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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5126/2021**

DELHI MEDICAL ASSOCIATION Petitioner

versus

UNION OF INDIA THROUGH SECRETARY & ANR.

+ **W.P.(C) 5142/2021 & CM APPL. 15757/2021**

MANISHA GUPTA Petitioner

versus

GOVT, OF N.C.T OF DELHI & ANR. Respondent

+ **W.P.(C) 3031/2020 & C.M. No. 15227/2021, C.M. No. 15228/2021**
C.M. No. 15229/2021, C.M. No. 15358/2021, C.M. No. 15359/2021
C.M. No. 15360/2021, C.M. No. 15361/2021, C.M. No. 15362/2021
C.M. No. 15363/2021, C.M. NO. 15481/2021, C.M. 15482/2021,
C.MNO. 15652/2021, CMNO. 15653/2021, C.M.NO. 15845, CM.
NO. 15869/2021, C.M.No. 15962/2021, C.M. Nos. 16081-85/ 2021.

RAKESH MALHOTRA Petitioner

versus

GOVERNMENT OF NATIONAL CAPITAL

TERRITORY OF INDIA AND ORS

..... Respondents

+ **W.P.(C) 4970/2021 & CM APPL 15223/ 2021, CM APPL**
15224/2021, CM APPL 15225/2021, CM APPL 15226/2021, CM
APPL. 15249/2021, CM APPL. 15250/2021/2021, CM APPL.
15251/2021, CM APPL15252/ 2021, CM APPL 15603/2021

BALAJI MEDICAL AND RESEARCH CENTER..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

+ **W.P.(C) 4971/2021 & CM APPL. 15236/2021**

GANESH DAS CHAWLA CHARITABLE

TRUST (REGD)

..... Petitioner

versus

UNION OF INDIA

..... Respondent

+ **W.P.(C) 4984/2021 & CM APPL. 15279/2021, C.M. NO.**
15777/2021, CM NO. 15778/2021, CM NO. 15779/2021

M/S. BRAM HEALTH CARE PRIVATE LIMITED..... Petitioner



- versus
UNION OF INDIA & ANR. Respondent
+ **W.P.(C) 4985/2021 & C.M. No. 15922/2021**
BATRA HOSPITAL AND MEDICAL
RESEARCH CENTRE Petitioner
- versus
UNION OF INDIA & ORS. Respondents
+ **W.P.(C) 5001/2021**
MAHARAJA AGRASEEN HOSPITAL
CHARITABLE TRUST Petitioner
- versus
UNION OF INDIA AND ORS Respondents
+ **W.P.(C) 5002/2021**
M/S BHAGAT CHANDRA HOSPITAL Petitioner
- versus
UNION OF INDIA
THROUGH SECRETARY & ANR. Respondents
+ **W.P.(C) 5003/2021**
M/S JAIPUR GOLDEN HOSPITAL Petitioner
- versus
UNION OF INDIA
THROUGH SECRETARY & ORS. Respondents
+ **W.P.(C) 5024/2021 & CM APPL. 15397/2021**
SHANTI MUKAND HOSPITAL Petitioner
- versus
UNION OF INDIA AND ORS. Respondents
+ **W.P.(C) 5026/2021 & CM APPL. 15401/2021**
VINAY JAIDKA Petitioner
- versus
CHIEF SECRETARY Respondent
+ **W.P.(C) 5050/2021 & CM APPL. 15464/2021, CM APPL. 15465/2021, CM APPL. 15466/2021, CM APPL 15694/2021**
BHAVREEN KANDHARI Petitioner



- versus
GOVT OF NCT OF DELHI & ORS. Respondents
- + **W.P.(C) 5073/2021 & CM APPL. 15529/2021**
VENKATESHWAR HOSPITAL Petitioner
- versus
GOVERNMENT OF NCT OF DELHI & ORS. Respondents
- + **W.P.(C) 5085/2021 & CM APPL. 15581/2021, CM APPL. 15582/2021**
EHILARASAN ALIAS SHANKAR Petitioner
- versus
UNION OF INDIA & ORS. Respondents
- + **W.P.(C) 5100/2021 & CM APPL. 15623/2021**
MANISHA GUPTA Petitioner
- versus
GOVT, OF N.C.T OF DELHI & ANR. Respondents
- + **W.P.(C) 5102/2021 and CM Nos. 15635/2021 & 15636/2021**
ASEEMIT SOCIAL PROJECTS FOUNDATION Petitioner
- versus
UNION OF INDIA & ANR. Respondents

MEMO OF APPEARANCE

For the petitioners

Mr.Sacchin Puri, Senior Advocate with Mr.Praveen K. Sharma and Mr.Dhananjay Grover, Advocates for the petitioner in W.P.(C) Nos. 5100/2021

Petitioner in person in W.P.(C) No.3031/2020.

