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**THE HIGH COURT OF JUDICATURE FOR MADHYA**  
**PRADESH AT JABALPUR**

**(Division Bench)**

**W.P. No.8914/2020**

***In Reference (Suo Motu) vs. Union of India and others)***

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**Coram:**

**Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice**  
**Hon'ble Mr. Justice Atul Sreedharan, Judge**

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**Presence :**

Mr. Naman Nagrath, Senior Advocate with Mr. Jubin Prasad, Advocate appeared as *Amicus Curiae*.

Mr. Purushaindra Kaurav, Advocate General, Mr. Pushpendra Yadav, Additional Advocate General and Mr. Swapnil Ganguly, Deputy Advocate General for the respondents/State along with Mr. Mohammad Suleman, Additional Chief Secretary, Directorate of Health Services, Govt. of M.P. and Ms. Chhavi Bhardwaj, Managing Director, National Health Mission, M.P.

Mr. Jitendra Kumar Jain, Assistant Solicitor General and Mr. Vikram Singh, Advocate for the Union of India.

Mr. Shivendra Pandey, Advocate for the respondent No.5 - Indian Medical Association.

Mr. Shreyas Pandit, Advocate for the respondent No.8 - Madhya Pradesh Nursing Home Association.

Mr. A.M. Mathur, Senior Advocate assisted by Mr. Abhinav P. Dhanodkar, Advocate for the intervenor/Shanti Manch Samiti.

Mr. Manoj Kumar Sharma, Advocate-President, High Court Advocates' Bar Association, Jabalpur; Mr. Shashank Shekhar

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Dugwekar, Mr. Ajay Gupta; Mr. Sanjay Kumar Verma; Mr. Sanjay K. Agrawal; Mr. Ajay Raizada, Mr. Rajesh Chand; Mr. Anoop Nair; Mr. Nikhil Tiwari; Mr. Sampooran Tiwari; Mr. Asheesh Poddar; Mr. Gaurav Panchal; Mr. Ashutosh Sharma; Mr. Dinesh Kumar Upadhyay; Mr. Zaki Ahmad; Mr. Sunil Gupta; Mr. Rahul Gupta; Mr. Rohit Jain; Mr. Aditya Dev; Mr. Yash Sharma; and Mr. Ashish Mishra; Advocates appeared for the respective intervenors.

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Whether approved for reporting: No.  
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Heard through Video Conferencing.  
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## **O R D E R (Oral)**

**(19.05.2021)**

**Per: Mohammad Rafiq, Chief Justice:**

1. Heard on **IA-4854-2021:**

This interlocutory application has been filed by one Mr. Lakhan Sharma pursuant to an order dated 17.05.2021 passed by this Court in W.P. No.9405/2021 (*Lakhan Sharma vs. The State of M.P. and others*) thereby granting him liberty to intervene in *Suo Motu* Writ Petition No.8914/2020.

The petitioner, in the aforesaid W.P. No.9405/2021, had made various prayers including a prayer that the respondents-State authorities be directed to provide the recovered/seized Remdesivir injections for being distributed to general patients after obtaining approval from medical experts that they are fit to be used. In the interlocutory application, it has been submitted that since various lots

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of Remdesivir injections, which have been seized by the police at different places of the State, happen to be the case property, the State authorities are not taking any steps to get them released from the Court concerned with reference to the provisions contained in Section 451 read with 457 of the Cr.P.C.

Learned Advocate General submitted that the State Government, in this respect, shall take appropriate steps to move the court concerned for obtaining delivery of different lots of seized Remdesivir injections.

In view of the nature of the prayer made and considering that if not used timely, the Remdesivir injections are likely to go waste, we deem it appropriate to allow the present application with a direction to the State authorities to get the seized Remdesivir injections tested through the State Forensic Science Laboratory or any other appropriate agency, to find out whether or not, the drugs, which have been seized, are genuine Remdesivir injections and to the extent the seized vials of the Remdesivir are found to be genuine, the Chief Medical & Health Officer of the concerned district would make an application before the appropriate Court for taking delivery of such seized drugs, which shall pass the required orders in that behalf, within a period of three days from the date of filing of the application, so that the medicine can be provided to needy patients before its expiry.

Accordingly, I.A. No.4854/2021 stands **disposed of**.

2. Also heard on [WWW.LIVELAW.IN](http://WWW.LIVELAW.IN) IA-4793-2021:

This application has been filed by Mr. Naman Nagrath, learned *Amicus Curiae* stating that the following ventilators are either lying uninstalled or unused in different parts of the State:

- (i) 76 ventilators at Bundelkhand Medical College, Sagar;
- (ii) 24 ventilators at Government Hospital, Shahdol;
- (iii) 2 ventilators at Alirajpur;
- (iv) 2 ventilators at Katni.

Learned *Amicus Curiae* submitted that most of these ventilators could not be used on account of non-availability of expert technicians.

Mr. P.K. Kaurav, learned Advocate General submitted that out of 76 ventilators situated at Bundelkhand Medical College, Sagar, 70 ventilators have already been made operational and report from the Superintendent of the Government Hospital, Shahdol has already been called regarding 24 ventilators lying there. He submitted that efforts are being made to make all these ventilators functional in the entire State. He undertakes to apprise the Court about the current situation of these and other ventilators lying at Alirajpur and Katni on the next date of hearing.

The respondent-State shall place on record a report showing as to how many ventilators were obtained under the PM Cares Fund and how many are procured by the State Government on its own and how many of them are functional. The data shall be produced on record as to the availability of ventilators in all the Government/District

Hospitals of the State.

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On the next date of hearing, the learned Advocate General shall give specific response as to why direction No.5 contained in earlier order of this Court dated 19.04.2021 has not been complied with so far and what the State Government proposes to do with regard to rationalization of the charges by the private hospitals and for fixation of the capping thereof.

Matter to come up on **24.05.2021**.

**(Mohammad Rafiq)**  
**Chief Justice**

**(Atul Sreedharan)**  
**Vacation Judge**

s/s@if