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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Delivered on : 27<sup>th</sup> May, 2021

+ **W.P.(CRL) 975/2021**

**MATRIX CELLULAR (INTERNATIONAL)  
SERVICES LIMITED**

..... Petitioner

Through : Mr.Mohit Mathur, Mr.Trideep  
Pais, Senior Advocates with  
Mr.Samudra Sarangi, Ms.Shruti  
Raina, Ms.Srishti Khare,  
Ms.Abhilasha Khanna, Ms.Nishtha  
Aggarwal, Ms.Moha Paranjpe,  
Mr.Sumit Misra, and Ms.Sanya  
Kumar, Advocates.

versus

**STATE (NCT OF DELHI)**

..... Respondent

Through : Mr.S.V.Raju, ASG with Mr.Sanjay  
Lao, Standing Counsel (Crl),  
Ms.Kamna Vohra, ASC with  
Ms.Sairica Raju, Mr.A Venkatesh,  
Mr.Guntur Pramod Kumar,  
Ms.Zeal Shah, Mr.Shaurya R Rai,  
Ms.Aarushi Singh and  
Mr.Anshuman Singh, Advocates  
for the State.

**CORAM:**

**HON'BLE MR. JUSTICE YOGESH KHANNA**

**YOGESH KHANNA, J.** *(Through Video Conferencing)*

1. This writ petition is filed by the petitioner for direction to the respondent to immediately release the products/stock seized by it from the petitioner's Collection Centre at Lodhi Colony and the petitioner's office premises at Mehrauli. Further, it is also prayed to restrain the respondent from seizing any further products of the petitioner pursuant to

the FIR, besides other reliefs or even otherwise. This prayer (*b*) has since been withdrawn.

2. The gamut of the arguments raised by the learned senior counsel for the petitioner is a raid conducted on 05.05.2021 by the SHO of police station Lodhi Colony while patrolling in the area on the restaurant in the name and style of *Nege Ju* in the Central Market, Lodhi Colony, New Delhi. On search of aforesaid premises, 32 boxes of Oxygen Concentrators of 09 and 05 liters capacity; one box of thermal scanner and KN-95 Masks were recovered. In this regard, the FIR No.116/2021 dated 05.05.2021 under Section 3/7 of the Essential Commodities Act, under Section 3 of the Epidemic Diseases Act and Section 420/188/120B/34 IPC was registered at police station Lodhi Colony. Four accused persons were also arrested therein.

3. During the course of investigation, at the instance of accused persons, 387 oxygen concentrators; 112 boxes containing KN-95 marks, 95 Oximeter were recovered from Matrix Cellular International Services Private Limited, 7, Khullar Farm House, Mandi Road, Fatehpur Beri, New Delhi. During the investigation the accused persons allegedly disclosed regarding black marketing of oxygen concentrators and other Covid-19 treatment related equipment from various sources and supply/sold to the highest payer and needy person.

4. On 06.05.2021, one day police custody remand was taken of two accused persons and at their instances further recovery from *Town Hall* Restaurant, Khan Market, New Delhi was effected. On 07.05.2021, 96 oxygen concentrators were also recovered from *Khan Chacha*

Restaurant, Khan Market, New Delhi and further invoices in the name of Dayal Opticals for selling of 250 oxygen concentrators were recovered at the instance of accused Hitesh.

5. The allegations are in the year 2020 due to global pandemic the work of the petitioner company was affected and they started dealing in Covid-19 related items and imported oximeter, KN-95 mask and also procured rest of the articles locally and sold them to the dealers and corporates. The allegations are they are selling the oxygen concentrators to the needy person with profit/margin of Rs.40,000/- to Rs.42,000/- per piece.

6. The arguments of the learned senior counsel for the petitioner is despite the FIR being registered on 05.05.2021, the entire seized material was sent to the Deputy Commissioner and not to a local Magistrate hence they have no remedy under Section 451 or 457 Cr P C to move an appropriate application before learned Magistrate and since the seizure is illegal, the remedy is only to file a Writ under Article 226 of the Constitution.

7. It is argued the petitioner is dealing in oxygen concentrators and not *oxygen cylinders* and the equipments which are seized from the petitioner are sold over the counters and is not a regulated/controlled item. These items are being sold by Amazon and other online portals and the acts of petitioner have been carved out separately is a mischief of the concerned Investigating Officer.