Mr.Mahesh Agarwal, Mr.Rishi Agrawala, Mr.Karan Luthra, Mr.Ankit Banati, Advocates in WP(C) No. 4970/2021.

Mr. Himanshu Dagar, Advocate for applicant in C.M. No. 15648/2021 in W.P.(C.) No. 4970/2021.

Mr. Ajay Kohli, Ms. Priyanka Ghorawat, Mr. Raghav Marwaha, Advocates



for Delhi Heart and Lung Institute.

Ms. Prabhsahay Kaur, Advocate for in W.P.(C) No. 4971/2021.

Mr. Priyadarshi Manish and Mrs. Anjali J. Manish, Advocates in W.P.(C) No.4984/2021.

Mr. Sidharth Dave, Senior Advocate with Ms. Varuna Bhandari, Ms. Bhakti Vardhan, Mr. Tushar Thareja, Mr. Akhil Mittal, Advocates in W.P.(C) No. 4985/2021.

Mr. Alok Kr. Aggarwal, Ms. Anushruti, Ms. Supreet Bimbora and Ms. Simran Arora, Advocates in WP (C) No. 5001/2021.

Mr, Sachin Datta & Mr. G. Tushar Rao, Senior Advocates with Mr. Dinesh Sharma, Ms. Ritika Jhurani, Ms. Jipsa Rawat, Advocates along with Mr.D.K. Baluja, Medical Director, Jaipur Golden Hospital in W.P. C Nos. 5002-5003/2021& 5126/2021.

Mr. Maninder Singh, Senior Advocate with Mr. Aarush Bhatia, Advocate in W.P.(C) No. 5024/2021.

Mr. Satish Aggarwala & Mr. Gagan Vaswani, Advocates in W.P.C No. 5026/2021.

Mr. Krishnan Venugopal, Senior Advocate with Mr. Manan Verma, Mr. Aditya N Prasad, Mr. Kaushik Mishra & Ms. Anmol Srivastava, Advocates in W.P.C No. 5050/2021.

Mr. M.K. Gahlaut, Advocate in W.P.C No. 5081/2021.

Mr. Mohit Chaudhary & Mr. Kunal Sachdeva, Advocates in W.P.(C.) No.5085/2021

Ms. Karuna Nundy, Mr. Sarthak Maggon & Ms. Upasana, Advocates in W.P.(C.) No. 5102/2021.

Mr Sudhir Mishra, Ms. Petal Chandhok, Ms Rupali Gupta and Mr. Raghav Seth, Advocates in W.P.C No. 5073/2021.

Mr. Siddharth Chechani, Advocate in W.P.C No. 5103/2021.

Mr. Abhinav Vashisht, Sr. Adv. with Mr. Sacchin Puri, Sr. Adv., Mr. JS Bakshi, Sr. Adv. with Mr. Praveen K. Sharma, Mr. Dhanjay Grover, Mr. Kamil Khan and Ms. Akshita Sachdeva, Adv. in W.P.(C) No. 5142/ 2021.

For the respondents

Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Aishwarya Bhati, ASG along with Ms. Monika Arora, Mr. Amit Mahajan, Mr. Anil Soni & Mr. Anurag Ahluwalia, CGSCs, Mr. Syed Husain Adil Taqvi, GP, Mr. Jivesh Kr. Tiwari, Ms. Nidhi Parashar, Mr. Kanu Aggarwal, Mr. Kritagya



Kumar Kait, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg & Mr. Vinay Yadav, Advocates for UNION OF INDIA in all the matters.

Mr. Rahul Mehra, Senior Advocate along with Mr. Satyakam, Mr. Santosh Tripathi, SC Mr. Gautam Narayan, Mr. Anuj Aggarwal & Mr. Anupam Srivastava, ASCs with Mr. Aditya P. Khanna, Ms. Dacchita Sahni, Ms. Ritika Vohra and Mr. Chaitanya Gosain, Ms. Aayushi Bansal, Advocates for GNCTD in all the matters.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae), Mr. Anandh Venkataramani, Mr. Vinayak Mehrotra, Ms. Mansi Sood, Mr. Karthik Sundar, Ms. Sonal Sarda, Mr. Areeb Y Amanullah, Advocates in all the matters.

Mr. Anil Grover, Senior Additional Advocate General for Haryana along with Ms. Bansuri Swaraj, Additional Advocate General for Haryana and Mr. Siddhesh Kotwal, Ms. Manya Hasija & Ms. Ana Upadhyay, Advocates.

Mr. Aseem Chaturvedi & Mr. Ajay Bhargav, Advocates for M/s INOX.

Mr. Divya Prakash Pande, Advocate for South Delhi Municipal Corporation.

