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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION (L) NO.10276 OF 2021

Sneha Nirav Marjadi .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

Mr. Simil Purohit a/w Mr. Arshil A. Shah, Mr. Nirav Marjadi, Mr. Pariket Shah, Mr. Dharamapal Dave, Ms. Smita Durve & Parisha Shah for petitioner.

Mr. Ashutosh A. Kumbhakoni, Advocate General a/w Ms. Geeta Shastri, Addl. Govt. Pleader and Mr. Akshay Shinde "B" Panel Council for respondent No.1.

Mr. Anil C. Singh, Addl. Solicitor General a/w Aditya Thakkar, D. P. Singh i/by Gul Ansari for respondent No.2.

Mr. A. Y. Sakhare, Senior Advocate a/w Ms. K. H. Mastakar for MCGM.

**CORAM : DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE : APRIL 22, 2021

PC :

1. The petitioner, a practicing advocate of this Court, has filed this petition *pro bono publico* raising concerns of seminal importance in relation to the medical treatment of the patients infected by Covid-19, a virus, which has left the entire mankind in one of the most painful and miserable conditions of suffering.

2. The concerns as raised by the petitioner are arising from the second wave of the pandemic which has gripped the country and more particularly nastily affecting the citizens of Maharashtra. There are four issues raised by the petitioner, which are: **firstly** on shortage of supply of the drug 'Remdesivir'; **secondly**, shortage of supply of oxygen; **thirdly** the 'Bed management'; and **fourthly** in regard to the Covid-19 tests namely the "RT-PCR" and "Rapid Antigen" tests.

3. We note the case of the petitioner on each of these issues:

(I) **Supply of Remdesivir**

The petitioner has contended that Remdesivir (for short "the said drug") is used in the treatment of Covid-19 patients. This drug is in the form of injection available in vials. This drug reduces the need for oxygen and the longer hospitalization of the patients. There are other drugs by name Tocilizumab and Itolizumab, however, to the knowledge of the petitioner, only the said drug (Remdesivir) is being prescribed. That there is a severe shortage of this drug and it is hence not available to the patients who are in its dire need. The patient and his relatives are required to hunt for such drugs not only in the very same city but also in other cities. There is no mechanism whatsoever by which such drug is made available to the patients in the course of their treatment. The reasons for such shortage are manifold, including shortfall in the quantity of its manufacturing, illegal hoarding, etc. There is

total lack of control of the State authorities in its procurement and making the same available. It is contended that there are 6 vials which are required for each patient and if there are more number of persons in a family who are infected, then the requirement would be even larger. In short, the case of the petitioner is that severe shortage of such drug has generated fear and panic amongst the citizens. The very thought of its non-availability itself severely affects the weak and diminished morale of the patients. The patients or his family members, in such critical conditions cannot be left to hunt for such drug when prescribed, as the nature of the drug is such that it is essential in the treatment protocols for the Covid patients. It is hence the petitioner's case that a mechanism is required to be put in place by the State authorities, by which the drug is easily available to all the patients, who are in requirement of such drug. The petitioner has set out in the petition the struggle of the citizens and of her own relatives for procurement of such drug. The petitioner has stated about various attempts made by her running from pillar to post, which included dialing of Drug Inspector, as also the Toll Free number being notified and informed by various news channels and social media posts, as provided by the Collector and Drug Inspector for availing the said drug. She states that the repeated dialing of such number was in vain and the response being received was that of the number being busy and/or due to faulty line condition the call cannot be answered.

(II) **Supply of Oxygen**

The other issue of serious concern raised by the petitioner is in regard to shortage of oxygen at the hospitals and Covid centres. It is stated that Covid-19 positive patients are dying outside the hospitals due to failure on the part of the Government or the private hospitals to make available oxygen. The petitioner has referred to various social media posts, newspaper reports and prescription from the hospitals asking the patients to arrange for oxygen. She has also referred to instances where patients are sitting in auto-rickshaw with an oxygen machine. The petitioner has set out the plight of such patients who are required to suffer due to the non-availability of oxygen.

