

CJ & AKJ:
03.06.2021

(Through Video Conferencing)

W.P.No.6435/2020 &
connected matters

ORDER

BLACK FUNGUS - MUCORMYCOSIS

Today, Shri Ravindra P, the learned advocate has addressed a letter to the Chief Justice of Karnataka High Court. He has pointed out that there is an acute shortage of *Liposomal Amphotericin B* Injection which is required for treating Black Fungus or *Mucormycosis*. The learned Advocate General assured the Court that the State will immediately look into this aspect.

2. The State Government will place on record statistics of the cases of *Mucormycosis* in Bengaluru as well as in the other parts of the State and the details about the availability of the said drug-*Liposomal Amphotericin B* Injection. Even the Government of India will have to respond on the availability of the drug, as the learned Advocate General pointed out that approximately about 160 cases of *Mucormycosis* have been reported in the entire State. On the next date, the response of both the State Government and the Central Government shall be filed on record. In any

case, both the Governments shall endeavour to ensure that there is no shortage of the said drug.

VACCINATION

3 Now, we are dealing with the issue of vaccination.

Our attention is invited to the order of the Apex Court dated 31st May, 2021 in *Suo Motu* W.P.(Civil) No.3 of 2021. Part 'E' of the said order exhaustively deals with various issues which concern vaccination. In fact, there are directions issued by the Apex Court regarding filing of affidavits not only by the Government of India, but also by all the States. Therefore, propriety requires that this Court should not deal with the issues concerning vaccination which are the subject matter of the order of the Apex Court dated 31st May, 2021.

4. However, there are certain other issues which are relevant for the State of Karnataka. The first issue is based on the direction issued by this Court way back on 25th March, 2021. The question which is raised in the said order is about the special efforts made by the State Government, its agencies and instrumentalities to persuade the citizens residing in thickly populated localities and slums as well as the vulnerable sections of the society to take the benefit of

the vaccination drive. It is also observed in the said order that such efforts will be a step in the right direction for curbing the spread of COVID-19. We, therefore, direct the State Government as well as BBMP to place on record the details of the efforts made in this behalf. One of the suggestions made across the Bar was that there are a large number of Non-Government Organizations (NGOs) which will be willing to help the State in this cause. The State Government as well as BBMP will consider of taking the assistance of NGOs for ensuring that those who are not aware of the availability of the vaccine or those who are reluctant to take the vaccine, are persuaded to take the vaccine.

5. As stated in the Government letter dated 20th May, 2021, apart from Healthcare Workers, many categories have been included in the Frontline Workers for the purpose of vaccination. There is a list of categories of various class of citizens who are entitled to priority in vaccination. The State Government as well as BBMP shall place on record details of the special drives conducted for ensuring vaccination of the Frontline Workers, Healthcare Workers and of those who

belong to Priority groups. There is another issue which needs to be considered. In fact, in one of the Government Orders, a direction is issued to ensure that the immediate members of the families of the persons falling in these three categories also undergo the vaccination. According to us, the immediate family members of the Frontline Workers, Healthcare Workers and those who fall in Priority groups must undergo vaccination, otherwise, the object of giving priority may be frustrated.

6. Another important issue which is raised is regarding vaccination of the very elderly and differently abled citizens. The State Government as well as the learned *Amicus Curiae* have placed on record a Guideline Note published by the Government of India. The learned *Amicus Curiae* has also placed on record *Standard Operating Procedure of COVID-19 Vaccination of Persons Without the Prescribed Identity Cards Through CoWIN*. Clause (2) of the said SOP provides that registration on CoWIN portal can be made on the basis of any of the seven documents mentioned therein. Clause (5) deals with registration of the persons such as nomads, prison inmates, inmates in mental health institutions,

roadside beggars, etc who do not have any of the said seven documents.

7. The learned Advocate General also invited our attention to the Guidelines issued by the State Government by a letter dated 10th May, 2021 addressed to the Deputy Commissioners and other Government Officers dealing with the issue of administration of vaccine to persons with various categories of disabilities. As noted in one of the earlier orders, under clause (c) of sub-section (1) of Section 25 of the Rights of Persons with Disabilities Act, 2016 (for short, "the said Act of 2016"), persons with disabilities are entitled to priority in medical treatment. Thus, it follows that they must get priority when it comes to vaccination. Sub-rule (1) of Rule 18 of the Rights of Persons with Disabilities Rules, 2017 provides for issuing certificates of disability in Forms No.V, VI and VII. The said three Forms relate to different categories of disabilities. The Forms contain all personal details of the persons with disabilities such as full name, address, date of birth, etc. The Forms bear recent passport size photographs of the persons with disability. Considering the principles laid down in Section 25 of the said Act of 2016

and the object of the said Act of 2016, it will be appropriate if the Government of India considers of immediately incorporating the certificates of disability as Item No.(viii) in clause (2) of *Standard Operating Procedure of COVID-19 Vaccination of Persons Without the Prescribed Identity Cards Through CoWIN*. Shri M.B.Nargund, the learned Additional Solicitor General of India assures the Court that the Central Government will immediately look into this aspect and take necessary action.

