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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 53 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2021
In R/WRIT PETITION (PIL) NO. 53 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2021
In R/WRIT PETITION (PIL) NO. 53 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 3 of 2021
In R/WRIT PETITION (PIL) NO. 53 of 2021

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SUO MOTU
Versus
STATE OF GUJARAT

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Appearance:
SUO MOTU(25) for the Applicant(s) No. 1
for the Opponent(s) No. 2,3,4
MS MANISHA LAVKUMAR, GOVERNMENT PLEADER WITH MR CHINTAN DAVE & MR DHARMESH DEVNANI, AGPs (1) for the Opponent(s) No. 1
MR DEVANG VYAS, ADDL. SOLICITOR GENERAL OF INDIA
MR PERCY KAVINA,SENIOR ADVOCATE WITH MR RASESH PARIKH for the Applicant in Civil Application No.2 of 2021
MR AJ YAGNIK, ADVOCATE for Applicant in Civil Application No.1 of 2021
MR AUM KOTWAL, ADVOCATE for Applicant in Civil Application No.3 of 2021

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CORAM: **HONOURABLE THE CHIEF JUSTICE MR. JUSTICE VIKRAM NATH**
and
HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 20/04/2021

ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE VIKRAM NATH)

1. We have heard Ms. Manisha Lavkumar, learned Government Pleader assisted by Shri Dharmesh Devnani and Shri Chintan Dave, learned Assistant Government Pleaders for the State, Shri Percy Kavina, learned Senior Advocate assisted by Shri Rasesh Parikh, learned counsel representing the Gujarat High Court Advocates Association

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and also representing the cause of all other Advocates and parties showing interest in this matter.

2. Pursuant to our order dated 15.04.2021, an affidavit-in-reply has been filed on behalf of the State respondents duly sworn by the Principal Secretary, Department of Health and Family Welfare, Government of Gujarat. The affidavit covers most of the issues flagged in the order of the Court dated 15.04.2021 on which response was sought.

3. Ms. Manisha Lavkumar, learned Government Pleader after reaffirming the commitment of the Government of Gujarat in its fight against the second wave of the COVID-19 pandemic and all out efforts to ensure coordinated and systematic response to the hardship being faced by the public at large and to utilize the available facilities in the best possible manner within the constraints of the resources, drew our attention to the affidavit-in-reply which deals in detail the issues relating to testing facilities, drugs and treatment, Remdesivir injections, physical infrastructure, availability of oxygen, data broadcasting and public interaction.

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4. We will briefly refer to the salient features as they emerge from the affidavit-in-reply.

(A) Covid Testing :

- Efforts are being made to enhance the testing capacity by requesting the private laboratories to enhance their testing capacity. The Government and the Corporations are also helping these private laboratories by providing human resource to maximize their output. A request in this regard has been sent by the Commissioner of Health on 18.04.2021 to the private laboratories in the State.
- As on date, every district in the State has RTPCR testing facility either through RTPCR machines or TrueNAT and CBNAT machines. There are 98 Covid testing laboratories functioning in the State, out of which 43 are government and 55 are private laboratories.
- 26 Research Laboratories working under different universities in the State have been requested to carry out Covid-19 testing for which a letter has been sent

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on 18.04.2021 by the Commissioner of Health.

- In the district where TrueNAT and CBNAT machines are functional, the State has further decided to set up RTPCR machines also, for which immediate steps are in process. This include the 12 districts of the State namely Arvalli, Mahisagar, Panchmahal, Chhota Udepur, Narmada, Bharuch, Tapi, Navsari, Dang, Botad, Gir Somnath and Devbhoomi Dwarka. In district Morbi, RTPCR machine has been made functional at the General Hospital since 13.04.2021.
- Insofar as the setting up of laboratories equipped with RTPCR machines in Taluka and Nagarpalikas is concerned, for the present the State finds it difficult to set up the same for various logistic reasons, however, arrangement has already been made for collection of the samples by using Viral Transport Media (VTMs) to the nearest Testing Center at district head quarters.
- In the tribal belt and the districts having tribal population, testing through RTPCR facility is already made available, may be through RTPCR machines or TrueNAT and CBNAT machines.