(III) **Non-availability of beds in hospitals and quarantine centres**

The petitioner contends that the requirement of beds in hospitals and quarantine centres is one of the major ordeals required to be faced by the citizens who are in urgent need of hospitalization or even those who are required to be quarantined. Such requirement has arisen due to the second wave of the pandemic. The infected persons including those who are critical are required to wait for hospitalization due to non-availability of the beds at the hospitals. The life of such persons is put in an absolute peril in such situation. The petitioner has urged that the authorities need to device a

systematic mechanism, in order to meet the requirement of making available beds in serious cases and to avoid pick and choose through private contacts. The petitioner has suggested that there should be transparency by creating an online portal which should give details of the availability of the vacant and occupied beds under the different categories for Covid-19 patients and that the availability of the beds should be displayed on real time basis on the portal, which would be an effective means for the patient to reach the appropriate hospital. The endeavour should be to prevent the patients running from pillar to post and in so doing try to approach and use the influence of higher officials in the Government.

(IV) **Covid-19 (RT-PCR and Rapid Antigen Tests)**

The petitioner has contended that the main tests which are required for the person having symptoms of Covid-19 are `Rapid Antigen`, `RT-PCR` and the `HRCT` tests. The concern of the petitioner is that the RT-PCR report becomes available after 2 to 3 days which may adversely affect the person who is infected causing delay in availing the medical treatment, resulting into worsening the condition of the person so infected. This would also bring about the uncertainty as far as the other family members are concerned, who too would be concerned with the report, in so far as they also in a given case may be infected. The petitioner has given her own example in paragraph 10 of the petition, as to how the delay in getting the report affected her family members. The

petitioner has also highlighted that the laboratories refusing to conduct the test in the absence of the prescription from the doctor is also a serious concern in the detection and early treatment of the Covid-19 patients, and on this ground has sought intervention of this Court.

4. Mr. Ashutosh Kumbhakoni, learned Advocate General for the State of Maharashtra and Mr. Anil Singh, learned Addl. Solicitor General for the Union of India have dispelled the contentions as urged on behalf of the petitioner. Mr. Sakhare, learned senior advocate for the Municipal Corporation of Greater Mumbai (for short "Corporation") has also placed on record the various measures taken by the Corporation in regard to the issues raised by the petitioner.

5. Mr. Kumbhakoni has submitted a brief note on each of the issues raised by the petitioner. In regard to the supply of the drug `Remdesivir`, it is submitted that an American Multi National Company named `GILEAD INC` owns the patent for such drug. The drug is mainly used to cure patients affected by Ebola virus and diseases related thereto. According to Mr. Kumbhakoni, the said American Company has assigned rights for its manufacture and sale to only seven companies in our country and such companies have in turn entered into contracts with manufacturers for manufacturing of this drug. In Maharashtra, there is only one such manufacturer of the said drug. Mr. Kumbhakoni has stated that this drug has been authorized for Covid-19 only as and by way of `emergency

use authorization' and hence the drug cannot be prescribed and used for each and every Covid-19 patient, especially irrespective of the stage at which the infection has affected adversely the health of the patient. Mr.Kumbhakoni has stated that on April 10, 2021 the Principal Secretary, Public Health Department of the State Government has issued communication relating to proper use of this drug. It is submitted that prior to December 2020 all the manufacturers of this drug in the country had taken appropriate steps to increase their manufacturing capacity. However, the number of patients had drastically reduced during the month of December 2020. In January and February 2021, the demand for this drug was also reduced drastically. Hence, the enhanced production was also reduced. This was followed by present unprecedented situation of sudden surge in the number of patients requiring administration of the said drug. It is his submission that resultantly all manufacturers had increased their production capacity. The manufacturing cycle of this drug being of 21 days, Mr. Kumbhakoni has submitted that once the manufacturing picks up, the shortage of this drug in the market is also likely to substantially reduce after April 25, 2021. He has submitted that recently a meeting of the manufacturers with the highest officials in the State Government was held, in which the manufacturers assured that from May 1, 2021 the State will be in a position to get about one lakh vials of this drug per day.