8. Apart from the details about the special drives for vaccination conducted for Healthcare Workers, Frontline Workers and Priority groups, the State Government shall place on record a data of the number of persons with disabilities vaccinated in the following districts: (i) Bengaluru, (ii) Kalbugari, (iii) Bidar, (iv) Mangalore and (v) Chamarajanagar. The data shall be placed on record before the next date of hearing. The State Government shall also provide district-wise data of the aforesaid districts of the number of persons with disabilities who are holding the certificates of disability. We also direct BBMP to give data of

the special vaccination drives conducted for the vaccination of Frontline Workers who are working for BBMP.

9. The learned Advocate General stated that as of today, 2,95,100 doses of COVAXIN from the free quota provided by the Central Government are available with the State. In addition, the State Government has procured 81,100 doses of COVAXIN which are available today. As regards COVISHIELD, 3,20,050 doses out of the free quota are available and 3,13,219 doses of COVISHIELD have been procured directly by the State Government. It is further stated that by 30th June 2021, the State Government is likely to get 54,78,340 doses of COVISHIELD in the free quota and 12,35,210 doses of COVAXIN.

OXYGEN

10. As regards the availability of oxygen and the requirement of oxygen, from paragraph 7 till paragraph 18, details have been incorporated in the written submissions of the State Government filed on 3rd June, 2021. Paragraph 17 records that a buffer stock is being maintained in all the districts. As stated in paragraphs 18 and 19, the learned counsel representing the various parties agreed that as of

now, there does not appear to be a shortage of oxygen in the State. When this Court deals with the issue of the state of preparedness, the State Government will have to answer the issue of maintaining adequate stock of oxygen and generating adequate supply of oxygen for meeting the challenge of the possible third wave of COVID-19.

FOOD SECURITY

11. As regards the continuation of mid-day meal scheme, a memo has been filed by the Government of India today. It makes it clear that the mid-day meal scheme will continue as a one-time special measure even during the summer vacation of the schools. Reliance is placed on the advisories issued by the Central Government on 20th March, 2020, 29th April, 2020 and 31st July, 2020 which are annexed as Annexures-R1 to R3 to the said memo. Thus, it follows that if from 14th April, 2021, the benefit of mid-day meal has not been extended in the State, the State Government will have to compensate the beneficiaries by supplying them food grains and other items. The orders passed by this Court from time to time will show that for a period of few months in the year 2020, the facility of mid-day meal was denied to the

children. As per the orders of this Court, the children who were denied mid-day meal were compensated by providing them food grains and other items. Therefore, the State Government will have to compensate the children in the same manner from 14th April, 2021 till date. The State Government will have to report compliance on this aspect before the next date.

12. Another important aspect of food security is of the supply of ration or ration kits to the vulnerable sections of the society who have been deprived of income due to partial lockdown. When we say this, we are dealing with those persons belonging to the vulnerable sections of the society who have not even applied for ration cards. The issue of food supply to the migrant workers has been taken care of by the Apex Court as observed in one of the earlier orders. The State Government shall implement the directions of the Apex Court in its true letter and spirit. As regards the vulnerable sections of the society who have no ration cards, the State Government has not taken any decision for providing them free ration. As the lockdown has been already operating for a considerably long time, the State

Government shall take an immediate decision on the said issue and in any case, by Monday, 7th June 2021.

GENERALLY

13. We direct BBMP to place on record details of the number of COVID-19 beds of various categories which are available within the limit of BBMP and the number of COVID-19 centres with their capacity and triage centres. The details will be placed on record before the next date. As noted in one of the earlier orders, we are putting the State Government to notice that the issue of the state of preparedness for dealing with the possible third wave will have to be gone into. It is pointed out that a high level Committee of Experts has been appointed by the State Government by the order dated 25th May, 2021 and the report of the Committee is awaited.

CHAMARAJANAGAR HOSPITAL VICTIMS

14. We propose to hear the issue regarding the incident in Chamarajanagar hospital in the context of the number of victims and also the issue of adequate compensation payable to the legal representatives of the victims.

15. We have perused the reports of investigation filed on 27th May, 2021 and 3rd June, 2021 in connection with Crime Nos.88/2021 and 68/2021. We have noted the steps taken in the investigation. The reports shall be re-sealed and kept on the record. Further reports shall be filed after two weeks.

16. List this group of petitions on 10th June, 2021 at 3.15 p.m. for further hearing.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

vgh*/SN