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- The efficacy and accuracy of TrueNAT, CBNAT and RTPCR are at par as per the experts.
- The figures of testing in the State has already been provided. Total number of tests carried out from 01.04.2021 to 18.04.2021 are 24,69,625, out of which 9,70,236 are RTPCR tests.
- The State has already added 19 more machines and 40 more have been ordered for RTPCR testing which would be made operational within the shortest possible time.
- The Government of India is also providing testing machines for enhancement which will be functional by first week of May, 2021.
- The State is also taking up the setting up of RTPCR laboratories through public-private partnership for which needful would be done shortly.
- The Ahmedabad Municipal Corporation in addition to the Drive Through Testing at GMDC ground which is functional from 14.04.2021, is setting up additional two Drive Through Testing facilities at Vastral and Maninagar, Ahmedabad.

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(B) Drug and Logistics; Remdesivir availability, administration etc.

- The State has duly collated the guidelines issued by ICMR and WHO regarding the use of Remdesivir injection and published the same in all daily newspapers on 19.04.2021. In addition to it, press conferences, interviews, TV shows etc. have also been held by the State officials and experts regarding the use, protocol, SOP and side effects of the Remdesivir injection. The advisory has also been published in the official website of the Health and Family Welfare Department, Government of Gujarat and circulated to all private hospitals through Indian Medical Association.
- It is admitted that there is a short supply of the Remdesivir injection. However, the best use of the available stock of the injection is being made for the most needy patients as per the guidelines issued from time to time.
- The State has already taken steps for procuring greater number of Remdesivir injections so that there are no

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shortfalls in future. However, it takes a little while for the supply to be delivered. Figures have been given of the quantity received and the quantity ordered. Under the orders of the State Government, all District Collectors have been directed to set up control rooms and helpline numbers for monitoring and distribution of Remdesivir injections considering the priorities laid down by the government. These control rooms and helpline numbers would be operational in the coming days.

- The Police Department in coordination with the Food and Drug Control Authority are keeping an eye on illegal stocking and trading of the injections.
- A mechanism has been set up to provide Remdesivir injections to private hospitals also.
- A Circular has been issued on 17.04.2021 permitting Remdesivir injection being administered to patients who have been tested positive not only through RTPCR test but also through Rapid Antigen Test and CT Scan.

(C) <u>Interactive Meetings and conference held to assess and evaluate ground realities and motivate every organ of</u>

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the government to put in their very best to defeat COVID-19.

- Regular meetings, visits and review are being carried out under the direct supervision of the top level leaders and the Core Committee constituted for the purpose in order to boost the morale of the officers, medical and para-medical staff.
- The Collectors and Municipal Commissioners have been requested to assist in increasing the number of beds and to provide doctors for treatment, in close coordination with the Indian Medical Association branches in every district.

(D) Physical Infrastructure : Availability of beds and occupancy details :

- All patients with symptoms requiring immediate attention are admitted and kept in a separate ward known as 'Suspect Case Ward'. There they are administered emergency treatment and further referred for further action as may be necessary. Such admissions are irrespective of whether a patient has

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undergone a Rapid Antigen Test, RTPCR Test or CT Scan. This admission in the Suspect Care Ward is totally based on symptoms.

- Details of the beds available in the Designated Covid Hospitals, Designated Covid Care Centers and Covid Care Centres have also been provided.
- Further details of the efforts to increase the number of beds under different categories are also given and according to the figures, by 30.04.2021 by adding additional 20,000 beds to the existing about 80,000 beds, there would be total approximately 1,00,000 beds available.
- Occupancy figures of the beds in the hospital is also provided by way of a detailed chart of every district in the three categories of facilities mentioned above.
- Covid Care Centres are being set up in hotels, hostels and community halls where asymptomatic or mild symptomatic patients are treated.
- The issue relating to real time updation of data of availability of beds in different facilities under different categories is being set up by the State through its own

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official website, however, it would take some time for the software to be developed and its integration with the official website of the Health and Family Welfare Department. Details have been provided as to how the Municipal Corporations are updating their data as of date.