Mr. Abhinav Tyagi, Advocate for M/s Seth Air Products.

Ms. Malvika Trivedi, Senior Advocate with Mr. Tanmay Yadav, Ms. Abhisree Saujanya, Ms. Nihaarika Jauhari, Ms. Eysha Marysha, Ms. Vidhi Jain, Advocates along with Ms. Kritika Gupta, applicant in person. Ms. Garima Prashad, Senior Advocate with Mr. Abhinav Agrawal, Advocate.

Mr. Ankur Mahindro & Ms. Sanjoli Mehrotra, Advocates for intervener.

Mr. Om Prakash & Mr. Pradeep Kumar Tripathi, Advocates for the applicant in C.M. No. 15651/2021.

Mr. Rohit Priya Ranjan, Advocate for M/s Goyal Gases.

Mr. Abhishek Nanda, Advocate for IRDAI.

Mr. Anupam S Sharma, SPP-CBI with Mr. Prakarsh Airan, Ms. Harpreet Kalsi, Advs in W.P.(CrI)953/2021.

Mr. Tushar Mehta, SG with Mr. Chetan Sharma, ASG, Mr. Satya Ranjan Swain, CGSC and Mr. Kautilya Birat, Mr. Vedansh Anand, Advocates in W.P.(C) No. 5126/2021.

Ms. Urvi Mohan, Adv. for DBOCWW Board.

Ms. Himanshi Nailwal with Mr. Ambuj Tiwari, Mr. Ankur Garg, Mr. Akhil Mitta, Advocates in C.M. No. 15922/21 in W.P.(C) No. 4985/2021.

Ms. Nitya Ramakrishnan, Sr. Adv. with Mr. Prasanna S, Ms. Vinoothna Vinjam and Mr. Ritesh D, Advocates in C.M. NO. 15962/2021.



Ms. Shweta Kabra, Advocate for India Glycols Limited.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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11.05.2021

1. At the outset, Mr.Rajshekhar Rao, the learned Amicus Curiae has drawn our attention to the issue of children orphaned by COVID being exposed to abuse and neglect. He submits that children – whose both, or one parent is hospitalised, while the other is attending to the hospitalised patient, are also very valuable and need care and attention. He has suggested that the helpline number of 1098, created by the GNCTD to address such complaints and provide assistance may be more widely publicized in order to create awareness. The said publication being in local languages, could also make a larger impact. He has also expressed concern for children with special needs, who might be especially dependent on their families and stated that the same requires urgent consideration by the government. He has suggested that the GNCTD be directed to submit a report on the steps taken to address these factors in a weeks' time.

2. Ms.Prabhsahay Kaur, Advocate submits that based on the extensive work she has been doing with a non-profit organization in the same field, she has provided a note with suggestions to the Amicus Curiae for consideration. She also states that the two helpline numbers created by the GNCTD, which are providing assistance to minors affected by Covid i.e. 1098 and senior citizens affected by Covid i.e. 1077 could be made a part of



the announcements being made at police barriers/check-points in order to ensure that all strata of society have knowledge of the same.

3. The aspects taken note of hereinabove brook no delay and are of utmost importance. We direct the GNCTD to widely publicise the helpline Nos. 1098 and 1077 using the print and audio – visual media forthwith with prominence. The State is directed to activate the *Anganwadi* workers, and the child care institutions in the NCT of Delhi, under the Juvenile Justice Act which, we are informed, are about 72 in number, and are present in each district of the NCT of Delhi. Compliance be reported on 13.05.2021.

4. Mr.Rajshekhar Rao has then drawn our attention to the issue of creating a buffer of medical Oxygen in the city in accordance with the direction of the Supreme Court. In response Mr.Rahul Mehra, learned senior counsel for the GNCTD, informs us that the GNCTD has addressed this issue in an expeditious manner by creating a buffer stock of Oxygen using the storage tanks owned by the three main oxygen suppliers to the city by way of a temporary arrangement, which will be transferred to the storage tanks purchased and installed by the GNCTD, which are likely to be delivered soon. Mr. Mehra informs us that this buffer stock has already started to serve the purpose it was created for, since SOS calls by hospitals have dropped to an all-time low since the crisis began. The Union of India should also take steps in this regard, in co-operation with the GNCTD, since the Supreme Court has cast this responsibility on both the Governments.

5. Mr. Mehra has informed us that the State plans on augmenting bed capacity in the city by 1500 beds in the next few days. 500 ICU beds have already been made operational at a huge facility set up near Ram Lila Maidan, 500 more beds are coming into operation even as he speaks. We



have expressed our concern at the beds being set up by the GNCTD being ineffective, if adequate medical infrastructure to transform them into fully functional beds, is not made. A severe shortage of medical professionals in the city is a grave issue that must be addressed while augmenting the bed capacity. During these proceedings Mr. Rao and Mr. Mahajan have brought to our knowledge instances of patients not receiving adequate care due to shortage of medical attention. We would like the GNCTD to provide a response in respect of these grievances.

