

WWW.LIVELAW.IN
IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 53 of 2021

=====

SUO MOTU
Versus
STATE OF GUJARAT

=====

Appearance:

SUO MOTU(25) for the Applicant(s) No. 1
MR KAMAL TRIVEDI, LD. ADVOCATE GENERAL WITH MS MANISHA L.
SHAH, GOVERNMENT PLEADER(1) for the Opponent(s) No. 1
MR DEVANG VYAS(2794) for the Opponent(s) No. 1,2,3,4
MR MIHIR JOSHI, LD. SR. ADVOCATE WITH MR SATYAM Y
CHHAYA(3242) for the Opponent(s) No. 5
MR PERCY KAVINA, LD. ADVOCATE WITH MR RASHESH PARIKH FOR
RESPONDENT NO.7

=====

CORAM: **HONOURABLE MS. JUSTICE BELA M. TRIVEDI**
and
HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 26/05/2021

ORAL ORDER
(PER : HONOURABLE MS. JUSTICE BELA M. TRIVEDI)

1. The affidavit of the Principal Secretary,
Department of Health and Family Welfare,
Government of Gujarat, and the response on
behalf of the Union of India along with the
affidavit filed by the Undersecretary, (Covid-19
Vaccine Administrative Cell) in the Ministry of
Health and Family Welfare, New Delhi, pursuant
to the directions given by the Court vide the

WWW.LIVELAW.IN

order dated 17.5.2021 are taken on record.

2. In response to the above affidavits filed on behalf of the State and the Central Governments, the learned Sr. Advocate Mr. Kavina representing the Ahmedabad High Court Advocates' Association, has submitted that though the State Government has stated about the placement of orders for vaccines to the tune of 3 crores, the affidavit is silent about the proposed dates on which the said vaccines shall be received by the State from the concerned manufacturers. According to Mr. Kavina, since the Court has expressed its concern about the availability of the medical facilities at the rural areas, the affidavit filed on behalf of the State Government should have been more specific about future plan for strengthening the infrastructure and for the appointments of the medical staff at the Taluka and Village level on permanent basis, more particularly when there is an apprehension of the third wave of Covid-19. Mr. Kavina reiterated that though directed by the Court earlier, the Ahmedabad Municipal Corporation is

WWW.LIVELAW.IN

not displaying the real data about all the hospitals in Ahmedabad. Mr.Kavina also emphasized that the Government of Gujarat should spell out clear and uniform policy with regard to the public health considering the upcoming festive season commencing from July to December. As regards the distribution of Remdesivir and Liposomal Amphotericin B, he submitted that the policy of the State as well as Central Government in this regard is opaque, and that the distribution of the said injections is being done in arbitrary manner.

3.The learned Sr. Advocate Mr.Mihir Thakore submitted that the State Government and the Corporation are not disseminating the data on their website as regards the positive test results of Corona.

4.The learned Advocate General Mr.Kamal Trivedi and the learned Government Pleader Ms.Manisha L. Shah, referring to the affidavit filed on behalf of the State Government submitted that the State Government has tried its level best to sort out

WWW.LIVELAW.IN

most of the issues raised earlier. The measures undertaken by the State government in response to tackle the pandemic in rural areas are also placed on record. Mr.Trivedi submitted that though the trained and experienced Anesthetists and Physicians are not provided in Sub-centres or primary health centres or community health centres, as the said centres provide medical services for the treatment of non-covid ailments and are functioning as RTPCR collection centres, there is an established mechanism in place for providing treatment to Covid-19 patients in the dedicated Covid Hospitals and dedicated Health Care Centres, as also for distribution of Remdesivir injections to the said Hospitals. As regards the issue of vaccination, Mr. Trivedi submitted that the State Government has already issued instructions for considering all the persons working in the special homes and at the Child Care Institutions as front-line workers for according them the priority for Covid Vaccination. However, Mr.Trivedi echoed the helplessness of the State Government in

WWW.LIVELAW.IN

procuring enough stock of vaccines by submitting that though the State Government has placed orders, for procuring in all 3 crores of vaccines, there is no timeline given by the manufacturers for the delivery of the said vaccines, as there are only 7 vaccine manufacturers in the world and they are not in a position to match with the high requirement of the same. As regards the shortage of Liposomal Amphotericin B injection used to treat the Mucormycosis patients, he submitted that the distribution system has been established in all the districts/corporations, as per the Policy dated 19.5.2021 formulated by the State Government (Annexure-R/10). Mr.Trivedi informed the Court that the real-time data are being put on the Website of the Government, which would display all the necessary details including the figures of positive test results.

5. The learned Additional Solicitor General Mr.Devang Vyas, taking the Court to the report submitted on behalf of the Union of India and the affidavit filed in support thereof submitted

WWW.LIVELAW.IN
that the compliance to the directions given by the Court on 17.5.2021 has been made by the Central Government by placing on record the necessary details as regards the policy for the allocation of Remdesivir injection to the States and about the vaccination policy of the Central Government.

6. Having regard to the submissions made by the learned Advocates for the parties and to the affidavits placed on record on behalf of the State Government from time to time, the Court is of the opinion that the broad issues pertaining to the management of Covid-19 pandemic as highlighted by the interveners have been positively responded by the State Government and all possible efforts have been made to alleviate the concern of the Court as reflected in earlier orders. It is reported that there is a considerable decline in the number of Covid-19 cases all over the State. Therefore, there is a glimmer of hope seen that the situation has improved, however, it is too early to say anything on the trend of Covid-19 waves.

WWW.LIVELAW.IN
Considering the magnitude of the cases of Covid-19 and its fall out, the Court is of the opinion that the State should not remain complacent and should continue its endeavour to do its best to fight with the third-wave as apprehended by the medical experts.

7. It cannot be gainsaid that there is a need to strengthen the Health infrastructure in rural areas by not only making the sub-centres, primary health centres and community centres well equipped with the machines but by providing enough manpower by appointing doctors and nursing staff on permanent basis.

8. The State Government in its affidavit has elaborately stated about the types of Mucormycosis disease and the steps being taken by the State for combating the said disease. Since the death rate is going high in the said disease, in the opinion of the Court, in order to allay the panic created in the minds of people, as a part of awareness programme, it would be more beneficial and in the interest of

public at large to release the official video and to widely publish the literature about the said disease, which is now declared as a notifiable disease under the Epidemic Disease Act 1897.

9. At this juncture, it is also germane to note that the policy dated 19.5.2021 placed on record at Annexure-R-/10 formulated by the State for the distribution of Liposomal Amphotericin B does not seem to be very clear or specific. The Court is of the opinion that in order to systematize the distribution and to establish efficient and time-bound system of distribution of Liposomal Amphotericin B injections to the needy, as there is a shortage of the said injections in the State, the policy must notify the authority/expert body constituted in each district, as also the procedure to be followed by the hospitals i.e. Government/Corporation/Private hospitals for the procurement of the said Liposomal Amphotericin B injections. The allocation made to the said hospitals and the usage of the said injections made by the

WWW.LIVELAW.IN

hospitals also should be displayed on the website of the Health department. The concerned hospitals also should be made responsible to submit the reports regarding the usage of the said injections.

10. In view of the above, it is expected that the State Government shall take all necessary actions immediately with regard to the improvement of the Health infrastructure in the rural areas as also for creating awareness amongst public at large of the Mucormycosis disease and for making the policy of distribution of Liposomal Amphotericin B injections more transparent, specific and effective.

11. Put up on 15.6.2021.

(BELA M. TRIVEDI, J)

(BHARGAV D. KARIA, J)

V.V.P. PODUVAL