(E) Availability of Oxygen :

- All out efforts are being made by the State to procure more oxygen. The status appears to be more or less the same as it was in the previous order. Industrial oxygen cylinders (nearly 2000 in number) have been procured and after due process it is being made available for use as medical oxygen across the State.

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(F) Data broadcasting :

- The official dashboard which is updated regularly on daily basis displays the following details :

a) Active case
b) Recovered Case
c) Deaths
d) Total Cases
e) No. of Tests done
f) No. of Positive tests

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g) No. of Beds Total, Vacant and Occupied.
h) No. of Containment Zones.
i) Details of COVID Vaccination.

5. Ms. Manisha Lavkumar, learned Government Pleader assured the Court that the State will leave no stone unturned and do its best in order to serve the people of the State in these difficult times in the best possible manner, despite the fact that the doctors, para-medical staff, frontline warriors, administration have also suffered at the hands of Covid-19 in terms of loss of health and life, but still the entire team is committed and is doing its best. She has also assured that they would still continue with their best efforts. She has also submitted that other Non-governmental Organizations, religious organizations and public at large are coming forward to extend all help. She submitted that although limited in resources but still whatever is available is being utilized in the best possible manner.

6. Shri Percy Kavina, learned Senior Counsel assisted by Shri Rasesh Parikh, learned counsel, highlighted certain issues on the basis of inputs received from all over and also

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based on the affidavit submitted by the State. According to him, it invited the suggestions of the members of the applicant association as also the public at large and in response received 75 emails not only from members of the applicant association but also from the citizens belonging to other professions. It is also submitted that the inputs are not only from the city of Ahmedabad but also from other similar big and small cities in the State like Vadodara and Rajkot. The same have been briefly outlined in paragraphs-2 to 5 of the document filed before the Court today which according to Shri Kavina is the gist of the emails received. The same are reproduced below :

> *"2. The Applicant states that language apart, there is **overwhelming input** in relation to following:*
>
> *a. Government of Gujarat must increase testing facilities across Gujarat. There are instances that have highlighted that in rural Gujarat viz. Talod, Dhansura, there is no RTPCR testing facility and people have to travel a lot for testing and have to wait for more than 3- 4 days for reports.*
>
> *b. Supply of oxygen and Remdesivir injection should be increased on urgent basis and there should not be any bottlenecks in supply of these essential items for treatment of Covid-19. It is emphatically stated that State must ensure that there is no blackmarketing of Remdesivir and*

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supply of oxygen and patients across Gujarat must get it.

c. Government cannot prevail upon wisdom of the medical professional while prescribing Remdesivir. It is suggested that because Government of Gujarat wants to reduce demand for Remdesivir as its scarcity has brought uncomfortable situation, there should not be campaign to demonstrate side effects of Remdesivir. Even Doctors have stated that whatever be the side effects, Remdesivir shows immediate results in patients that are suffering from low saturation of oxygen. Therefore, efforts should be to ramp up supply of Remdesivir injection.

d. Remdesivir injection should be available to all hospitals and patients should not be asked to purchase the same. In fact, there should not be problems in procuring Remdesivir or oxygen for patients who are getting treatment at home. The availability of these two things should be seamless and unconditional.

e. Citizens have also complained about disproportionate charges charged by hospitals. It is reported that hospitals are charging under various heads and it is beyond reach of common man especially family where more than 1 or 2 people are infected. Insurance companies be directed to expedite the claims.

f. There is suggestion to reduce charges of RTPCR Test for vegetable vendors and hawkers. Some citizens are of the view that although they are labelled as 'superspreaders', neither they have financial wherewithal to get them tested nor do they have means for treatment.

g. 108 EMRI services is overused and stressed. Citizens have stated that services of private

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ambulances, taxis and in case of need tie-up with private sector caboperator should be made. In fact, one of the citizen has suggested that it is immaterial for the hospital to inquire whether patient has come in private vehicle or 108 EMRI ambulance.

h. Transparency in data. In fact, after order dated 15.04.2021, the issue is no more in debate that there is no credibility of the data by Government of Gujarat with respect to patients of Covid-19. In fact this is root cause of current crisis as never ever correct data is disseminated in the public. Resultantly, manufacturer of medicine including Remdesivir and oxygen were never sure about their production capabilities, stockiest never stocked medicines etc. The dissemination of correct data is hugely requested by citizens.

i. The citizens are upset by moving from one hospital to another in search for vacancy and therefore emphasis is on 'real-time data' about availability in hospital and their stock. One of the citizens said that there should be dedicated person in hospital who only reports to IT cell of Ahmedabad Municipal Corporation or public authority and supplies real time data to public authority who in turn transmit the same via portal or website.

