

IN THE HIGH COURT OF BOMBAY AT GOA

***PUBLIC INTEREST LITIGATION WP NOS.1172 OF 2021,
1173 OF 2021 & 1174 OF 2021 (filing)***

and

***MISCELLANEOUS CIVIL APPLICATION NO.1196/2021 &
1197/2021 (F)***

IN

PUBLIC INTEREST LITIGATION WP NO.1173 OF 2021(F)

STATE OF GOA, THR. ITS
ADDL. SECRETARY, (HEALTH)

... Applicant/Original
Respondent No.1

IN

ARMANDO GONSALVES
AND ANR.

..... Petitioners.

Versus

STATE OF GOA, THR. ITS
CHIEF SECRETARY AND 2 ORS.

..... Respondents.

Mr. D.J. Pangam, Advocate General with Mr. D. Shirodkar, Additional Govt. Advocate in MCA (F) No.1196/2021 and Ms. M. Correia, Additional Govt. Advocate in MCA (F) No.1197/2021 for Applicant/Original Respondent/State.

and

MISCELLANEOUS CIVIL APPLICATION NO.1198/2021 (F)

IN

PUBLIC INTEREST LITIGATION WP NO.1172 OF 2021(F)

ADV. AMIT PALEKAR
MEMBER OF APPLICANT NO.2.

... Applicant No.1

COVID SERVICE GOA
THROUGH CO-FOUNDERS
MRS. DISHA NAYAK SARDESAI

AND SIDDHARTH S. SARDESAI ... Applicant No.2

Advocate Mr. Amit Palekar, Applicant no.1 in person and for Applicant No.2.

IN

PUBLIC INTEREST LITIGATION WP NO.1172 OF 2021

SOUTH GOA ADVOCATES
ASSOCIATION, THR. ITS
PRESIDENT, ANTONIO
CLOVIS DA COSTA AND ANR. Petitioners.

Versus

STATE OF GOA, THR. THE
CHIEF SECRETARY, GOVT.
OF GOA AND 4 ORS., Respondents.

Mr. Nikhil Pai, Advocate for the Petitioners.

Mr. D.J. Pangam, Advocate General with Ms. Ankita Kamat,
Additional Govt. Advocate for Respondents No.1, 4, and 5.

Mr. P. Faldessai, Assistant Solicitor General, and Mr. R. Chodankar,
Central Govt. Standing Counsel for Respondent No.2.

Mr. Ryan Menezes with Ms. Gina Almeida, Advocates for Respondent
No.3.

PUBLIC INTEREST LITIGATION WP NO.1173 OF 2021

ARMANDO GONSALVES
AND ANR. Petitioners.

Versus

STATE OF GOA, THR. ITS
CHIEF SECRETARY AND 2 ORS. Respondents.

Mr. Akash Rebello with Mr. Rui Gomes Pereira, with Mr. Varun
Bhandanker, Advocates for the Petitioners.

Mr. D.J. Pangam, Advocate General with Ms. Maria Correia,
Additional Govt. Advocate for Respondent No.1.

Mr. P. Faldessai, Assistant Solicitor General, and Mr. R. Chodankar, Central Govt. Standing Counsel for Respondent No.2.

Mr. Ashish Swar, Petitioner in person in Email Letter dated 05.05.2021.

Mr. Durgadas Kamat, Petitioner in person in Email Letter dated 05.05.2021.

PUBLIC INTEREST LITIGATION WP NO.1174 OF 2021

ROSHAN MATHIAS AND ANR. Petitioners.

Versus

THE STATE OF GOA, THR.

ITS CHIEF SECRETARY AND 4 ORS Respondents.

Mr. Nigel Da Costa Frias, with Mr. Vishal Sawant and Mr. G. Malik, Advocates for the Petitioners.

Mr. D.J. Pangam, Advocate General with Mr. Deep Shirodkar, Additional Govt. Advocate for the Respondent/State.

Mr. V. Rodrigues, Advocate for M/s. Scoop Industries Pvt. Ltd.

Mr. Puneet Kumar Goel, Principal Secretary (Finance), State of Goa.

Mr. Ravi Dhawan, Secretary (Health), State of Goa.

Dr. Tariq Thomas, Secretary, Urban Development, State of Goa.

Dr. Shivanand Bandekar, Dean, Goa Medical College, Bambolim.

Dr. Viraj Khandeparkar, Nodal Officer, Goa Medical College, Bambolim.

***Coram: M.S. Sonak &
Nitin W. Sambre, JJ.***

Date: 13th May 2021.

P.C. :

Heard learned counsel for the parties.

2. We have also heard Mr. Ravi Dhawan, Secretary (Health) and Dr. Tariq Thomas, Secretary, Urban Development, Dr. Shivanand Bandekar, Medical Superintendent/In-charge Dean, Goa Medical College and Dr. Viraj Khadeparkar, Nodal Officer.