6. Mr. Kumbhakoni would also submit that around 10% of

active patients would require this drug strictly going by the medical standards. As an illustration, he would submit that if a particular day 50000 patients have tested positive for the Covid-19 infection, around 5000 patients may require administration of this drug. He has also highlighted some of the undesirable methods being adopted by the citizens. His submission is that presently the infection of Covid-19 has been found more amongst the higher middle class and higher income class of patients. Under misconception as to the effect and the use of this drug, a sudden steep rise in the demand of this drug has arisen. He submits that there was also likelihood of such persons purchasing the said drug and stocking the same which has resulted into shortage and easy availability of the drug. According to him, indiscriminate use of this drug at the insistence of the patients by the concerned hospital or doctors has also added as a contributory factor towards the shortage. It is for such reason, according to Mr. Kumbhakoni, that the Principal Secretary, Public Health Department, was required to issue the communication to all the concerned relating to the proper use of this drug. Also a specific format was prepared for prescribing the said drug. He submitted that also measures are being taken in order to educate the citizens as also the doctor community on the appropriate use of this drug. Further actions are being taken to prevent hoarding of the drug, not just by traders and/or suppliers but also by individuals on large scale. Even police raids have been conducted which have inter alia caused a deterrent effect to prevent hoarding of the drug.

7. Mr. Kumbhakoni submitted that in order to regularize the supply and the availability of this drug in the market, steps are taken by the State to have minimum quantity of this drug with the retailers. The manufacturing units would inform the Food and Drug Administration (FDA), in regard to the availability of the drug for the next day. At the State level, district-wise allocation of available quantities are decided based on number of active patients. Accordingly, instructions are issued to the respective manufacturers and the Collectors, who in turn carry out the distribution within their respective districts with the help of respective stockists amongst the hospitals and some retailers.

8. Mr. Kumbhakoni has submitted that as far as the Government Hospitals are concerned, the Public Health Department is purchasing this drug from the manufacturers through a tender process. It is the Public Health Department which is looking after distribution of this drug in as much as various Government Hospitals are concerned. As far as private distribution is concerned, a Committee has been established at the level of FDA which looks after distribution of this drug Collector-wise. Quantity of such distribution is decided on the basis of active case load of Corona patients.

9. Mr. Kumbhakoni has submitted that since Government of India has recently banned export of this drug, the State Government has issued advertisement inviting exporters of

this drug to supply the same to the State Government, in pursuance of which on April 20, 2021 the State Government has been able to procure 5000 vials and on April 21, 2021, 16000 vials. Mr. Kumbhakoni has also brought to our attention that the Government of India has taken over the State-wise allocation of this drug throughout the Country with effect from April 21, 2021 to April 30, 2021, and in accordance therewith the State will be getting total 2,69,200 vials out of total allocation of 11,00,000 vials, whereas according to him the active patients in the State are 6,95,747. Mr. Kumbhakoni concedes that it is not that all of such patients would require the drug but it would be only 10% of the active patients who would require such drug.