3. *The other suggestions are as under:*

a. Myth busting and spread of knowledge is by private entity viz. FM radio interview and TV channels interview. Government of Gujarat is not coming out with videos of doctors to spread knowledge and people are relying solely on whatsapp and other social networking sites.

b. Government of Gujarat must come out with Standard Procedure for treatment of Covid-19.

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This procedure should be widely published not only amongst doctors but also public at large.

c. It is reported that one of the public hospital was not admitting patients inspite of the fact that as many as 200 beds were vacant as they all were reserved for "VVIPs". The citizen who gave input also later on informed that said hospital has now started admitting patients.

d. It is reported that in public hospitals, ICU facilities are in dreadful conditions. It is reported that stray dogs are roaming in ICU facilities in public hospitals. Someone has reported that even oxygen supply is cut-off by ward boy and staff is chit-chatting without paying heed to patients condition. To get over these kinds of complaint, it is suggested that CCTV cameras should be installed in public hospitals.

e. People have also requested for lockdown ranging from 3 days to 15 days.

f. Citizens have requested that public halls, amusement parks, schools, colleges should be converted into Covid-19 care center so as reduce stress on hospitals.

g. It is also reported that there is huge vacancy with Government of Gujarat in health department. The recruitment process should be set in motion on urgent basis.

h. Government must uniformly implement SOPs of Covid19. Citizens complaint that common man is penalized by Rs.1,000/- if mask is just below nose whereas people with political background get away with flagrant breach of SOPs. Strict action should be taken against breach of SOPs of Covid-19. In support of this, example is given whereby Vice President of Ghogambhaa Panchayat collected huge crowd for marriage and when complaint was made, vague

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response was given that 'matter is under investigation'.

i. One of the citizen has sought relief for tenants who cannot pay during this period and they may not face eviction.

j. Customer Care numbers with 15-20 lines should be set up by Government of Gujarat to cater the needs of citizens where they can ask for any information concerning treatment.

4. *The detail summary of the emails is annexed hereto and marked as Exhibit – 1.*

Analysis of the affidavit filed by Government of Gujarat

5. *The affidavit of Government of Gujarat must meet the areas identified by this Hon'ble Court in para 5 of the order dated 15.04.2021. Following is the analysis on the same:*

RTPCR Test should be available in all District :

a. With respect to RTPCR Test in all district, it is submitted by Government of Gujarat (para 7) that it is not 'feasible & desirable' to set up laboratories in talukas and nagarpalikas. In support of this statement, State has used excuses like 'stringent infrastructural and technical requirement' for setting up laboratories apart from need to have 'expert and trained technicians' and 'highly sensitive instruments'. It is also stated that if there is error in processing and extraction, there could be 'devastating effects'. It is submitted that with any laboratory set up, use of sensitive instrument and trained people is prerequisite. The highlighted phrases as above appearing in para 7 of the affidavit only exaggerate issue instead State could have spelled out basis for using such phrases. It is stated that

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RTPCR Testing facilities will not be available at Taluka and Nagarpalika level. Although procedure for collecting samples from Talukas is explained in succeeding para but there is no clarity whether all Talukas are covered in a District. Merely saying that all Districts has RTPCR Testing facility will not serve public purpose.

An emphatic statement is made that ***no village in the State*** *is deprived of RTPCR Test but there is* ***no basis*** *disclosed for such statement.*

RTPCR Test facilities should be ramped up:

b. In affidavit dated 14.04.2021, it is stated that there are about 97 RTPCR Testing machines available in the State and that figure is now 98 in the affidavit dated 19.04.2021. It is stated that orders are placed for new machines with mandate to supply it within 7 days from the date of order but it is not known with certainty whether these machines will be delivered within 7 days from the date of order and even if received within 7 days from the date of order, when they will be operationalized. It is also not stated which districts will receive these machines as order is for 25 new machines.

