common policy wordings across the industry. It was mandatory for all the general and health Insurers

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH
ROHELLA
Signing Date:28.05.2021 07:03

to offer Corona Kavach Policy, and all Insurers were encouraged to offer Corona Rakshak Policy.

9. Corona Kavach Policy is an indemnity based health insurance policy that covers costs of treatment of COVID-19 on the hospitalization of the insured. The policy also covers homecare treatment costs subject to the terms and conditions of policy contract. Corona Rakshak Policy is a benefit based policy where under the policy holder is paid a fixed chosen sum insured on positive diagnosis of Covid-19 and on hospitalization for continuous period of 72 hours.

10. It is further stated that all comprehensive health insurance policies also cover the hospitalization costs of Covid-19. On 01.04.2020, IRDAI issued a press release clarifying that indemnity based health insurance products that cover the treatment costs of hospitalization offered by all general and health insurance companies, also cover the costs of hospitalization and treatment on account of Covid-19.

11. It is further stated that in addition to Corona Kavach and Corona Rakshak, various insurers are also offering Covid specific health insurance policies both on individual terms and on group basis. The IRDAI also advised all insurers to design products covering the costs of treatment of Corona Virus for the purpose of meeting health insurance requirements of various sections. With the objective of making available insurance protection to various sections of people in the prevailing Covid-19 pandemic, on 23.06.2020, the IRDAI issued guidelines on introduction of short term health insurance policies providing coverage for Covid-19 disease.

12. Accordingly, all insurers (Life, General and Health Insurers) are

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH
ROHELLA
Signing Date:28.05.2021 07:03

allowed to offer Covid-19 specific short term health insurance policies. Pursuant to these guidelines, there are 25 (twenty-five) short term Covid specific health products offered by general and health Insurers.

13. Mr. Nanda states that from time to time, the IRDAI issued press releases to make public aware of the health cover policies including the aforesaid two policies namely, the Corona Kavach Policy and Corona Rakshak Policy. The insurance companies also advertised the said policies to make the same known to public at large.

14. Mr. Nanda submits that as per data on Covid specific products submitted by the insurers, as on 30.04.2021, 26.37 lakhs Corona Kavach Policies (Individual and group put together) were issued by all general and health insurers covering 45.05 lakhs lives. Similarly, under Corona Rakshak Policies, 4.73 lakhs of policies were issued by general and health insurers covering 5.46 lakhs of lives. The insurers during the period from 01.04.2020 to 30.04.2021 also issued 0.58 lakhs Covid specific policies (other than Corona Kavach and Corona Rakshak) covering 86 lakhs lives. The IRDAI also published FAQs on Corona Kavach Policy on its website for benefit of common public.

15. It is pointed out that even though as per IRDAI (Health Insurance) Regulations, 2016, the minimum term of every health insurance policy shall be for a period of one year, considering the nature of Covid-19, when the pandemic set-in in March 2020, the IRDAI designed the said policies namely Corona Kavach Policy and Corona Rakshak Policy as short term products with a policy tenure of 3 ½, 6 ½ , and 9 ½ months.

16. Mr. Nanda submits that these standard policies are available on a very reasonable rate of premium and premium offered by various insurers

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH ROHELLA
Signing Date:28.05.2021 07:03

ranging between Rs. 155/- to Rs. 400/- or thereabout.

17. The IRDAI has also placed before the Court the facts relating to the claims received under the said policies and disbursed to the insured.

18. According to Mr. Nanda, total of 1,255,596 claims were settled by the various insurance companies under the special Covid Policies till 30.04.2021, wherein the settled claim amount was to the tune of Rs.120,606,969,171/-.

19. From the above, it appears that the IRDAI has taken steps to mitigate the suffering of the people at large on account of COVID-19 Pandemic. There are a couple of issues which have emerged before us, and the IRDAI should consider the same. As a matter of common knowledge - and we can take judicial notice of the same, that for about 3 to 4 weeks when the current wave of the Pandemic was at its height, there was acute shortage of hospital beds, not only in the NCT of Delhi but, as reported, all over the country. People suffering from COVID-19, who required hospitalisation were not able to secure hospital beds, much less, ICU beds, and ICU beds with ventilators. Thus, thousands of COVID-19 patients who, otherwise, required hospitalisation, could not get hospitalisation, and had to take treatment at home while making arrangements for supply of Oxygen, etc at home. The Insurance policies issued by several insurance companies, which have pre-existed the onset of the current wave of the Pandemic, do not cover claims, unless the insured is hospitalised. It appears that it is only the Corona Kavach Policy, which is now introduced as special and standard policy, covers domiciliary medical care. Therefore, large number of insured people were not able to receive any benefit under the insurance policies held by them, only because they could not get hospital beds for no fault of theirs,

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH
ROHELLA
Signing Date:28.05.2021 07:03

and due to dearth of medical infrastructure.

20. The IRDAI should examine: as to whether claims in such cases could be considered by the insurance companies, and the terms and conditions upon which such consideration may take place. Needless to state that any such consideration would have to take place with consultation between the IRDAI and the insurance companies.

21. It has also been suggested that the existing policy holders of health insurance policies could be sent messages and given the option if they wish to get covered by the terms and conditions of the Corona Kavach Policy upon payment of additional premium, and once the option is accepted, they should be covered by the terms and conditions of the Corona Kavach Policy and the premium charged. This would extend the reach of the Corona Kavach Policy to a large number of people who may not have availed of the same.

22. In our view, the aforesaid are reasonable and valid concerns raised before us, and we, therefore, direct the IRDAI to examine these aspects, and place a further status report within four weeks. These aspects shall be considered on 14.07.2021.

23. List on 28.05.2021.

VIPIN SANGHI, J

JASMEET SINGH, J

MAY 27, 2021
Kd/N.Khanna

Signature Not Verified
Digitally Signed
By:BHUPINDER SINGH
ROHELLA
Signing Date:28.05.2021 07:03