

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.353 of 2021

Shivani Kaushik

... .. Petitioner/s

Versus

Union of India

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 17398 of 2018

Rohit Kumar

... .. Petitioner/s

Versus

The State of Bihar and Ors.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 9639 of 2021

Gaurav Kumar Singh

... .. Petitioner/s

Versus

The Union of India

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 353 of 2021)

For the Petitioner/s : Mr.Shivani Kaushik (In Person)

Mr. Mrigank Mauli

For the UOI : Mr.Dr.K.N.Singh (ASG)

For the State : Mr. Anjani Kumar, AAG-4

For Respondent No. 5 : Mrs. Binita Singh

For Respondent No. 6 : Mr. Shivender Kishore, Sr. Adv.

For PMC : Mr. Prasoon Sinha

For DMCH : Mr. Bindhyachal Rai

For GMC : Mr. Rabindra Kr. Priyadarshi

(In Civil Writ Jurisdiction Case No. 17398 of 2018)

For the Petitioner/s : Mr.Manish Kumar No 13

For the Respondent/s : Mr.Subhash Prasad Singh, GA-3

(In Civil Writ Jurisdiction Case No. 9639 of 2021)

For the Petitioner/s : Mr.Sumeet Kumar Singh

For the Respondent/s : Mr.Dr. K.N. Singh (ASG)



**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

and

**HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

6 17-04-2021 **Re: I.A. No. 1 of 2021**
in
CWJC No. 353 of 2020

Regard may be had to this Court's order dated 15.04.2021 in the present proceeding under Public Interest Litigation. The alarming incessant surge in COVID-19 cases in its second wave in the State of Bihar and the reported deficient healthcare infrastructure in the State has been taken cognizance of *suo motu* by Hon'ble the Chief Justice. On 15.04.2021 Mr. Pratyaya Amrit the Principal Secretary, Health Department, Government of Bihar had joined the online hearing of the present proceeding and had presented before us slides showing *three-tier* healthcare infrastructure viz. Covid Care Centre(CCC), Dedicated Covid Health Centre(DCHC) and Dedicated Covid Hospitals(DCH) available in the State of Bihar for treating COVID-19 patients, as on 15.04.2021, which has been briefly noted in our last order.

In compliance of this Court's order the Principal Secretary has transmitted to the Court the data which he had displayed on that day by sharing on screen through the slides. The said data/ statistics read as under:-



District wise status of CCC and DCHC

Sr. No.	District	Covid Care Centre (CCC)			Dedicated Covid Health Centre (DCHC)		
		No. of beds Available	No. of beds with Oxygen	No. of beds Occupied	No. of beds Available	No. of beds with Oxygen	No. of beds Occupied
1.	ARARIA	210	70	0	110	45	2
2.	ARWAL	140	10	14	100	30	0
3.	AURANGABAD	175	105	3	160	72	0
4.	BANKA	250	186	6	200	100	0
5.	BEGUSARAI	300	100	19	176	156	2
6.	BHAGALPUR	100	50	10	70	50	0
7.	BHOJPUR	400	120	39	100	100	0
8.	BUXAR	500	0	68	80	50	0
9.	DARBHANGA	388	119	0	200	100	26
10.	EAST CHAMPARAN	57	57	22	300	300	0
11.	GAYA	50	10	0	350	260	56
12.	GOPALGANJ	770	131	27	150	100	0
13.	JAMUI	295	120	0	20	15	0
14.	JEHANABAD	170	130	0	45	45	5
15.	KAIMUR	300	65	0	43	43	1
16.	KATIHAR	390	100	0	80	80	0
17.	KHAGARIA	396	0	0	50	50	0
18.	KISHANGANJ	200	65	8	120	115	0
19.	LAKHISARAI	306	100	0	50	50	0
20.	MADHEPURA	50	30	0	200	60	49
21.	MADHUBANI	1015	193	19	100	39	6
22.	MUNGER	82	42	0	399	145	17
23.	MUZAFFARPUR	100	5	0	60	60	0
24.	NALANDA	1015	50	0	100	100	6
25.	NAWADA	350	20	0	135	135	2
26.	PATNA	710	45	7	998	494	773
27.	PURNIA	640	225	2	453	429	1
28.	ROHTAS	434	280	11	130	100	5
29.	SAHARSA	100	20	0	184	100	0
30.	SAMASTIPUR	110	30	0	345	185	4
31.	SARAN	257	52	1	185	185	13
32.	SHEIKHPURA	100	20	19	50	50	0
33.	SHEOHAR	40	40	7	10	10	0
34.	SITAMARHI	455	135	0	200	55	4
35.	SIWAN	500	145	0	100	70	6
36.	SUPAUL	240	42	6	275	160	0
37.	VAISHALI	315	30	4	100	50	0
38.	WEST CHAMPARAN	200	0	0	320	233	2
	Total	12110	2942	292	6748	4421	980