8. Reference is made to various invoices filed on record stating *interalia* they have got these equipments imported for sale and the market prices are controlled by *demand and supply* and as there is no order of the Government controlling its prices, hence no case is made out against the petitioner.

9. It is alleged even the Division Bench of this Court has not given any direction *qua* concentrator. Reference is made to an order dated 06.05.2021 passed by the Division Bench of this Court in *W.P.(C) No.3031/2020*, which *interalia* notes:-

*“5.Mr.Sanjay Dhir, Professor, IIT-Delhi has also joined the proceedings and submits that though the portal for stock of medicine is operational qua Remdesivir, the NIC is awaiting instructions from the DGHS regarding the names of the other drugs to be added to the portal; thereafter, the portal can be operated by the complete supply chain, including the hospitals by adding in data from time to time. The DGHS should take steps to include other essential drugs in short supply for treatment of COVID-19.”*

10. The learned senior counsel for the petitioner refers to Section 102 , 451, and 457 Cr P C to say as none of the seized properties/articles were ever produced before learned Magistrate having the jurisdiction over the area, hence no application under Section 457 CrP C could be made.

11. It is argued Section 2, 2A and 3 of the Epidemic Diseases Act and Section 3 & 7 of the Essential Commodities Act are though relevant but since there are no regulations and orders under the Act(s), hence the seized articles being not the controlled items, its seizure is illegal.

12. It was also argued the relevant notification was issued by the State only on 07.05.2021 i.e. after the seizure and hence the seized articles needs to be returned to the petitioner.

13. Qua the maintainability of this petition, the learned senior counsel for the petitioner referred to *Wazir Chand vs State of Himachal Pradesh and the District Magistrate, Chamba* AIR 1954 SC 415 which held:-

*“10. Lastly it was argued that the petitioner made an application under Section 523 CrPC, to the Magistrate and that application was dismissed and that a petition for revision against that order was still pending, and that when another remedy had been taken, Article 226 could not be availed of. This contention cannot be sustained, firstly in view of the fact that Section 523 has no application to the facts and circumstances of this case, and the Magistrate had no jurisdiction to return these goods to the petitioner. Secondly, the revision application has been dismissed on the ground that there was **no jurisdiction** in this case to grant relief to the petitioner under Section 523.”*

14. Further in *Karam Chand Ganga Parsad And Another vs Union of India* 1970(3) SCC 694 the Supreme Court held:-

*“3.The principal questions that arose for decision before the High Court were - Was the ban on export lifted by the State Government? If it did lift the ban was it competent to do so? If the ban is held to have been validly lifted it follows as a necessary corollary that the refusal on the part of the railways to deliver the maize exported is illegal and the authorities were not competent to seize or forfeit the Maize exported. Further the prosecutions launched would become unsustainable.*

*4. A Division Bench of the Delhi High Court after elaborately hearing the arguments advanced in the case on the various issues arising for decision in the case rejected the writ petitions on the sole ground that in view of the pendency of the criminal proceedings before some Courts in the State of West Bengal, it is inappropriate for the High Court to pronounce on the questions arising for decision in the writ petitions. In our opinion the High Court seriously*

*erred in coming to this conclusion. If the appellants are able to establish their case that the ban on export of maize from the State of Haryana had been validly lifted all the proceedings taken against those who exported the Maize automatically fall to the ground. Their maintainability depends on the assumption that the exports were made without the authority of law. It is a well-established principle of law that the decisions of the civil courts are binding on the criminal courts. The converse is not true. The High Court after entertaining the writ petitions and hearing arguments on the merits of the case should not have dismissed the petitions merely because certain consequential proceedings had been taken on the basis that the exports in question were illegal. For the decision of the controversy between the parties to the writ petitions neither the presence of the State of West Bengal nor the authorities who took penal action was necessary. The validity of the steps taken by them, as mentioned earlier, would depend upon the validity or otherwise of the export in question.”*

15. Thus, it was argued only if the State had regulated the import and capped the price of concentrators only then these could have been seized; hence without any order under Essential Commodities Act or without any regulation under The Epidemic Diseases Act, the act of the State is wholly illegal and hence the articles need be returned.

