

In Residence

Case :- CRIMINAL WRIT-PUBLIC INTEREST
LITIGATION No. - 8 of 2021

Petitioner :- Nand Kishore

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Zaheer Asghar, Ankur
Azad, Shashwat Anand

Counsel for Respondent :- G.A., A.S.G.I.

Hon'ble Mrs. Sunita Agarwal, J.

Hon'ble Mrs. Sadhna Rani (Thakur), J.

Heard Sri S.F.A Naqvi assisted by Sri Shashwat Anand and Sri Zaheer Asghar learned Advocates on behalf of the petitioner and Sri Manish Goyal learned Additional Advocate General assisted by Sri Jai Narayan learned Additional Government Advocate for the State respondents.

The allegations in the public interest litigation filed by a sitting M.L.A from Loni constituency in Ghaziabad, U.P are of diversion of oxygen allocated for District Ghaziabad and the resultant death of people in Loni constituency & Ghaziabad District on account of shortage of oxygen cylinders. The allegations are primarily of involvement of respondent no.6 who is posted as Additional District Magistrate, (ADM) (CITY) Ghaziabad in the matter of diversion of oxygen cylinders. The petitioner has submitted that a complaint in writing had been made to the Senior Superintendent of Police, (SSP) Ghaziabad on 1.5.2021 asking him to conduct an inquiry on the allegations made therein. Nothing has been transpired so far and as such the petitioner is constrained to approach this Court.

The prayer in the writ petition is to direct for a high level inquiry regarding the matter of diversion of oxygen cylinders from District Ghaziabad to Delhi and the State of Haryana on account of corrupt practices of respondent no.6 presently posted as ADM (City) Ghaziabad. It is stated that respondent no.6, is Incharge of oxygen distribution in District Ghaziabad and as such he is responsible for black marketing and illegal sale of oxygen to Delhi and Haryana, which had resulted in death of COVID positive patients in Ghaziabad specifically in Loni

constituency. A direction is sought to conduct an inquiry through C.B.I, a central agency as the matter is related to diversion of oxygen from the State of U.P to another State.

Sri Manish Goyal learned Additional Advocate General assisted by Sri Jai Narayan learned Additional Government Advocate, on the other hand, submits that in fact, a three member Committee consisting of the Additional District Magistrate (City), Ghaziabad Deputy, C.M.O., Ghaziabad and Joint Commissioner, District Industries Centre., Ghaziabad had been constituted by the District Magistrate, Ghaziabad by an order dated 20.4.2021 for regulating distribution of oxygen supplies in district Ghaziabad to the designated hospitals for treating COVID positive cases. The State quota for oxygen was allocated by the Central Government and the distribution was made by the agencies directly to the designated COVID hospitals. Thirty five (35) dedicated COVID hospitals were there in district Ghaziabad in the month of April and May, 2021 and no complaint was received regarding shortage of oxygen supplies from any of the said hospital. For Loni constituency, there was only one COVID designated hospital, having twelve beds and no complaint of shortage of oxygen supply to the said hospital had been received by the Committee. Even otherwise, as per the contention of Sri Manish Goyal, a control room has been set up in district Ghaziabad to help the persons who need oxygen supplies and it is working 24x7, but no such complaint was received.

As per the contention of Sri Manish Goyal, shortage of oxygen was not reported in district Ghaziabad during the period of complaint that was in the last week of April, 2021 and the allegations in this regard in the writ petition are baseless.

Submission, thus, is that the allegations of black marketing and illegal supply of oxygen from district Ghaziabad are without basis.

It is, however, submitted that an inquiry has been instituted by the District Magistrate, Ghaziabad on the complaint dated 1.5.2021 filed by the petitioner before the Senior Superintendent of Police, Ghaziabad. An order dated 5.4.2021 had been passed by the District Magistrate, Ghaziabad appointing Ms. Asmita Lal, Chief Development Officer, Ghaziabad as inquiry officer for making inquiry

into the allegations made in the complaint of the petitioner. He, however, admits that the inquiry report has not been submitted so far.

All these submissions have been made by Sri Manish Goyal on the basis of the written instructions received by him from the office of the District Magistrate, Ghaziabad.

A copy of the written instructions received by Sri Manish Goyal shall be brought on record of the present petition within three days and a copy thereof shall also be supplied to Sri S.F.A Naqvi learned Advocate appearing for the petitioner on his email address.

In view of the above, while entertaining the present petition, it is directed that the District Magistrate, Ghaziabad shall file his personal affidavit within a period of two weeks bringing on record the statement made by him in the written instructions sent to Sri Manish Goyal. The inquiry report in the inquiry instituted by him on the allegations made in the complaint dated 1.5.2021 filed by the petitioner shall also be brought on record with the said affidavit by the next date fixed.

Let this matter be posted on 7th June, 2021 in the additional cause list.

Order Date :- 21.5.2021

Harshita