COVID-19 – Isolation Center Report – Covid Care Centre, Patna

Name of Facility	General Bed	Oxygen Cylinder/Bed	Bed Occupied
DIET Center, Barh	100		



DIET Center, Bikram	100		
DIET Center, Masauri	100		
SDH Barh	30	10	
SDH Masauri	30	10	
Training Center Khiri More Paliganj	100		
TFC Kangan Ghat, Patna City	200	25	07
Radha Swami Satsang Kendra	50		
Total	710	45	07

COVID-19 – Isolation Center Report – Dedicated Covid Health Centre, Patna

Name of Facility	General Bed	Oxygen Cylinder/Bed	Bed Occupied
Hotel Patliputra Ashok	137	137	47
Total	137	137	47

COVID-19 –Dedicated Covid Health Centre (Private Hospitals), Patna

Sl. No.	Name of DCHC (Private Hospitals)	No. of Beds Available
1.	Arvind Hospital Pvt Ltd Ashok Raj, Patna-4	13
2.	Asian City Hospital	50
3.	Atlantis Hospital, Patna	30
4.	Artis Multispeciality Hospital	6
5.	Big Apollo Spectra Hospital, Patna	27
6.	Buddha Cancer Centre Pvt. Ltd., Patna	4
7	Capital Multispeciality Hospital, Patna	10
8.	Ford Hospital and Research Center Pvt. Ltd, Patna	55
9.	Gatewel, Hospital	13
10.	Himalaya Hospital	15
11.	Hi-tech Emergency Hospital, Patna	26
12.	Holy Promise Hospital, Patna	15
13.	Jagdish Memorial Hospital, Patna	28
14.	K.P.Sinha Memorial Super Speciality Hospital, Patna	28
15.	Medipark Hospital, Patna	35
16.	Mediversal Multi Super Speciality Hospital, Patna	25
17.	Medizone Hospital, Patna	20
18.	Nestiva Hospital, Patna	30
19.	Paras HMRI Hospital, Patna	55



20.	RN Superspeciality	5
21.	RAJESHWAR HOSPITAL, Patna	50
22.	Ruban Memorial Hospital Patliputra, Patna	91
23.	Sahyog Hospital Patliputra Colony, Patna	9
24.	Samarpan Trauma & Research Hospital	20
25.	Samay Hospital, Patna	45
26.	Samford Hospital, Patna	10
27.	Shri Murlidhar Memorial Nursing Home, Patna	15
28.	Shri Sai Hospital, Patna	40
29.	Sri Raj Trust Hospital, Patna	30
30.	Udyan Hospital, Patna	31
31.	NHSMC, Bihta	30
Grand Total		861

Status of Dedicated Covid Hospitals (DCH)

Sr. No.	Medical College and Hospital	General		ICU		No. of functional ventilators
		No. of beds Available	No. of beds Occupied	No. of beds Available	No. of beds Occupied	
1.	AIIMS, Patna	120	120	40	40	40
2.	ANMCH, Gaya	92	45	28	0	28
3.	Govt. Medical College, Bettiah	108	10	12	0	12
4.	JKTMCH, Madhepura	83	19	19	0	19
5.	JLNMCH, Bhagalpur	200	66	36	18	39
6.	NMCH, Patna	146	101	14	4	30
7.	DMCH, Darbhanga	120	49	7	6	5
8.	PMCH, Patna	112	90	25	25	25
9.	SKMCH, Muzaffarpur	64	22	10	0	4
10.	VIMS, Pawapuri, Nalanda	100	39	12	11	14
11.	ESIC Hospital, Bihta, Patna	50	10	10	0	10
		1195	571	213	104	226

There are certain aspects emanating on close analysis of the data as on 15.04.2021, which have immensely baffled us. We have noted in our last order also that on the one hand the COVID patients are running helter-skelter for admission in COVID Care Centers/ Dedicated



COVID Care Centers/ Dedicated COVID Hospitals, the figures presented by the Health Department represent that a large number, rather, most of the beds available for COVID patients are unoccupied. As against total 18858 beds available, only 1272 beds have been shown to have been occupied by COVID patients, most of them in the Hospitals located in Patna. No acceptable logic is coming forth to explain this startling phenomenon, as admittedly the patients in the state are being denied admission because of unavailability of beds, though, lack of awareness among affected people about availability of such facilities in all the Districts of the state is being cited as one of possible reasons why there is mad rush to Patna hospitals out of a sense of fury.