10. At this juncture, we also note the submissions of Mr. Singh, the learned ASG. He has placed on record the information as issued by the Ministry of Health & Family Welfare, Government of India to submit that diverse steps have been taken by the Government of India to address the emerging issues of the sudden surge in demand for the Remdesivir injection in the country as required for Covid-19 treatment. The Government of India has notified that the manufacturing capacity of the domestic manufactures have been ramped up. All support is being extended to the manufacturers by the Government in this endeavor. The production capacity is being enhanced from the current level of 38 lakhs vials per month to 74 lakhs vials per month. It is stated that 20 additional manufacturing sites have been

approved. Further export of the drug has also been prohibited with effect from April 11, 2021 in order to shore up domestic supplies. To address the shortages of certain regions in the country and to facilitate smooth inter-state supply of the drug, the Central Government in coordination with Department of Pharmaceuticals has made an interim allocation of the drug for 19 States/UTs for the period upto April 30, 2021. It is submitted that Remdesivir being an investigational therapy drug, given in acute and severe versions of Covid-19 where oxygen support is a must, the allocation is made considering the high volume of cases and the requirements of such supply. As per the statement, as notified by the Government of India, five manufacturers would supply 2,69,218 vials in Maharashtra for the period from April 21, 2021 to April 30, 2021. Zydus Cadila would supply 50,000 vials, Hetero would supply 50,000 vials, Mylan would supply 32,000 vials, Cipla would supply 92,400 vials, Syngene/Sun would supply 23,000 vials, Jubilant would supply 16,000 vials and Dr. Reddys would supply 5800 vials. Mr. Singh has submitted that Health Ministry of the Government of India, has also notified that such allocation is dynamic and would be reviewed constantly in consultation with the States, to ensure all needs can be met within the available supplies and the protocol to that effect has also been set out by which the demand can be identified and supplies can be effectively made. Mr. Singh has submitted that by an Office Memorandum dated April 17, 2021 issued by the Ministry of Chemicals & Fertilizers, Department of Pharmaceuticals,

National Pharmaceutical Pricing Authority, the various manufacturers have also revised their maximum retail price of this drug as under:-

S.No	Name of the Company	Brand Name	Earlier MRP(Rs.)	Revised MRP (Rs.)
1.	Cadila Healthcare Ltd.	REMDAC	2,800/-	899/-
2.	Syngene International Ltd.(Biocon Biologics India)	RemWin	3,950/-	2,450/-
3.	Dr.Reddy's Laboratories Ltd.	REDYA	5,400/-	2,700/-
4.	Cipla Ltd.	CIPREMI	4,000/-	3,000/-
5.	Mylan Pharmaceuticals Pvt Ltd.	DESREM	4,800/-	3,400/-
6.	Jubilant Generics Ltd.	JUBI-R	4,700/-	3,400/-
7.	Hetero Healthcare Ltd	COVIFOR	5,400/-	3,490/-

11. Mr. Singh submits that accordingly adequate measures in regard to the drug being made available are already being taken and all the stake holders should assist the efforts of the State so as to overcome the crises.

12. Mr. Sakhare, learned senior advocate for the Mumbai Municipal Corporation has also made submissions on this issue to contend that the Corporation has adequate supplies of such drug in the hospitals which are being managed by the

Corporation and the patients who are admitted in these hospitals are receiving proper treatment, including administering of this drug in the desired cases.

13. In regard to the supply of oxygen, Mr. Kumbhakoni has submitted that the State Government has taken various steps to augment and enhance the production of oxygen within the State; to increase the import of oxygen from other States; and to regulate indiscriminate use and wastage of the available oxygen. It is submitted that there are total 6,86,000 active patients in the State and about 78000 patients out of the same require and are provided treatment with oxygen supply in ICU, oxygen beds and ventilators. He has stated that the consumption of oxygen in the State is presently about 1500 metric tones per day, however, total production of oxygen is about 1200 metric tones per day. The deficit of oxygen i.e. average consumption and production is taken care by importing oxygen from other States.

14. Mr. Kumbhakoni has also explained the issue on transportation in the import of oxygen from the other States in Cryogenic Tankers, which according to him is a delicate job. He has also stated that Maharashtra is the first State in the country to start the Roll-on/roll off trains (RORO) where this cryogenic tankers are carried by railway wagons to their destination. Mr. Kumbhakoni stated that initially 80% of oxygen available in the State was being used for medical purpose and 20% was being used for industrial purpose and

now Maharashtra is the first State in the country to start almost use of 100% oxygen for medical purposes only.