It is stated that 26 research laboratories are requested to carry out RTPCR Test. In support of this, letter at page 27 is relied. Perusal of the letter states that it is only request from Government of Gujarat to those institutes. There is no confirmation from those institutes that they have infrastructure and they will carry out RTPCR Test. In fact, letter states that Government of Gujarat will provide consumables for the same and for that those institutes have to send request. So when these institutes will start commencing RTPCR Test is not known. State has also used vague and evasive phrases viz. 'in the days to come', 'shall be done in the near future', 'in the

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coming days' etc. that are open ended and does not serve the urgency that is required in the present state of affairs.

At Annexure 5 on page no. 43, details about RTPCR Test carried out between 01.04.2021 to 18.04.2021 is described. It is stated that State ought to have stated 'basis' for such figures without which credibility of the figures is questionable.

Accurate & correct reporting about data of RTPCR Test:

c. There is no mechanism specified in the affidavit about accurate and correct reporting of the data with respect to RTPCR Test. This disclosure will go long way in identifying correct number of patients and actual number of tests carried out by Government of Gujarat.

Education about Remdesivir injection:

d. With respect to Remdesivir injections, it is stated protocol issued by AIIMS, Delhi is relied upon which in one sentence deals with Remdesivir injection and its dosage. It is stated that Government of Gujarat can't advise on the use of Remdesivir injection as it is in the domain of medical expert. Apart from this, there is no standard operating procedure described by State for treatment of Covid-19 and use of Remdesivir injection. The newspaper reports at Annexure 7 is collection of news reported in print media instead Government of Gujarat ought to have produced efforts by it to educate medical professionals and public about use of Remdesivir injection.

As far as availability of Remdesivir injections, it is stated that Government of Gujarat is procuring 20,000 vials per day and apart from keeping 'minimum emergency stock', everything is distributed. It is stated that it would have been better if what is 'minimum

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emergency stock' is stated as blackmarketing of the Remdesivir is in full swing. Apart from this there is no mention by State that they are giving these injections to patients that require it in 'home treatment' because as per policy of State, they are used first in public hospitals and then in private hospitals and then in Covid Care Center.

The table at page 12 describes details of receipt of Remdesivir from 13.04.2021 to 18.04.2021. It is also stated that 55,000 vials were received that is distributed. Now it is not known when these stock as huge as 55,000 vials was received and distributed. It is further stated that order for 5,74,000 vials is placed but no details are given that when these stock will be available.

Online portal giving details of availability of beds

e. Para F on page 18 & 20 describes about dissemination of data. It is stated that there is apparent contradiction about data updated by AHNA as in para it is stated that data is updated once in a day whereas in table it is stated that data is updated twice in a day. Apart from this, there is no mention about 'real time' dissemination of data except Vadodara and Gandhinagar. Data updated once in a day does not serve purpose of public.

Oxygen availability

f. Efforts for making oxygen availability are described on page 19 that inspires confidence.

Efforts to build confidence that data of state is accurate

g. No efforts are described in the affidavit that State has undertaken to efforts to build confidence in the data disclosed by State. In fact still questionable data continues to be highlighted on the portal of Government of Gujarat as described on page 20. It is stated as on evening of 19.04.2021, that there

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1,61,25,282 positive cases and 3,41,565 patients that have recovered. These data is meaningless as time frame is not specified about these data and if figure of 1,61,25,282 are positive patient, then it translate into about 22.55% population of State being infected if total population of Gujarat is estimated at 7,15,00,000/-.

Publicly come up with availability & modalities of required infrastructure

h. The data about availability and modalities of required infrastructure is sparsely known in public domain.

Lack of infrastructure or facility should be admitted

i. No such admission is forthcoming in the affidavit.

Honest and transparent dialogue with public:

j. The affidavit of the Government of Gujarat is silent on the aspect of honest and transparent dialogue with public. A mention is made that Hon'ble CM and Hon'ble Dy. CM have (page 13-14) visited Rajkot, Morbi, Patan etc. and there were meetings with religious leaders but there is no details about what transpired in those meeting and what concrete steps are being contemplated.

