

IN THE HIGH COURT OF DELHI AT NEW DELHI

% **Date of Decision: 16th May, 2008**

+ **Writ Petition (Civil) No. 13758/2006 & CM 12136/06**

The Court on its own motion ... Petitioner
! Through: Mr. Rajiv Saxena, Amicus Curiae

versus

\$ Union of India & Others ... Respondents
Through: Ms. Monika Garg, Advocate
for UOI.
Mr. S. Sirish Kumar with
Mr. Amandeep Joshi, Advocates
for GNCTD.
Mr. O.P. Saxena, Advocate
for MCD.

CORAM:

* **HON'BLE MR. JUSTICE T.S. THAKUR**
* **HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether Reporters of local papers may be allowed to see the judgment. No
2. To be referred to the Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

* **Veena Birbal, J.**

1. The present matter has been taken up by this Court suo-motu, in public interest on the basis of series of newspaper reports published in "The Hindustan Times" on

August 10, 2007, August 11, 2007, August 13, 2007, August 15, 2007, August 16, 2007 respectively wherein deplorable conditions of various five government hospitals namely Sushruta Trauma Centre, Hindu Rao Hospital, Kasturba Gandhi Hospital, Loknayak Hospital, Swami Dayanand Hospital were highlighted in the newspaper. During the course of proceedings, Mr. Rajeev Saxena, Advocate was appointed as an amicus curiae by this court vide orders dated 27.09.2006. Mr. J.C. Mehta, Architect, was impleaded as petitioner on his prayer and he was permitted to assist as an amicus curiae. Mr. J.R. Midha, Standing Counsel, Government of NCT also arranged a meeting on 2.2.2007 of amicus curiae with Chief Secretary of Govt. of Delhi/Pr. Secretary (Health), Govt. of NCT of Delhi. This Court had directed all the above hospitals by its order dated 20 September, 2006 to furnish status reports regarding the conditions prevailing in their respective hospitals.

2. During the course of pendency of the proceedings, Mr. Rajeev Saxena, Amicus Curiae stated that on 7.10.2006 he visited Sushruta Trauma Centre which developed as a specialized annexe to Lok Nayak Jai Prakash Narain Hospital as is working under the aegis of said hospital. In inspection report he pointed out various shortcomings in the centre like non-availability of doctors, specialists and other staff personnel, ambulances, beds in casualty ward etc. The hospital further lacked in providing clean water, sterilized linen, aprons, disposable gloves, oxygen cylinders etc. to doctors and patients. The maintenance, general sanitation and hygiene is also poor.

3. The status reports were furnished by all the above referred hospitals in compliance of order of this Court.

Status report of Sushruta Trauma Centre

A status report dated 12.4.2007 prepared by the Medical Superintendent showing improvements done in the Trauma Centre after the submission of report of Shri Rajiv

Saxena, amicus curiae, has been filed. As per said report facilities at the registration counter of hospital have been improved. One person is available at the counter all the times. Aforesaid counter has been declared independent w.e.f. 23rd February, 2007 and it has the following departments:

- i) Radiology
- ii) Anesthesia
- iii) Surgery
- iv) Orthopedics
- v) Neuro-Surgery

Specialists and senior residents are available in the hospital for above mentioned specialities. Besides medical officers and junior residents are also available in the hospital for above mentioned specialties. Doctors from other specialties come from LNJP hospital to attend critical patients whenever needed. To improve connectivity between medical officers/specialists in various departments

reimbursement of mobile phone has been allowed upto the

prevailing norms. The centre has been provided with two administrative vehicles and the ambulance is now used for patient care only. It is further stated that the proposal for providing food to the admitted patients is likely to be cleared. The casualty services have been improved by posting additional staff. The status of linen on the beds has been improved by getting extra linen. Immediate care is provided to the patients. Adequate number of facilities are available round the clock. More attention is also being paid to the fumigation at ICU and OT. ECG facility is also available; upgrading of the pathology lab is under consideration; waste material is being taken care of. The strength of safai karamcharis has increased from 9 to 29 due to which level of cleanliness in the hospital has improved in general. The cleanliness of toilets is also improved. Networking is likely to improve within the hospital. It is further stated in the report that many deficiencies have been rectified and efforts are being made to improve the remaining.

Status report of Hindu Rao Hospital

An affidavit is filed by the medical superintendent of aforesaid hospital wherein it is stated that reasonable facilities are available in the hospital. There has never been shortage of water for patients or doctors. About 32 water coolers are installed in the hospital at different places and no complaint has been received regarding shortage of water. Even the sanitation conditions are satisfactory and due care is taken to maintain hygiene, sanitary conditions in the wards and OPDs. It is further stated that there is shortage of safai karamcharis, para-medical staff and some specialist doctors. The hospital administration has taken up the matter with the Delhi Staff Selection Board and the UPSC, through the Addl. Commissioner (Health) of the MCD. It is stated that the hospital will take all necessary steps to provide adequate facilities to OPD as well as indoor patients.