15. Mr. Kumbhakoni has contended that for optimum use of the available oxygen within the State, appropriate guidelines have been issued. To prevent indiscriminate use and wastage of the oxygen, the State has constituted a committee which would ensure justifiable use and/or pilferage of the available oxygen. The State Government has also encouraged purchase and use of equipment called 'Oxygen Concentrators' and setting up of new oxygen generation plants, throughout the State, which are about 150 in number. Such plants would use the method known as 'vacuumed pressure swing absorption'. Each of such unit would manufacture oxygen of about 500 liters per minute. Mr. Kumbhakoni has also stated that some thermal power stations manufacture oxygen for their captive consumption and such sources are also being trapped to make oxygen available. Mr. Kumbhakoni has stated that recently on April 18, 2021 the Government of India has taken over the State-wise allocation of oxygen in which the State of Maharashtra has been permitted to import oxygen from other States.

16. In regard to the 'Bed management', Mr. Kumbhakoni has stated that all information regarding the availability and occupancy of the beds in the State in all hospitals i.e. government hospitals as well as private hospitals has been complied. It is submitted that division-wise dash-boards for

regulating as also to have centralized information of available and occupied beds have been prepared. Also help-line numbers are provided at various levels throughout the State in order to assist the needy patients to get beds of the required category. It is submitted that in the true sense availability of bed, includes availability of trained man power who will assist the patients occupying the beds in maintaining his/or her health. Also the insistence for creating jumbo facilities with only machinery and equipment is misplaced in the absence of adequate trained man power to man such facilities. It is submitted that it cannot be forgotten that the existing trained man power has been fighting with the epidemic for a period of more than a year, that too continuously all throughout the year. It is submitted that their exhaustion on account of continuous working, that too under tremendous mental pressure needs to be appreciated in its proper perspective. It is submitted that the State Government is taking drives for consolidation of facilities of availability of beds to optimize human resources, consumables and equipments. The State has also taken various steps in order to regulate the rates prescribed by the private hospitals for various categories of beds, being the only State in the country. Also audit teams conduct regular audits of private hospitals on issues of charging the patients, and actions have been taken against the erring hospitals. Also private hospitals have been instructed not to treat non-covid patients unless there is a medical emergency for the same.

17. In regard to the Covid-19 tests Mr.Kumbhakoni has submitted that about 1,12,612 RT-PCR test and 1,56,651 Rapid Antigen Tests, per day are being conducted, totaling to 2,69,263 tests per day which are maximum in the country. It is submitted that the turn-around time i.e. the time required for getting the results of the RT-PCR test is on and average 24 hours. He would submit that however, on account of non-availability of trained manpower, down time mandatorily required to keep the machinery and equipment utilized for conducting the tests, many times have caused delay. Also the machinery required for such test is to be periodically given time to cool and to carry out its maintenance. It is his submission that hence the machinery cannot be operated 24x7 and is operated in shifts. It is submitted that the State Government has been motivating private laboratories to increase the number of shifts. Mr.Kumbhakoni has submitted that there are about 500 laboratories presently conducting such tests and their total RT-PCR capacity is 1,30,808 per day and is over-stretched to about 1,50,000. It is submitted that as of now the test is available without restriction, and attempts have been made to increase the testing capacity in the entire State by augmenting the existing available facility. Also attempts are made to increase the laboratories. It is submitted that a Committee has been constituted by the State which is exploring the ways and means to increase the testing capacity in the State. About month's time is required to establish a new laboratory. In this direction, it is stated that three mobile RT-PCR testing laboratory vans from the other

States have been imported into the State. Each such mobile laboratory's capacity is to conduct 2500 tests per day. It is submitted that the Maharashtra is the first State which regulated the cost of such tests and which have been appreciated even by the Supreme Court in the proceedings of *Suo Moto Writ Petition (C) No. 7 of 2020*. The rates have been steadily revised on six occasions and has been brought down drastically from Rs.4500/- to Rs.500/- only. It is submitted that actions are being taken against private hospitals who are taking more time to issue the test results and against those who charging more than prescribed fee for conducting such tests.