16. Heard.

17. Before proceeding further, let me examine whether the act of respondent in seizing the articles is *legal*? In this context the relevant provision of the different Act(s) need to be noted.

18. The *drug* defined under Section 3 (b) (iv) of the Drugs and Cosmetics Act, is as under:-

**“3. Definitions. —In this Act, unless there is anything repugnant in the subject or context:--**

(a)xxx

(aa) xxx

(aaa) xxx

(b) **durg** includes

(i) to (iii) xxxx

(iv) such **devices** intended for internal or external use in the diagnosis, **treatment**, mitigation or **prevention of disease** or disorder **in human** beings or animals, as may be specified from time to time by the Central Government by notification in the Official Gazette, after consultation with the Board;

## **Epidemic Diseases Act**

2. *Power to take special measures and prescribe regulations as to dangerous epidemic disease* When at any time the State Government is satisfied that the State] or any part thereof is visited by, or threatened with an outbreak of any dangerous epidemic disease, the State Government if it thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take, or require or empower any person to take, such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as it shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

2A. *Powers of Central Government.* When the Central Government is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, the Central Government may take such measures, as it deems fit and prescribe regulations for the inspection of any bus or train or goods vehicle or ship or vessel or aircraft leaving or arriving at any land port or aerodrome, as the case may be, in the territories to which this Act extends and for such detention thereof, or of any person intending to travel therein, or arriving thereby, as may be necessary.

3. *Penalty* :-- (1) Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code

(2) Whoever,

(i) commits or abets the commission of an act of violence against a healthcare service personnel; or

### **Essential Commodities Act**

#### **3. Powers to control production, supply, distribution, etc., of essential commodities.**

(1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, 1[or for securing any essential commodity for the defence of India or the efficient conduct of military operations], it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

**7. Penalties:-**(1) If any person contravenes any order made under Section 3,--

(a) he shall be punishable,-- xxxx”

19. The State also relies upon order(s)/notification(s) issued by the appropriate government from time to time to fight this pandemic. The following notifications have been issued and are cited below.

20. An office memorandum dated 11.02.2020 issued by the Government of India, is as under:-

**“MINISTRY OF HEALTH AND FAMILY WELFARE  
(Department of Health and Family Welfare)  
NOTIFICATION**

*New Delhi, the 11<sup>th</sup> February, 2020*

*S.O. 648(E).— In pursuance of sub-clause (iv) of clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Government, after consultation with the Drugs Technical Advisory Board, hereby specifies the following devices intended for use in human beings or animals as drugs with effect from the 1<sup>st</sup> day of April, 2020, namely:—*

All devices including an **instrument, apparatus**, appliance, implant, material or other article, whether used alone or in combination, including a software or an accessory, intended by its manufacturer to be used specially for human beings or animals which does not achieve the primary intended action in or on human body or animals by any pharmacological or immunological or metabolic means, but which may assist in its intended function by such means for one or more of the specific purposes of —

- (i) diagnosis, prevention, monitoring, **treatment** or **alleviation** of any disease or disorder;
- (ii) diagnosis, monitoring, treatment, alleviation or assistance for, any injury or disability;
- (iii) investigation, replacement or modification or support of the anatomy or of a physiological process;
- (iv) supporting or **sustaining life**;
- (v) disinfection of medical devices; and
- (vi) control of conception.

[F.No. X.11035/281/2018-DRS]  
Dr. MANDEEP K. BHANDARI, Jt. Secy."

21. An order No.PN/206/74/2020/F/F, No.8(74)/2020DP/NPPA/Div.-II dated 31<sup>st</sup> March, 2020 is as under:-

**“S.O. 1232(E)**

*In pursuance of Notification No. S.O. 648(E) dated 11<sup>th</sup> February 2020 issued by Ministry of Health & Family Welfare, Government of India whereby Medical Devices intended for use in human beings or animals have been notified as Drugs with effect from 1<sup>st</sup> April 2020; all Medical Devices shall accordingly be governed under provisions of the Drug (Price Control) Order. 2013.”*