3. Despite our order dated 12.05.2021, we sadly record that even today, it is reported that there were almost 40 Covid related casualties at the Goa Medical College. Out of these around 15 took place between the dark hours of 2.00 a.m. and 6.00 a.m.

4. The position of casualties at Goa Medical College has already been referred to by us in our order dated 12.05.2021. From 01.05.2021 onwards, this is the position of casualties at Goa Medical College. Out of these, several casualties have taken place between the dark hours of 2.00 a.m. and 6.00 a.m.

5. Now today, again, we are assured by the learned Advocate General as well as the Health Secretary that there is no dearth as such of oxygen. They have pointed out that the Central Government has now increased the quota for Goa, having regard to the overwhelming number of Covid victims in the State of Goa. They have assured this Court that they are continuously following up the matters with the Central Government, so that, such quota is actually received in the State of Goa at the earliest. We also direct the Central Government to

ensure that the allotted quota is made available to the State at the earliest.

6. On our query as to why the deaths have taken place last night, we were explained that there were logistical issues involved in maneuvering the tractor which carries the trolleys of oxygen and in connecting the cylinders to the manifold. We were explained that during this process there was some interruption, which resulted in fall of pressure in the supply lines of oxygen to the patients. It was pointed out that it is basically on account of these factors some casualties may have taken place.

7. At the outset, while we appreciate the efforts being made by all concerned, we are quite pained that such logistical issues should give rise to such serious consequences to the Covid victims. We expect the State Administration to find out ways and means to overcome these logistical issues, so that, precious life is not lost on account of any deficiencies in the matter of supply of oxygen to the patients.

8. Today, the Health Secretary has made statements before us to the following effect:-

(i) that the Dura Cylinders referred to in our earlier order dated 12.05.2021 will be positively installed and made operational at the Goa Medical College today itself. He submitted that such Dura

Cylinders, to some extent, will assist in tiding over the difficulties which invariably arise at the time when one set of cylinders/trolleys is replaced by another;

(ii) that the efforts are already being made to engage services of expert drivers to drive and manoeuvre the tractors for transportation of trolleys from the plant at Corlim to the Goa Medical College. Mr. Dhawan stated that all efforts will be made to see that such drivers join duties from tomorrow itself;

(iii) Mr. Dhawan also stated that almost 323 oxygen concentrators are being flown into the State and will be available for use at the Goa Medical College by today itself.

(iv) Mr. Dhawan also stated that the oxygen supply position as on 12.05.2021 will also continue on 13.05.2021 as well as for the next few days. He stated that efforts will be made to augment this supply position as well.

9. Mr. Rodrigues, the learned counsel for M/s. Scoop Industries Pvt. Ltd., which has the plant at Corlim and which supplies oxygen to the Goa Medical College, stated that their technician will attend the Goa Medical College today itself and see that the two Dura Cylinders are made operational. He submitted that the oxygen supply position will be maintained, without, in any manner compromising the oxygen

supply position to other hospitals and facilities. He submitted that the State Government should take all steps to arrange for the quota sanctioned by the Central Government.

10. In addition to the aforesaid, Mr. Dhawan, the Health Secretary has informed this Court that steps are already been taken to install a tank for storage of oxygen at the Goa Medical College itself. He submitted that this installation will be undertaken by M/s. Praxair India Pvt. Ltd. and will be completed by 17.05.2021. He pointed out that the tank was originally used for storage of Nitrogen and, therefore, the same will have to undergo some process before it can be used for storage of oxygen. We direct the State Administration to take all steps necessary to ensure that the installation is completed by 17.05.2021. This is because it is pointed out to us that once this tank is installed, the issue of uninterrupted supply of oxygen will be sorted out to a great extent.

11. We accept the aforesaid statements made to the Court and direct all concerned to act accordingly. The Health Secretary will have to file a status report tomorrow by 6.00 p.m. by e-mail. If we are satisfied with the status report, we will hold further proceedings on 17.05.2021. However, if we are not satisfied with the status report or if we feel that any further directions are necessary, then, we make it clear that we will hold the proceedings on 15.05.2021, even though it is a Saturday.

Accordingly, all concerned, to remain prepared for the proceedings that may be held either on 15.05.2021 or 17.05.2021.

12. Dr. Khandeparkar, Nodal Officer, submitted that as of now there is no serious issue of oxygen flow meters. In any case he submitted that steps are being taken to augment the flow meters to cope up with the increase in Covid patients.

13. The learned Advocate General makes a statement that the issue of filling up of empty cylinders, particularly by NGOs like Red Cross, Rotary Club and other individuals will be sorted out by this evening. He submits that in respect of genuine cases, arrangements will be made to issue the necessary NOCs so that there is no serious difficulty in having these cylinders filled up. He states that the authorities who are to issue such NOCs will be available to such parties, so that there is no delay in issuance of NOC in genuine and deserving cases. He states that some system will be put in place so that there are no difficulties on this score. This statement is both, accepted as well as appreciated.

14. Stand over to 17.05.2021.

NITIN W. SAMBRE, J.

M. S. SONAK, J.