18. In so far as the Municipal Corporation of Greater Mumbai is concerned, Mr. Sakhare, has placed on record the entire information as on April 21, 2021 inter alia in regard to Mumbai Covid-19 status which gives the information in regard to the total positive cases, deaths, the bed management and vaccination. It is submitted that the Municipal Corporation has taken all efforts and as on April 21, 2021, there were 6,884 beds available as also under the CDH & DCHC Bed category 3860 beds were available, in the ICU bed category 51 beds were available and in ventilator Bed category, 15 beds were available. It is submitted that as far as Municipal Corporation is concerned, all effective measures have been taken to meet the present crises created by the second waive. Mr. Sakhare has submitted that the drug Remdesivir was procured and is also supplied by the Municipal Corporation at Thane, Pune and Bombay Port Trust Hospitals.

19. Mr.Purohit, learned Counsel for the petitioner has submitted that due to the recent surge in the cases admittedly there is a corresponding increase in the number of tests required to be conducted, for which number of the present laboratories are not sufficient. He would therefore submit that it is high time that the State authorities consider it appropriate to grant permissions to more laboratories/institutions to undertake such tests, so that the reports are made available within 24 hours so that the treatment of the patient is not delayed. He submits that, however, this can certainly be as per the established protocol of the ICMR and the NABC to be kept informed of the positive cases.

20. Learned counsel for the petitioner has also submitted that the price of the said drug by each manufacturer is different as noted above. We are at a loss to understand as to how there can be such vast difference in the prices of this drug, as fixed by the different manufacturers. We can appreciate little difference in the price, but the differences in the prices are quite alarming. This would certainly raise issues of the citizens being treated indiscriminately, when they are being burdened with high price at the hands of some manufacturers. It may happen that a citizen who can afford a drug at a higher price may get the drug at a very low price and vice-a-versa. This would certainly bring about a disturbing trend. In our opinion, the Drug Price Control Authority needs to apply its mind and take a call on the issue of indiscriminate pricing of the drug. We would want the Central Government to deal with this issue in its reply affidavit.

Reasons

21. We have heard the learned Counsel for the parties. At the outset, we may observe that every concern not only as raised by the petitioner, but which are being echoed all over, is nothing but a challenge being faced by the human race on account of the current pandemic. There is suffering, stress and trauma being caused by practically every person of being infected. The suffering of those who are infected and who are undergoing treatment and those who are critical cannot be described. However, in this challenging situation, the citizens also owe a duty towards the society so as to prevent the spread of pandemic by strictly adhering to the prescribed safety measures and help of our fellow citizens, this more particularly, when we look at the struggle and the efforts of the medical fraternity and the State authorities to cater to the health and well-being of the persons who are unfortunately hit by the pandemic, when the pandemic is of such huge magnitude and gravity. The individual interest needs to yield to the larger societal interest when it comes to prevention and spread of the pandemic.

22. Be it so, we appreciate the concerns raised by the petitioner, they are definitely required to be attended. With pain, we note that a situation of scarcity of drug Remdesivir ought not to have arisen, except for the sudden surge in the cases due to the second wave, which was possibly not in anticipation about two months back. We have set out in detail the measures being taken by the State to make such drug

available. We are hopeful that as the production capacity is being immediately increased by the manufacturers, as per the assurance as given by the manufacturers and accordingly the scarcity and shortage and/or non-availability of the drug would soon be a thing of the past. We, however, intend to issue some directions in this regard in the later part of our order.

23. In regard to the supply of oxygen we leave it to the wisdom of the State authorities and the other stakeholders to bring about a situation that oxygen would be made available to all the patients who are in its requirement in the treatment of Covid-19.