It is stated that affidavit describes more about steps taken in Ahmedabad but there is no details forthcoming as far as efforts in rural areas of Gujarat."

7. The suggestions which have come and have been formulated in the form of gist provided to us and quoted hereinabove raise issues some of which are already in discussion and many more. We have incorporated the gist

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so that the State may while submitting its reply also take care of all such issues which may have relevance or bearing to the monitoring of issues by this Court in the present matter.

8. In our previous order we had required the Gujarat State Branch of Indian Medical Association to address the Court if it so desires. Dr.Devendra Patel, President and Dr. Kamlesh Saini, Honorary State Secretary of the Indian Medical Association, Gujarat State Branch, have joined the proceedings today. Dr. Devendra Patel, President of the Gujarat State Branch made certain submissions which briefly are as follows :

- There should be Centralized Monitoring System at each Taluka place and big city so that one can find availability of beds/ ICU beds/ Ventilator beds/ oxygen beds.
- Availability of medicines including injection of Ramdesiv and Tocillizumab may also be similarly monitored.
- Like previous year, this time also in private hospitals

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beds are to be kept reserved for the government or municipal quota so that the poor and non-affording person can get the treatment in case they are not getting the same in government hospitals due to full occupancy of beds. The ratio of reservation of beds for government and municipal quota may be increased to 50%.

- As the tests conducted through Rapid Antigen Test have less sensitivity, more and more testing through RTPCR test should be conducted.
- At present there are approximately 100 testing centres all over the Gujarat. The testing centres are to be increased so that one can get results at the earliest. This facility should be available at each Taluka place.
- The Government should completely ban the political, social and religious gatherings.
- The Government should impose total lockdown for 14 days and if it is not possible then the government should put strict restrictions on activities.
- The Government should publish Home Care Patient guidelines with expert's opinion. If more and more

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patients are treated at home then the hospital beds will be spared for moderate and serious patients.

- The price of oxygen, essentials and life saving medicines, surgical instruments etc. should be controlled so that each and every citizen may get the same at fixed rate.
- Supply of oxygen, injections like Remdesivir and Tocillizumab should be controlled and monitored by the Government.
- At every Taluka place, a Core Committee should be formed in coordination with the Government official like Mamlatdar, Taluka Health Officer and NGOs and IMA members to monitor the situation, who will check and guide about the availability of beds, medicines etc.

9. Considering the number of Covid patients the availability of Covid beds in the hospitals whether Government, Corporation or Designated private, are not enough to accommodate every person who is tested positive. It is also true that all positive tested persons do not require hospitalization because there are substantial number of persons infected with Covid positive virus who are

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completely asymptomatic. In fact many of such asymptomatic carriers have gone through the cycle of carrying the infection and after developing antibodies have got rid of the virus.

10. There is another substantial number of Covid positive patients who can be treated at home and may not be requiring hospitalization. In the first phase of the pandemic in 2020, because of shortage of beds, treatment to thousands and lakhs was being given at home rather they were advised to stay at home as it would be safer, considering their symptoms, provided they had enough space at home to isolate themselves away from the other members.

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11. Even in the second phase, it is the same situation where a large number of Covid infected persons are being treated at home. A list of private hospitals have come up with their Home Care packages in which they are regularly monitoring, providing medication including oxygen at home to their patients.

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12. Insofar as supply of oxygen is concerned, as per the data provided by the State in its affidavit-in-reply and as stated by the learned Government Pleader, apparently there should be no shortage of oxygen for medical use and even though there is any shortage, the same is being actively augmented to cater to the additional demands.

13. However, the procurement, supply and distribution of Remdesivir injection apart from the protocol of its use, application and administration, there is a big crisis. According to the State, as per the contents of the affidavit-in-reply and also as submitted by Ms.Manisha Lavkumar, learned Government Pleader, there is a shortage *vis-a-vis* the demand. Despite best efforts being made by the State as indicated in the affidavit submitted on the previous date as also for today, Remdesivir injection is still in short supply.

