



**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL  
PRADESH)  
KOHIMA BENCH**

**Case No. : PIL/4/2018**

ACCESS TO RIGHTS AND KNOWLEDGE(ARK) FOUNDATION  
M.K.MARKET,TOP FLOOR,OPPOSITE HDFC BANK  
2: NAGALAND USERS NETWORK(NUN)  
RED CROSS BUILDING  
NEAR INDOOR BADMINTON STADIUM  
KOHIMA

3: HEPATITIS COALITION OF NAGALAND(HEPCON)

RED CROSS BUILDING  
NEAR INDOOR BADMINTON STADIUM  
KOHIMA

4: NETWORK OF NAGA PEOPLE LIVING HIV/AIDS(NNP)  
NNP SECRETARIAT  
M.K MARKET  
TOP FLOOR  
OPP. HDFC BANK  
KOHIM

VERSUS

THE STATE OF NAGALAND AND 6 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF N/L, KOHIMA  
2:THE PRINCIPAL SECRETARY  
DEPT. OF HEALTH AND FAMILY WELFARE  
N/L  
DEPT. OF HEALTH AND FAMILY WELFARE  
N/L  
KOHIMA

3:THE PRINCIPAL DIRECTOR  
DIRECTORATE OF HEALTH AND FAMILY WELFARE  
N/L

DIRECTORATE OF HEALTH AND FAMILY WELFARE  
N/L  
KOHIMA

4:THE MISSION DIRECTOR  
NATIONAL HEALTH MISSION  
STATE HEALTH SOCIETY  
N/L  
NATIONAL HEALTH MISSION  
STATE HEALTH SOCIETY  
N/L  
KOHIMA

5:THE PROJECT DIRECTOR  
NAGALAND AIDS CONTROL SOCIETY  
SECRETARIAT ROAD  
KOHIMA

6:THE UNION OF INDIA  
THROUGH ITS SECRETARY  
THE MINISTRY OF HEALTH AND FAMILY WELFARE  
ROOM NO.348 'A' WING  
NIRMAN BHAVAN  
NEW DELHI

7:THE ADDITIONAL SECRETARY AND DG  
NATIONAL AIDS CONTROL ORGANISATION(NACO)  
DEPT. OF HEALTH AND FAMILY WELFARE  
NEW DELH

**Advocate for the Petitioner** : NEITEO KOZA

**Advocate for the Respondent** : GOVT ADV NL

**BEFORE**  
**HON'BLE MR. JUSTICE DEVASHIS BARUAH**  
**HON'BLE MR. JUSTICE BUDI HABUNG**

**JUDGMENT & ORDER (ORAL)**

**Date : 05-06-2024**  
*(D.Baruah,J)*

**1.** The instant Public Interest Litigation is filed to bring to the notice of this Court that adequate steps have not

been taken by the respondent authorities in tackling the prevailing status of Hepatitis C Virus (HCV) in the State of Nagaland; to ensure the testing and treatment of HCV (including essential diagnostics and medication i.e. DAAs, confirmation of chronic HCV with viral load testing, genotyping etc) is provided free of cost in the State of Nagaland in any accredited hospitals; to identify and adequately publicize the names of hospitals, laboratories, medical stores or any other relevant medical establishments which will provide testing and treatment of HCV (including essential diagnostics and medication) free of cost in the State of Nagaland; to ensure that the Primary Health Centre and the Community Health Centre are adequately equipped and authorized for HCV antibody testing and referral to public hospitals for further treatment; to include all the drugs for the treatment of HCV under the essential drug list of the State,etc.

**2.** Pursuant to the filing of the instant Public Interest Litigation, this Court in the year 2018 issued notice to the respondents. The respondent nos. 4 and 5 have filed a detailed affidavit narrating in brief the National Viral Hepatitis Control Programme (NVHCP) and the implementation of the NHVCP in the State of Nagaland and the challenges faced during the process of its implementation. It has been stated in the said affidavit that the Government of India had decided to launch the NVHCP for prevention and control of viral Hepatitis, with a view to provide free of charge screening, diagnosis,

treatment & counseling services to all, especially to people belonging to High Risk Group (HRG). It was also mentioned that the NVHCP was implemented with the aim to combat Hepatitis and achieve county wide elimination of Hepatitis C by 2030; achieve significant reduction in the infected population, morbidity and mortality associated with Hepatitis B and C viz. Cirrhosis and Hepato-Cellular carcinoma (Liver cancer) and reduce the risk, morbidity and mortality due to Hepatitis A and E.