24. In regard to the bed management, we would require the respondents to make available information to the citizens not only of availability of beds in the Government hospitals, Municipal hospitals but also private hospitals. It should be on a web portal and also by a helpline which would be operational and kept working 24 x 7 without any default. A non-response to any enquiry on availability of beds from a needy person, would not be tolerated.

25. In so far as the RT-PCR tests are concerned, we find much substance in case of the petitioner that the results of the RT-PCR test are required to be made available within 24 hours. We also appreciate the concern of the petitioner that in view of the surge in the Covid-19 cases, the State

Government is required to issue permission to more number of laboratories who can undertake such tests, so that the pressure on the existing laboratories is reduced and the citizens do not suffer on this count. We would accordingly intend the respondents to file a reply affidavit in regard to the issues raised by the petitioner.

26. We are equally concerned as to whether the persons who are affected by Covid -19 and have become critical are persons smoking cigarettes and bidis, as it is by now well-known that the Covid-19 virus affects the lungs and weak lungs are affected more severely. We are informed that there are studies undertaken on this aspect. However, there is no such information available in the public domain from the either the State or the Central Government. If this is an issue which would matter and is fatal to the health of the citizens, we are of the opinion that measures would be required to be taken to ban sale of cigarettes and bidis during the pandemic time.

27. We would accordingly adjourn the hearing of this petition to enable the respondents to file their respective replies to the petition. However, in the meantime, we issue the following interim directions:

(1) In so far as the supply of drug Remdesivir is concerned, the respondents are directed to take all possible steps to make available such drug to the Covid-19 affected patients in the following manner:

- (i) The patient or his relatives shall not be made to run from pillar to post to find out/locate the drug.
- (ii) The drug should be made available to the concerned patient at the hospital/Covid center where he is being treated.
- (iii) To ensure the availability of the drug a Nodal Agent with the helpline number with adequate staff at its disposal to undertake the supply of the drug at the required hospital/Covid center shall be appointed.
- (iv) It would be an absolute obligation on the part of the State to keep the helpline number in operation all over the State for 24 hours.

(2) The State is directed to consider granting permission to more laboratories to undertake the RT-PCR tests and Rapid Antigen Tests, who would work as per the protocol involving the ICMR and the NABL. A decision in that regard be taken within one week from today and the eligible laboratories/centers be granted such permissions to undertake the RT-PCR tests and Rapid Antigen Tests.

(3) We direct the Central Government and the State Government to place on record the response and the data in regard to the victims of Covid-19 who were addicted to smoking;

(4) We direct the State Government to establish a portal and a helpline number concerning the availability of different category of beds in Government hospitals, Municipal Corporation hospitals and private hospitals, so as to bring about a situation that no patient is deprived of treatment, for want of bed.

(5) We direct the State Government that all measures be taken to increase and regulate the supply of oxygen to all the government and private hospitals in the State and at the earliest notify a mechanism so that the specific needs at different places/hospitals can be identified and supply can be accordingly regulated.

(6) Ordered accordingly.

28. We would be failing to our duty if we do not appreciate the steps taken by the Central Government and the State Government to control the pandemic and of the medical fraternity, however, as noted above, our concern is also to the duty of every citizens towards the society at large, which, in our opinion appears to have been neglected which is one of the reasons that the second wave has hit us. It is well established that every legal right has a corresponding legal duty. If the fellow citizens fail to take all precautions and fail to discharge their duty towards the society, it would certainly create further complications and make it difficult to arrest the spread of the pandemic. It is high time that every citizen

undertakes to discharge his solemn obligation towards the society and refrain from indulging into such activities which would bring about a further surge in the spread of this deadly virus.

29. We adjourn the proceedings to **4th May 2021**. Let the reply affidavit be filed within one week from today; rejoinder, if any, may be filed within three days thereafter.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)