

ITEM NO.20

Court 4 (Video Conferencing)

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Criminal) No.404/2021

NARESH KUMAR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 04-10-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Medhanshu Tripathi, Adv.
Mr. Rajeev Kumar Dubey, Adv.
Ms. Saroj Tripathi, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 The petitioner has invoked the jurisdiction under Article 32 of the Constitution in a Public Interest Litigation seeking two directions:
 - (i) The setting up of a commission of enquiry headed by a former Judge of the Supreme Court or a former Chief Justice of a High Court; and
 - (ii) An enquiry by the Central Bureau of Investigation or any other investigating agency monitored by the Supreme Court in

connection with the deficiency of medical grade oxygen during the course of the second wave of the Covid-19 pandemic.

- 2 By an order dated 6 May 2021 in ***Union of India vs Rakesh Malhotra and Another*** [SLP (C) Diary No 11622 of 2021], this Court while exercising its jurisdiction under Article 136 of the Constitution constituted a National Task Force consisting of eminent doctors drawn from various medical institutions of the country. The remit of the National Task Force has been formulated in broad terms and one of the issues which is engaging the NTF is to ensure the availability of medical grade oxygen to meet the requirements of patients during the course of the Covid-19 pandemic. In view of the fact that a body of experts has been constituted to specifically look into matters pertaining to the availability and distribution of oxygen, it is neither appropriate nor proper to conduct a parallel proceeding by constituting a Commission of Enquiry as sought. Independently, a plan for conducting audits has also been directed to be implemented.
- 3 As regards the prayer for an investigation by an investigating agency or the CBI, recourse to the jurisdiction under Article 32 of the Constitution ought to be preceded by an invocation of the remedies available under the Code of Criminal Procedure 1973. Without doing so, the petitioner has sought to invoke the jurisdiction under Article 32 directly. Allegations in regard to criminal wrong doing cannot be assumed nor can they be levelled lightly without adequate material.
- 4 In the circumstances, and for the reasons indicated above, we are not inclined to entertain the Public Interest Litigation.
- 5 The Petition is accordingly dismissed.
- 6 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master