

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

PIL No. 26 of 2021

Mr. Naresh Maimom

Petitioner

Vs.

Union Of India; & Ors.

Respondents

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR
HON'BLE MR. JUSTICE KH NOBIN SINGH**

08.06.2021

Sanjay Kumar (C.J.):

[1] Mr. Serto T Kom, learned counsel, appears for the petitioner. Mr. S. Suresh, learned ASG, appears for the Union of India. Mr. Lenin Hijam, learned Additional Advocate General, Manipur, appears for the State authorities, Mr. M. Devananda, learned counsel, appears for RIMS, Imphal.

[2] The reply affidavit of the Union of India and the Annexures filed therewith are taken on record. The additional affidavit dated 07.06.2021 of respondent Nos. 2 & 3 and Annexures H/1-H/3 are also taken on record.

[3] This Court is informed that RIMS, Imphal, approached the State authorities with its requirement of oxygen, pursuant to the earlier order dated 02.06.2021, but is yet to receive a response. However, the reply affidavit of the Union of India demonstrates that two oxygen plants of 1000 LPM each have been allocated to RIMS, Imphal, under DRDO's letter dated 22.05.2021, and these plants are proposed to be commissioned by 30.06.2021. The Central Government shall ensure that these plants are made operational, at the very latest, by 30.06.2021.

[4] The additional reply affidavit filed by respondent Nos. 2 & 3 states that in the event RIMS, Imphal, or other healthcare facilities require more oxygen than was allocated to them under the State's orders dated 01.05.2021 and

08.05.2021, such additional requirement of oxygen, over and above the allocated quota, would have to be met by making arrangements to secure refills from oxygen plants outside the State. However, Mr. M. Devananda, learned counsel for RIMS, Imphal, would assert that when RIMS, Imphal, took steps to secure such additional oxygen cylinders from outside, the State Government is deducting such additional oxygen cylinders from the allocated daily quota of 170 cylinders.

[5] However, Mr. Lenin Hijam, learned Additional Advocate General, Manipur, having secured instructions from Ms. Haobam Rosita, Special Secretary, Health and Family Welfare, Government of Manipur, would inform this Court that about 170 to 200 oxygen cylinders are being supplied daily to RIMS, Imphal, and this allocated quota is not being subjected to any deductions on the basis of the additional oxygen cylinders procured by RIMS, Imphal, from outside the State. This statement is taken on record. Be it noted that this is only in keeping with the letter dated 16.05.2021 issued by the Health Department, Government of Manipur, to RIMS, Imphal, JNIMS, Porompat, and other private healthcare facilities.

[6] Though Mr. Serto T. Kom, learned counsel, would voice some anxiety over the availability of buffer stock of oxygen in RIMS, Imphal, Mr. M. Devananda, learned counsel, would state that there is no shortfall of oxygen as on date in catering to the needs of admitted patients. In any event, in the light of the statement made by the authorities to the effect that any additional oxygen cylinders procured by RIMS, Imphal, would not impact the allocated oxygen cylinders, it would be open to RIMS, Imphal, to maintain sufficient buffer stock of oxygen cylinders.

[7] This Court is informed that the order dated 16.07.2020 passed by a Division Bench of this Court in PIL No. 16 of 2020 has been subjected to appeal before the Supreme Court but the matter is yet to be taken up. However, we are of the opinion that, irrespective of the directions in the order dated 16.07.2020, the State Government must necessarily formulate an action plan to meet the challenges of a possible future wave of the pandemic. It is not enough for the State Government to respond by taking measures after the event and it must necessarily equip itself so as to be in a state of preparedness, in anticipation of all such

challenges that may arise. As on date, the State Government is yet to disclose any such action plan.

[8] Be it noted that the National Task Force, constituted pursuant to the order dated 06.05.2021 passed by the Supreme Court in **Union of India Vs. Rakesh Malhotra & another**, set up three sub-groups, one of which is on 'Care and Preparedness'. This Court is informed that this sub-group held its first meeting on 13.05.2021 and is in the process of preparing a draft document. The State's sub-committee, which is slated to act in tandem with the National Task Force, would have to provide sufficient inputs to the aforesaid sub-group for it to come out with an effective action plan in the context of future care and preparedness. It is for the State authorities to elaborate on what steps are being taken in this regard.

[9] This Court is further informed that, apart from the 2691 oxygen cylinders provided by the Central Government, numerous oxygen cylinders were donated by various private organizations. There is, however, no data placed on record as to the total number of oxygen cylinders presently in use in the State and the medical facility-wise utilization thereof. An additional affidavit shall therefore be filed by the Health Department of the State indicating these details.

[10] Further, Mr. Lenin Hijam, learned Additional Advocate General, Manipur, states that the Government is still facing shortage of oxygen cylinders. It is incumbent upon the Central Government to look into this issue as only 2691 oxygen cylinders have been provided till date to the State of Manipur, which has a population of over 33 lakh. The additional affidavit to be filed by the State shall also address the issue as to whether any communication has been addressed by the State Government to the Central Government indicating the further requirement of oxygen cylinders and as to whether any more financial assistance, in the form of material or otherwise, has been sought. If so, the Central Government shall also file an additional reply affidavit indicating the steps taken by it pursuant to such communications received from the State Government. If there is further requirement of medical infrastructure, a suitable request can now be made to the Central Government.

[11] That apart, so far as the oxygen supplies are concerned, the State Government shall prepare the data in a tabulated form, which shall be updated from time to time, say, every 3 days, indicating the hospital-wise number of beds, number of ICU beds, number of presently admitted patients, present requirement of oxygen cylinders etc. in respect of all the Govt. hospitals & private hospitals. Such data shall then be made available to the general public through the media.

[12] In this regard, the reply filed by the State authorities indicates that information pertaining to various pandemic related issues is being put up only on the websites concerned and is not being published in newspapers due to financial constraints. The press releases issued by the Government may or may not be reported by the newspapers in full and proper form. The State Government shall therefore examine as to whether it can issue appropriate orders to see that newspapers disseminate information in this regard, free of cost and without insisting upon payment for publication of such updates and reports.

[13] Lastly, the additional affidavit to be filed by the State Government shall also address the issue as to how the 24 Covid Care Centres, established across the State, are being monitored. Mr. Lenin Hijam, learned Additional Advocate General, Manipur, would assert that teams are being constituted by the Chief Medical Officers of respective Districts, where these Centres are situated, to randomly visit and check the operation and functioning of the Centres. Details in this regard shall be furnished.

Post on 15.06.2021.

A copy of this order shall be supplied online or through whatsapp to all the learned counsel for the parties.

JUDGE

CHIEF JUSTICE

Sandeep