*Also vide Notification No. 4/2015-2020 New Delhi, Dated 30 April, 2021, it has been notified that effect of the Notification: Para 2.25 of Foreign Trade Policy, 2015-20 is revised to include import of Oxygen **Concentrator** for personal use through post, courier or e-commerce portals in the list of exempted categories, where Customs clearance is sought as gifts”, till 31 July 2021.”*

22. An office memorandum dated 29.06.2020 issued by the Ministry of Chemicals and Fertilizers, National Pharmaceuticals Pricing

Authority, Department of Pharmaceuticals, Government of India is as under:-

“File No.20(8)/09/2019/Div.III/NPPA  
Government of India  
Ministry of Chemicals and Fertilizers  
Department of Pharmaceuticals,  
National Pharmaceutical Pricing Authority

3<sup>rd</sup> and 5<sup>th</sup> Floor,  
YMCA Cultural Centre Building,  
1, Jai Singh Road, New Delhi  
Dated 29<sup>th</sup> June 2020

OFFICE MEMORANDUM

Subj : Monitoring of maximum Retail Prices of (i)Pulse Oximeter and (ii)Oxygen Concentrator under PDCO, 2013-Reg.

This is in reference to Notification No. 1232 (E) dated 31<sup>st</sup> March 2020 issued by this Office for regulation of Medical **Devices** under **Drugs (Prices Control) Order, 2013** read with **Essential Commodities Act, 1955 w.e.f. 1<sup>st</sup> April 2020**. Accordingly, **Maximum Retail Price of Medical Devices cannot be increased more than ten percent (10%) in a year.**

2. In order to monitor the price movements of critical Medical Equipments required in clinical management of COVID-19, It has been decided to call for MRP details for the following Medical Devices viz. (1) Pulse Oximeter and (i) **Oxygen Concentrator** in the prescribed format.

3. xxx xxx

4. xxx xxx

(Ratan K Khatwani)

Joint Director

E-mail : rattan.khatwani@gov.in”

23. An Order dated 07.05.2021 issued by the Drug Controller Department, GNCT of Delhi is as under:-

“GOVERNMENT OF NATIONAL CAPITAL  
TERRITORY OF DELHI  
DRUGS CONTROL DEPARTMENT  
F-17, KARKARDOOMA, DELHI-110032  
E-mail ID dirdcd@nic.in, Phone No. 011-22393703

No.F.52 /DCI HOO/2020/199

Dated 07.05.2021

ORDER

***Sub:-Regarding control over the sale of essential Covid 19 management drugs and ancillary equipments under Drugs Price Control Order***

*Sir*

1. *Whereas, there are several essential **drugs** used being used in the clinical management of Moderate and Severe cases of COVID-19. Therefore, ensuring adequate and uninterrupted supplies of these drugs is absolute necessity to save human lives in Delhi.*

2. *Whereas there have been some report regarding **black marketing** of COVID 19 **management drugs** by unscrupulous elements in the market and there is a need. for immediate enforcement and to keep strict vigil on the market to prevent black marketing.*

3. *Accordingly all the Inspectorate staff of this department is hereby instructed for keeping close watch over any such clandestine activity and take strict action, if any such case is detected. The assistance of Delhi Police/DM office may be taken so as to ensure coverage of all applicable legal provisions.*

4. *Further, all the stakeholders viz. Retailer/ Wholeseller/ Distributors of these items are hereby directed not to sell these items over and above the notified price/MRP and also to refrain from dealing in these items in a manner which is not permitted or unauthorized and should not get indulged in what so ever manner, in their black marketing.*

*Any deviation in this regard will be viewed seriously and stringent action as per law will be initiated against them.*

*(A. K. Nasa)*

*Head of Office/ Controlling & Licensing Authority”*

24. The oxygen concentrator, being a *device* is covered within the definition of *Drug* per Section 3 (b) (iv) of the Drugs and Cosmetics Act. Even if we ignore the notification dated 07.05.2021 (*supra*) at the present moment, being subsequent to seizure as alleged, yet there is a notification dated 11.02.2020 which says *device* includes an *instrument, apparatus, used for treatment, sustaining life* etc and an Order dated 31.03.2020 (*supra*) which says *medical device, intending for use in human being*

shall be governed by the provisions of Drug Price Control order -2013. Further, an Order dated 29.06.2020 (supra) which warns of increasing MRP of the concentrators, more than 10% a year.