14. The stand of the State is that the Remdesivir injection made available to the State would be utilized in order of preference listed by it which apparently is need based and in priority of the category of hospital. According

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to the learned Government Pleader, the available Remdesivir injection with the State is first administered to the patients on ventilators in the hospitals of the Corporation or Government hospitals, then to the patients on ventilators in the Designated Covid Hospitals, then to the patients admitted on ICU in Government / Corporation hospitals and then to the similar patients in the Covid Designated Hospitals and thereafter to the patients on oxygen beds subject to their prognosis and if there still remains further stock with the Government / Corporation, it would be distributed to the private hospitals, Nursing Homes / Home Care on doctor's prescription considering the condition of the patient. However, if the Government does not have any surplus or if it is unable to cater to its own in-house demand, it cannot provide it to the private sector. It is also the case of the Government that Remdesivir injections are available with the stockists of the manufacturers from where private hospitals and individuals can always purchase.

15. On the other hand the submission of not only Shri Kavina but also Dr.Devendra Patel is to the effect that the

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State must supply Remdesivir injection to the private sector also as either the State takes upon itself to provide admission and complete treatment to all Covid positive patients and if the State is not able to admit and treat all positive Covid patients which burden of the State is being discharged by the private sector then the State must provide medicines to the private sector.

16. This is a delicate issue and requires very careful handling by the Government and the Corporations or the District Collectors as the case may be in other districts. The policy should be of the Government and should not be left at the discretion of the individual Corporation and District Collectors regarding distribution of Remdesivir injection when the same is in short supply. There has to be a reasonable policy of the State taking into consideration the overall factors and to ensure that all patients falling in the same category should be first administered or provided with Remdesivir injection i.e. the patients on ventilators whether they are in private or Government set up / facility, then it should be provided to patients on ICUs in private or

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Government set up / facility and thereafter to patients on oxygen depending upon the period they have been on oxygen and thereafter other patients who are advised Remdesivir. The condition of the patient should be the criteria for providing Remdesivir injection and not whether he/she is admitted in private or Government facility.

17. The Principal Secretary, Department of Health and Family Welfare, Government of Gujarat, must convene an emergent meeting of all stake-holders and take an appropriate policy decision which should run throughout the State i.e. it should be made applicable for the entire State and should not be left at the discretion of Municipal Commissioners or Collectors as the case may be. The distribution may be at the level of the Commissioner or Collector, but the policy to be followed must be framed by the State.

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18. In addition to the above, we would also like the State to respond to the registration of patients through Ambulance 108, the time being taken in picking up a

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patient from the time the call is registered, the system/modalities through which the registration and the picking up is carried out, as there are some complaints that seriousness of the patient is not a criteria for giving preference and it is only on the basis of first come first serve basis that under the present dispensation of 108 Ambulance, the patients are picked up.

19. Another issue which needs to be responded by the State is that only through Ambulance 108, patients are admitted in the Designated hospitals and further that 108 Ambulance picks up patients only from home/residence but not from any Nursing Home or hospital if the patient is otherwise admitted and later turns into a Covid patient. Patients being brought in private cars howsoever much critical they may be, are not admitted by the designated hospitals even though beds are available.

20. There is one more aspect which the Government needs to seriously address and that is to sensitize and educate the public at large which may break the chain and ultimately result in stabilizing the increase in numbers,

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flattening the curve and thereafter move towards decline. Whatever instructions the Government feels are appropriate as per the advise and protocol of the international and the national level decisions should be widely publisized and circulated through print, social, electronic and digital media.

21. It is also brought to our notice that the demand raised by the Designated Covid hospitals regarding Remdesivir injection is not being fully provided by the Sardar Vallabhbhai Patel Hospital and only partial supply is made. The State may examine this aspect and also respond to it.

22. Let this matter be listed again on **27.04.2021 before us. To be taken up at 11.00 a.m.** By the evening of 26.04.2021 the State to file its further status affidavit after serving copy of the same on Mr. Rasesh Parikh, learned counsel appearing for the Gujarat High Court Advocates Association.

(VIKRAM NATH, CJ)

(BHARGAV D. KARIA, J)

P. SUBRAHMANYAM / GAURAV THAKER

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