Status Report of Kasturba Gandhi Hospital

The Medical Superintendent of the said hospital has filed an affidavit wherein it is stated that there is over load of patients in the OPD and Indoor Patients as the hospital does not refuse admission to patients on account of shortage of beds. For OPD patients there are sufficient number of benches available and they do not have to squat. There are sufficient number of beds in paediatrics ward as compared to number of patients they get. No doctor ever contacted dermatitis in the hospital as is alleged in the report. Proper sanitation is being maintained in the hospital. It is further stated that septic OT is under construction and, in the meantime, one OT room has been isolated for infected cases and is regularly sterilised after treatment of every infected case. Sterilized gloves, linen and instruments are used for every operation. There is no roof leakage in the OT. All the ventilators and monitors are in proper working condition. CT machines are also in working conditions in the labour room. It is further stated in the affidavit that the hospital is situated in Jama Masjid area and is catering to the needs of

the very poor people. There is always over-crowding in the hospital and to tackle the problem additional beds have been added in the hospital by shifting the school of nursing to a new building. In the affidavit they have given the details of number of patients admitted in the said hospital in the past three years and number of operations done in the said hospital. Other details of OPD patients and number of deliveries having taken place in the hospital are also given. It is further stated that there are some vacancies of safai karamcharis. Some posts of doctors and para-medical staff at different levels are also lying vacant. Hospital administration has taken the matter with Delhi Staff Selection Board and UPSC for filling up the said vacant posts.

Status Report of LNJP Hospital

Dr.Vinod Kumar Ramteke, medical superintendent, of aforesaid hospital has filed an affidavit wherein it is stated that radio therapy services at LNJP hospital were discontinued for new patients on 22.3.2006 following

inspection and instructions of AERB but the treatment of patients already on radio therapy was continued. It is further stated that the treatment was discontinued as their resident physicist had resigned and without Radiosafety Officer, the department cannot function. All efforts are being made to recruit a medical physicist. They have also given an advertisement and ad hoc appointment on the said post has been made by GNCT, Delhi. The hospital has denied that the patients have to give bribe to get admission to the hospital. All the drugs and equipments are available in the hospital. In case of emergency, local purchase is made and the medicines are made available in ten minutes from approved L1 chemist. Request for increase in nursing staff has been made to the Family and Health Department. Depending upon the proof of income of the patients, 20% free CT/MRI are allowed to poor patients. The construction of orthopaedic building is delayed due to repeated drop out of contractors but now the process of re-tender has started and the building will be completed in a short period of time.

All the 47 ventilators in the hospital are in working condition. The break up of the said ventilators is also given. There is no shortage of drinking water. The government is also examining the security augmentation proposal.

Status Report of Swami Dayanand Hospital

A report is filed by Dr. P.P. Singh, medical superintendent, wherein it is stated that newspaper report has exaggerated about shortcomings of the hospital. Regarding water supply it is stated that there was shortage of water but Delhi Jal Board has been supplying water through its van regularly. For drinking purposes, seven water coolers are within the financial resources of the MCD for this hospital.

Status Report of Guru Nanak Eye Centre and Safdarjung Hospital

Guru Nanak Eye Centre and Safdarjung hospital have also submitted their respective status report/affidavit. The same have been perused. Dr. M.V.S. Rao, Dy. Medical Superintendent of Guru Nanak Eye Centre has filed an

affidavit wherein it is stated that the aforesaid hospital imparts superspeciality treatment in the field of ophthalmology the ophthalmic specialists of the centre attend the calls of Sushruta Trauma Centre to see the emergency patients and this exercise is done without any loss of time as and when requisition is received from the aforesaid centre.

On behalf of Safdarjung Hospital a status report is filed in the form of an affidavit of Dr. R.M. Salhan, Medical Superintendent wherein it is stated that there are two operations theatres in the department of burns and plastic i.e. one on the ground floor and one on the first floor. The OT in the first floor is under renovation. Physical renovation has been completed. Gas pipeline is being installed. Two O.T. Lights which are to be installed have already been purchased and inspected. After instalment of gas pipelines, O.T. Lights etc., first floor OT will be made functional. The surgery is being done under the O.T. lights.