25. Now, the Hon'ble Division Bench of this Court in *Venkateshwar Hospital vs. Govt. (NCT Of Delhi) 2021 SSC OnLine Del 1830*, had noted:-

*“17. Mr. Arora submits that when there is huge shortage of the medicines, the same should not be retained as case property, and the same should be released for use by the patients after ensuring that the same is in usable condition and is genuine. Similarly, for the cylinders, he submits that the same should be put back in circulation for use by the needy patients. He submits that an application was moved before the concerned CMM for release of the said case property. However that application has been rejected on the ground that the District Commissioner is empowered to pass the order under the Essential Commodities Act. Mr. Satyakam points out that while CMM, North has rejected the application for release of the said case property, other CMMs have been passing orders for release. In any event, since the power to pass release orders lie with the District Commissioners, **we direct the District Commissioner to pass orders for release of both - the Oxygen Cylinders and the medicines, at the earliest. The released medicines and Oxygen cylinders be made available for use by the Hospitals of the GNCTD as allocated by the Secretary, Health.***

*18. Whenever any seizure is made of the medicines/Oxygen cylinders, **the IOs should immediately inform the concerned District Commissioner** about the same, and they should also proceed, without waiting for any further orders, to ascertain the genuineness of the said medicines. They should also ensure that the said case property is kept in refrigerated environment, so that the same does not lose its efficacy and become non-usable. **The District Commissioners should proceed to pass orders for release of the same without any delay.***

*19. We also direct the Delhi Police to immediately release the seized Remdesivir or other Drug used for treating COVID-19, or any Oxygen cylinders, which are seized from*

*the possession of the patients or their attendants, since they would have procured the same only out of desperation, and in need. However, the Delhi Police would be bound to conduct the investigation in the case with the assistance and cooperation of all concerned, which shall be rendered by the public at large. While releasing the case property, it shall be ensured by the Delhi Police that photographs/ copies of the relevant documents are retained, so that the case could proceed before the court concerned.”*

26. Also in *Bram Health Care Private Limited vs. Union of India & Anr* W.P.(C) No.4984/2021 per order dated 02.05.2021 the Hon’ble Division Bench had *inter alia* noted:-

*“During the course of hearing, we have been informed that Oxygen gas cylinders, Oxygen flow meters, and medicines required for treatment of COVID-19 disease are being sold in the black market at a much higher price above the Maximum Retail Price (MRP).*

*We direct the State to ensure that none of the equipments, or medicines used in the treatment of COVID-19 disease are sold at prices above the MRP. Any person found indulging in malpractice of either hoarding the equipments or medicines, or selling the same at prices above the MRP shall be booked, and brought to the notice of this Court for initiating of independent contempt action against all such persons.”*

27. Thus, to say that respondent acted arbitrarily, or their action has no legal backing is all wrong. The police official when got information about black marketing and hoarding of medical devices (concentrator) and of violation of the law / orders (*supra*) had acted and seized the material. Now, restricting the orders of the Hon’ble Division Bench in *Venkateshwar Hospital (supra)* and *Bram Health Care Private Limited (supra)* only to *cylinders* and not *concentrators* would be giving a too narrow interpretation to such order(s).

28. The facts reveal the seizure has been made under Section 102 Cr P C. It gives the power to any police officer to seize any property which may be alleged or suspected to have been stolen, or *which may be found under circumstances which create suspicion of the commission of any offence.*

29. The seized items were found under suspicious circumstances where individuals were in alleged violation of the Covid-19 lockdown measures imposed at that time, and accordingly, police was authorised to seize the oxygen concentrators lying at the spot. The registration of the FIR was not mandatory for search and seizure under Section 102 Cr P C.

30. If one peruse Section 157(1) Cr PC *viz* the procedure for investigation and Section 2(h) Cr P C which defines *investigation*, the following inference can be drawn from its conjoint reading *viz* a police officer is empowered under Cr PC to investigate upon information received or otherwise, if he suspects the commission of a crime that he is empowered to investigate under Section 156 of the Cr PC, and since the investigation includes *collection of evidence* hence, it authorizes the Investigating Officer to seize any property for the purpose of the collection of evidence. Unlike Section 156 Cr P C, under Section 102 Cr P C the police is empowered to investigate cognizable cases and the police can seize any property without an FIR.