There is yet another aspect of the data furnished to this Court which has greatly puzzled us. This is an admitted fact that there is critical shortage of medical oxygen in the State which is the most essential component for treating COVID patients who require admission. The above data of the State Government shows, however, that huge number of beds are available with oxygen. This contradiction has remained unexplained.

In the today's *online* proceeding, Mr. Prataya Amrit, the Principal Secretary had joined and informed this Court about compliance of certain directions issued on 15.04.2021. Be it noted here



that availability of CT- Scan and X-ray machines are admittedly needed for medical evaluation of the health condition of COVID patients and deciding line of treatment in a given situation, which are unavailable in DCHCs. He has informed us that the State Government Department has placed orders for acquisition of portable X-ray machines for DCHCs and at-least 20 of them shall be installed within a month. The Court directs the State Government to ensure that the portable X-ray machines are positively acquired and installed within the aforesaid period, if not earlier.

In respect of availability of CT Scan machines, he has informed this Court that at-least in 16 district hospitals of the State of Bihar, CT Scan machines are available and for 14 other districts Letters of Intent (LoI) have been issued and shall be procured within three months. Let it be done with utmost expedition.

He has further informed this Court that in compliance of this Court's observations and direction on 15.14.2021, so as to make the residents of Bihar known about the available infrastructure, the Department has initiated a system of daily media briefing, disclosing all relevant information relating to location wise availability of facilities and infrastructure for treating COVID patients. He has further informed that this Court's direction for furnishing "CT" values in the RT-PCR test reports has been carried out. From 16.04.2021, CT values



are being mentioned in such reports. He has also informed this Court about the steps taken for emergency procurement of Remdesivir injection by invoking Section 50 of the Disaster Management Act. The Court takes judicial notice of acute shortage of Remdesivir injection in the State and its consequent illicit trade in black market. Learned Counsel representing the parties have informed this Court that the said drug is being sold in black market at a staggering price. This is matter of serious concern and the Court shall be constrained to pass appropriate orders if no befitting action is found to be taken by the State Government in this regard.

In response to the Court's query, as to whether the State Government has prepared a comprehensive action plan to meet the challenges arising out of present upsurge of COVID cases in the State of Bihar, Mr. Amrit has informed this Court that a High Level Meeting has been convened in this regard and tomorrow (18.04.2021) there shall be a joint meeting of all the District Magistrates and Superintendents of Police of the State. He has further stated that the State will come out with a comprehensive action plan by Monday (19.04.2021). We reiterate our observations and direct the State Government to prepare and come out with a comprehensive action plan by 19.04.2021, which must be put in public domain.

It was indicated in the last order of this Court that the State



Government may consider utilising the infrastructure available with Medanta Hospital located at Kankarbagh, established under the PPE mode. Mr. Amrit has informed this Court that a decision has been taken and the said infrastructure shall be utilised for dealing with the challenge which the State is facing because of upsurge of COVID cases. Further Rajendranagar Eye Hospital, which is a government hospital, has been decided to be utilised for admitting patients suffering from COVID-19. He has further informed that steps have been taken to increase number of beds in All India Institute of Medical Sciences, Patna (for short AIIMS, Patna) to 250 and Indira Gandhi Institute of Medical Sciences to 100.

Mr. Pandey, learned counsel appearing on behalf of AIIMS, Patna has informed this Court that presently there are 220 beds available in AIIMS, Patna out of which 40 are ICU beds for treating COVID patients. The Court directs the AIIMS, Patna and the State of Bihar to consider enhancing the number of beds in AIIMS, Patna for treating COVID patients to meet to some extent, palpable spike in number of COVID patients in and around Patna.