It is further stated that burn and plastic wards of the hospital

are centrally air-conditioned. Doctors and nurses and even the attendants are permitted to enter with mask, cap, gown and shoe covers. Adequate sanitation is endeavoured to be maintained in the said department of the hospital and special emphasis on sanitation is laid on burns and plastic department. It is further stated in the affidavit that pest control/disinfestation spray has been done by M/s Allied Pest Control in the burn and plastic surgery department, the details of which are given in para 3 of the affidavit and all efforts are made to keep the area free of mosquitoes/insects. As regards allegation of presence of cockroaches, it is stated that the hospital is taking all the precautions by the usage of disinfectants and spray but sometimes attendants/relatives of the patients who visit the patients hardly bother for the cleanliness of the hospital. It is further stated that no case of finding of cockroaches has ever been reported in the hospital. It is further stated that the hospital management is taking all the necessary steps to ensure that no such incident as is alleged is ever found. It is further stated that 25

additional workers from M/s Sulabh International have been deployed for burns and plastic wards for sanitation w.e.f. 15.9.2006. It is further stated that a Memorandum of Understanding is being signed with M/s BVG India Limited for awarding the work of mechanized house keeping in two wards of Safdarjang Hospital i.e. (i) Burns, Plastic Surgery and Maxillofacial Department and (ii) Casualty ward 'A' & 'B'. It is further stated in the affidavit that there is a shortage of staff in the hospital. As per rules, the posts can be filled up after receiving sanction of the government. The matter has already been taken up with the Directorate General of Health Services for expediting the sanction. Further the process for filling up of 249 posts in technical grade is going on with Dte. General of Health Services. It is further stated that as regards medicines and equipments are concerned medical superintendent is empowered to purchase where cost is less than Rs.50 lacs and if any equipment costs more than 50 lacs the procurement of Dte. General of Health Services is to be

W.P.(C) No. 13758/2006

made. In the affidavit further details are given about the details of equipments purchased in the year 2003-04, 2004-05, 2005-06 and there has been full utilisation of the budget in the year 2005-06. It is stated that Doctors do not bring their own equipments to perform operation/surgery. All other facilities resulting to patient care are available in the hospital, the details of which are given in the affidavit.

4. The status reports filed by different hospitals, which have been discussed in preceding paras, show that there has been an improvement in STC, LNJP hospital, Kasturba Gandhi Hospital, Hindu Rao Hospital and other hospitals in providing facilities to patients and cleanliness of hospitals. Shri Rajiv Saxena has also submitted a report about the improvements at the STC. It is hoped that all the government hospitals will endeavour to maintain complete cleanliness and hygiene at the hospitals and shall provide necessary medical aid by providing timely treatment and medicines to the patients so that the poor patients do not

suffer. It is also hoped that the hospital administrations will consistently improve the surgical ward, operation rooms, labour rooms, gynaecology wards, ICUs and other important areas of the hospital so that no inconvenience is caused to the patients.

5. It is the legitimate expectation of citizens of country that they be provided good environment and health care. Though right to health and healthy environment has so far not been incorporated in the fundamental rights of the people of India, however, an obligation in the form of directive principle under Article 47 of the Constitution is cast upon the State to raise of standard of living of its people and take measures for improvement of public health of its citizens among its primary duties within its resources. A country's progress depends upon the health of its people.

6. The Supreme Court in *State of Punjab vs. Ram Lubhaya Bagga*, AIR 1998 SC 1703 observed that the right of one is an obligation of another. Hence the right of a citizen to

live under Article 21 casts an obligation upon the State. This obligation is further reinforced under Article 47, it is for the State to secure health to its citizen as its primary duty. No doubt Government is rendering this obligation by opening Government hospitals and health centers, but in order to make it meaningful, it has to be within the reach of its people, as far as possible, to reduce the queue of waiting lists, and it has to provide all facilities for which an employee looks for at another hospital. Its up-keep; maintenance and cleanliness has to be beyond aspersion. To employ the best of talents and tone up its administration to give effective contribution. Also bring in awareness in welfare of hospital staff for their dedicated service, give them periodical, medico-ethical and service oriented training, not only at the entry point but also during the whole tenure of their service. Since it is one of the most sacrosanct and valuable rights of a citizen and equally sacrosanct sacred obligation of the State, every citizen of this

welfare State looks towards the State for it to perform this

obligation with top priority including by way of allocation of sufficient funds. This in turn will not only secure the right of its citizen to the best of their satisfaction but in turn will benefit the State in achieving its social, political and economical goal.

7. As the above mentioned hospitals have shown improvements there is no point in keeping the present petition pending. As and when any deficiency is pointed out to this Court, or comes to its notice otherwise, the same will be looked into. It is the prime duty of the respondents to provide efficient medical services to the patients and their said duty cannot be disputed. It is hoped that the hospital authorities will cause no grievance which would necessitate this Court to interfere.

8. The Hospitals against whom suo-motu action was taken by this Court have assured the Court by way of status reports that proper steps have been taken to fulfill the lack of facilities pointed out in the newspaper reports and all

patients are being provided proper care and treatment and the same will be continued in future also. The statements of the Medical Superintendents of the hospitals have been put on affidavit. Since, the needful has already been done, for the time being, no further directions are required. The writ petition and all pending applications filed in the same stand disposed of.

VEENA BIRBAL, J

T.S. THAKUR, J

May 16, 2008

srb