31. Arguments have been raised qua the alleged irregularities in seizure. Even if it is assumed, there were some irregularities in its procedure to seize, it shall *not vitiate* the seizure. The only requirement is the Court needs to be careful in scrutinizing the seizure memo, as the law

is crystalized over the years viz *Pooran Mal v. Director of Inspection (Investigation)* (1974) 1 SCC 345 and *State of Maharashtra v. Natwarlal Damodardas Soni* (1980) 4 SCC 669. A bare perusal of above decisions would show even if there was an irregularity at the time of making a seizure, procedural or otherwise, it would not *ipso facto* vitiate the seizure. The Courts have consistently held the evidence obtained even through an “illegal” search or seizure will not be excluded or discarded only on the ground that it was obtained through illegal or irregular means. It has been consistently held unless prejudice and miscarriage of justice is pleaded and shown, a mere irregularity shall not result in setting aside of proceedings, or in relevant evidence being discarded.

32. In *Commandant, 68 Bn. BSF, Gakulnagar v. Arjun Das* (2006) 12 SCC 129 it has been held an irregularity of the procedure is a matter of fact to be decided during trial. Hence, it cannot be the subject matter of current writ petition.

33. *Prima facie* the act of the petitioner is in violation of an Office Memorandum, Ministry of Chemicals and Fertilizers, Government of India, of dated 29.06.2020 (*supra*) which had directed the petitioners and others like him, selling oxygen concentrators, to not increase prices of oxygen concentrators by more than 10% of the maximum retail price in a year of the Drugs Pricing Control Order, 2013. Now, all manufacturers / importers were directed to ensure compliance of the provisions of Para 20 of the DPCO failing which action may be initiated for violation of provisions of DPCO read with the EC Act. The DPCO being an order passed under Section 3 of the EC Act any violation thereof is punishable

under Section 7 of the EC Act. It was only in compliance with Section 6A (2) of the EC Act and the Order dated 29.4.2021 (*supra*), as also the directions in *Venkateshwar Hospital* (*supra*), a report was rather made to concerned District Magistrate who is now in possession of a majority of the seized oxygen concentrators. Admittedly, the District Magistrate has not been made a party in this writ petition.

34. Thus, a conjoint reading of the FIR, invoices and receipts produced by the petitioner along with the fact that the seized oxygen concentrators were allegedly sold at a huge profit margins in contravention of laws, rules and executive orders pointed out above. The facts show the petitioner was engaged in selling untested oxygen concentrators to people desperate for these devices and at an exorbitant prices through false representations, especially, when the State and the whole country saw a unprecedented surge of covid-19 infections and sever lack of oxygen cylinders and/or concentrators.

35. Lastly, the relief sought qua release of seized oxygen concentrators, is in ***conflict*** with the orders passed by the Hon'ble Division Bench dated 29.04.2021 in *Venkateshwar Hospital* (*supra*) and also *Bram Health Care Private Limited* (*supra*) wherein it is directed *whenever any drugs etc. used in treatment of Covid-19 are seized by the authorities or Delhi Police, they shall, without any delay inform the District Magistrate, who shall take the necessary steps to ascertain genuineness of the drugs etc. and pass orders for release of the same before the items seized are rendered unusable*; the oxygen concentrators being a lifesaving machine, is covered within the definition of *Drug* per

Section 3(b)(iv) of the Drugs and Cosmetics Act and *per* notification dated 11.02.2021 (*supra*) all devices meant for diagnosis, prevention, monitoring, treatment or alleviation of any disease are covered under the definition of *Drugs*; thus there appears to be no illegality in the act of respondent especially when the State was reeling in acute shortage of drugs, cylinders, concentrators and attendants of patients were running pillar to post, ready to part with their life savings for its purchase.

36. Hence, the investigation being at initial stage, the reliefs sought for in this petition cannot be granted by this Court except the concentrators so seized be put an identification mark(s) and its coloured photographs be kept for future reference, by the respondent.

37. In view of above, the petition is dismissed. Pending application, if any, also stands disposed of.

**MAY 27, 2021**

*M*

**YOGESH KHANNA, J.**

भारतमेव जयते