Further, from the order dated 15.04.2021, it can be seen that the State Government had taken initiatives to utilise Employees State Insurance Corporation (ESIC) Hospital at Bihta for accommodating COVID patients. Dearth of doctors at the said hospital was one of the



difficulties which the State Government was facing. We were informed that requisitioning Doctors from Armed forces was under contemplation and initiatives had been taken in that direction. In the said background, considering urgency of the matter, we had requested Dr. K.N. Singh, learned Additional Solicitor General of India to seek instructions from the concerned department of the Central Government. He has informed this Court that he has received a communication from the Ministry of Defence, Government of India dated 16.04.2021 to the effect that Director General Armed Forces Medical Services has informed that necessary directions have been issued to the Headquarter, Central Command, Lucknow through Director General, Medical Services (Army) to provide assistance in terms of manpower for running the hospital. On our request, he has furnished to this Court through email the said communication. For quick reference the body of the said letter is being quoted herein below:-

“2. As regards, providing doctors from the Army for running the ESI Hospital, Bihta, it is stated that DGAFMS has informed that necessary directions have been issued to HQ Central Command, Lucknow through Director General Medical Services (Army) [DGMS (Army)] to provide assistance in terms of manpower for running the hospital.”



Let all concerned take all necessary steps to ensure that the said hospital starts functioning as Dedicated COVID Hospital preferably from Monday (19.04.2021). It is indicated that if the Court does not find any progress in the aforesaid direction, it will be constrained to pass appropriate directions on Monday, when this matter will be taken up again.

During course of hearing of the present proceeding, it has transpired that the RT-PCR tests are not being done at the desired rate. Mr. Manoj Kumar, the Executive Director, Bihar State Health Society, who has also joined the present proceeding has informed this Court that there are 18 laboratories in different medical colleges in the State of Bihar which have the machines to conduct RT-PCR tests. In addition, five private laboratories in the State of Bihar have been granted permission to conduct such tests. He has informed that on an average 40,000 RT-PCR tests are being done in the State of Bihar per day. He has also submitted that steps are being taken to establish nine more laboratories for conducting RT-PCR tests, three of which are to be commissioned very soon with the help of Indian Council for Medical Research (ICMR) in the districts of Motihari, Purnia and Munger i.e within a period of three weeks.

The State Government is directed to ensure that at-least in these three districts, namely, Motihari, Purnia and Munger, the laboratories



start functioning to enhance the number of tests .

Regarding dearth of oxygen in the State of Bihar, the Bench has been informed that apart from requisitioning liquid gas from the neighboring State of Jharkhand, the State Government and the Central Government are taking sincere measures for installation of Pressure Swing Absorption (PSA) plants in the hospitals connected with various medical colleges in the State of Bihar.

Let the Executive Director, Bihar State Health Society submit a report explaining the progress regarding installation of PSA plants on the next day. He may also explore the possibility of procuring High Flow Nasal Canula (HFNC) and submit a report inasmuch as the same is reported to be effective in improving oxygenation amongst patients with acute hypoxemic respiratory failure.

Mr. Manoj Kumar has further informed this Court that teams have been deployed by the Department of Health to visit places, wherever required, to collect samples for RT-PCR tests. The Court expects the respondents to step up the speed/pace of RT-PCR tests in the State.

During course of hearing, it has emerged that the State-Respondents have failed to regulate testing of such persons who are arriving in the State of Bihar from other States, who have the potential of spreading the disease. Though it is difficult for the Court to pass any



specific direction in this regard at present, it is observed that minimum what is expected of the State-Respondents is to take all possible measures so as to ensure that persons coming from outside the State are either made to undergo rapid antigen test or they are able to show on the basis of the test reports available with them that they are not COVID positive. In case a person is found to be COVID positive, steps should be taken to ensure that he can reach a designated place for isolation or treatment with adequate and desired care and caution.

Last but not the least, the Court is of a definite opinion that the respondents have not been able to keep the people of Bihar informed about availability/ non-availability of health care facilities in the State. The State of Bihar is directed to display all relevant information in this regard on a portal dedicated for this purpose.

The matter is adjourned for Monday (19.04.2021) to be taken up at 4.30 p.m. when the Executive Director, State Health Society, Mr. Manoj Kumar shall be required to join the proceeding.

Considering the gravity of the situation, it is directed that a link for online proceeding of this case, to be held on 19.04.2021, be sent to the Director, AIIMS, Patna. Mr. Pandey, learned counsel representing AIIMS, Patna shall inform the Director, AIIMS, Patna in this regard.

The Court directs the Respondents-State of Bihar to submit a report regarding the available manpower and other infrastructure at



COVID Care Centres (CCCs) and Dedicated COVID Health Centres
(DCHCs) in the State of Bihar.

(Chakradhari Sharan Singh, J)

(Mohit Kumar Shah, J)

Rajesh/-

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