6. Dr. Nutan, Director General of Health Services, GNCTD has also joined the proceedings today in order to respond to our queries regarding this aspect. She has stated that in some hospitals, under exceptional circumstances, such as for young children etc. the government hospitals consider requests to allow an attendant from the family to look after them on a case-to-case basis while informing them about the risk involved in a COVID ward. She has stated that the aspect of allowing family members to attend to vulnerable patients, such as children and senior citizens, as a practice can be examined. Regarding the issue of families not being able to obtain accurate and real time updates about their patient, we are informed by Dr. Nutan that every hospital has a helpline number, which can be reached out in order to receive better information. On the subject of shortage of medical staff, we are told that more recruitments are being done by the GNCTD on a daily basis by a walk-in interviews. Apart from this, Ad-hoc appointments are also being made to increase the number of doctors on duty in the city. She has however, informed us that despite their best efforts the GNCTD has received fewer applications then expected and is facing



limitations in hiring. The plan to provide adequate medical/ para medical staff should be placed before the Court.

7. The next issue raised by Mr. Rao, is regarding the methodology being adopted by the Central Government for ensuring that all cylinders, concentrators and other equipment received as aid/donations from other countries are distributed between states and UTs (including policy of distribution and their ultimate utilization by patients). The concern expressed by Mr.Rao is that these equipment, which are being allocated to Delhi, are being mostly allocated to Central Government Hospitals which already appear to be adequately equipped and, therefore, may not be in need of the additional equipment. Mr.Jivesh Trivedi appears for the Central Government and highlights that a standard operating procedure created by the Ministry of Health and Family Welfare has been adopted for the same.

8. Before delving into this issue, we deem it appropriate to direct the Central Government to file a status report in this regard setting out the data about the institutional allocation of aid/donation allocated for Delhi.

9. The next issue brought to our notice by the Amicus is regarding Plasma donations. Mr. Rao has informed us that, he attempted to use the link to obtain Plasma for someone in need from the portal of the GNCTD. He submits that it has been over four hours and he is yet to receive a response. Based on his personal experience, he has flagged two key aspects that require improvement. The first being that the form appears to suggest that having a donor, in order to receive Plasma, is optional. The second aspect is the turnaround time between the request being made and a response being provided by the GNCTD. Since Convalescent Plasma Therapy is only prescribed when a patient is critical, the time taken to respond of four hours



or more makes it a wholly ineffective exercise. He submits that the plan for the Government to augment Plasma supplies is yet to be placed before the court, and concrete steps must be taken to address the issue of shortage on a priority basis.

10. In response to this Mr. Mehra has stated that the government has made public appeals to citizens to donate their plasma once they recover, through different mediums. However, there remains an acute shortage of donors.

11. We have suggested that the GNCTD should come out with print and audio-visual campaign to create an impact and connect with the public. Mr. Mehra has further submitted that beside the ILBS – which is now working 24X7, one new centre for Plasma collection has been open at LNJP, but that said centre is quite small. He, therefore, suggests that private Hospitals beyond a certain bed capacity, may be directed to house a Plasma Bank in the same way that they are required to run their own Blood Banks.

12. Mr. Aditya Prasad, Advocate appearing for the petitioner in W.P.C No. 5050/2021 has, while recounting his personal experience at the ILBS stated that the time which the donors are required to spend at ILBS for donating Plasma appear to be serving as a deterrent, since the process consumes the better part of a day in ILBS, Vasant Kunj.

13. Dr. Meenu Bajpai from ILBS has also joined the proceedings and has stated that the mandatory requirement to follow the legal formalities, adhering to the procedure laid out in the Drugs and Cosmetics Act, as well as the logistics involved make the process time consuming. She has also informed us that there is a significant difference between Blood donation and Plasma donation, and therefore the procedure for both cannot be



compared. We have suggested that the paper work can be expedited, if the physical transportation of forms from the treating hospital to ILBS, Vasant Kunj could be done electronically by using digital signatures. Mr. Mehra seeks time to examine the same.

14. Upon our suggestion that the administrative requirements especially those relating to getting a Form filled by the treating Doctors at the Hospital where the donated plasma is proposed to be used, may be streamlined. Mr.Mehra seeks time to obtain instructions and respond.

15. Mr. Rao also pointed out that the Central Government, had initiated steps to cap the prices of Oxygen concentrators but left the same incomplete. Let the Central Government disclose the steps taken in this regard by 17.05.2021.

16. At request, list on 12.05.2021.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 11, 2021

Sr/nk