**3.** The manner in which the implementation was to be carried out have also been mentioned; by enhancing community awareness on hepatitis and lay stress on preventive measures among general population especially HRGs and in hotspots; provide early diagnosis and management of viral hepatitis at all levels of healthcare; develop standard diagnostic and treatment protocols for management of viral Hepatitis and its complications; strengthen the existing infrastructure facilities, capacity building of existing human resource and raise additional human resources, where required for providing comprehensive services for management of viral Hepatitis and its complications in all districts of the country; develop linkages with the existing National programmes towards awareness, prevention, diagnosis and treatment for viral Hepatitis and to develop a web-based "Viral Hepatitis Information and Management System" to maintain a registry of persons affected with viral Hepatitis and its sequelae.

**4.** It is also mentioned that the said NVHCP has various facets or for that matter components. First, is the preventive component which includes awareness generation; immunization of Hepatitis B; Safety of blood and blood products; injection safety, safe socio-cultural practices and safe drinking water, hygiene and sanitary toilets. The second component is diagnosis and treatment which includes screening of pregnant women for HBsAg to be done in areas where institutional deliveries are less than 80% to ensure their referral for institutional delivery for birth dose Hepatitis B vaccination; free screening, diagnosis and treatment for both hepatitis B and C would be made available at all levels of health care in a phased manner; provision of linkages, including with private sector and not for profit institutions, for diagnosis and treatment and engagement with community/peer support to enhance and ensure adherence to treatment and demand generation. The third component is monitoring and evaluation, surveillance and research. The fourth component is training and capacity building.

**5.** It is further stated in the affidavit which has been filed by the respondent no. 4 and 5 that the NVHCP programme was launched in the State of Nagaland in the year 2018 or for that matter during the period when the instant Public Interest Litigation was filed there was a State Reference Laboratory set up at Naga Hospital Authority Kohima (NHAK); there was also a Model Treatment Centre (MTC) at NHAK; Treatment Centers at

Dimapur, Mokokchung, Tuensang, Zunheboto, Mon, Longleng, Kiphire, Phek and Peren and viral load testing kits made available at Model Treatment Centre and all Testing Centres.

**6.** The respondent nos. 4 and 5 have also stated in the affidavit as to the profiling done in respect of Hepatitis B and C in the State of Nagaland during the period from 2019 to December 2021. Further to that, what the State respondents targets to do for the period from 2022 to 2024 have also been mentioned. It also mentions that there are various challenges faced during the process of implementation of the program. However, Mr. Mozhui, learned counsel for the State respondents submits that there were certain hitches which have not been streamlined. He however submits that in cases where child births takes place outside the institutions, the benefits of the NVHCP program are not being availed by such mothers. It has been categorically stated that these services which are given are free services offered by the Government to safeguard the patients from Hepatitis B infection at the Health care settings. The manner in which it has been implemented have also been mentioned in the said affidavit. It has been stated that the NVHCP is a vertical program under the umbrella of NHM; it is a part of the overall National Health Mission Program Implementation Plan and all drugs related to treatment of HBV and HCV are received in kind from the Ministry which are given free of cost to the patients. Further to that it

has also been mentioned that the testing kits and laboratory consumables for HBV and HCV are supplied free of cost to the districts for the patients.

**7.** This Court also finds it relevant to take note of the affidavit-in-reply filed by the petitioners to the affidavit-in-opposition filed by the respondent nos. 4 and 5. In the said affidavit-in-reply, it has been mentioned that so far as screening/testing is concerned, in most of the cases in Kohima, the ARK foundation does the screening and refer patients to the NHAK for confirmative test. It has also been categorically mentioned that apart from free screening and confirmative tests, the Model Treatment Centre in NHAK and Treatment Centres at Dimapur, Mokokchung, Tuensang, Zunheboto, Mon, Longleng, Kiphire, Phek and Peren does not provide free service for testing like Complete blood count, Liver function test, Kidney function test, etc which mounts up the expenses of the poor patients. It is also mentioned that the Model Treatment Centres opens only twice a week and therefore, it is inconvenient for the patients.

**8.** This Court further finds it relevant to take note of the affidavit-in-opposition filed by the respondent no. 6. This affidavit is relevant taking into account that the said affidavit has been filed by the Union of India who is actually sponsoring the entire scheme. It has been mentioned in the said affidavit that technical and financial support under the National Health Mission is provided to the States/UTs based on requirement proposed in the

Programme Implementation Plans submitted by them. For the State of Nagaland, the Central share is 90% and the State share is 10 % of the total funding. It was also further mentioned that the NVHCP was launched in India on 28<sup>th</sup> July, 2018 under the aegis of National Health Mission in alignment with Sustainable Development Goal target 3.3. The program envisages prevention through awareness generation and management of viral hepatitis by provisioning free diagnosis and treatment. The program aims to achieve elimination of Hepatitis C by 2030; achieve significant reduction in the infected population, morbidity and mortality associated with Hepatitis B and C, namely cirrhosis and hepatocellular carcinoma (liver cancer); and also to reduce the risk, morbidity, mortality due to Hepatitis A and E.

**9.** It has also been mentioned that the State of Nagaland has proposed implementation of this program for addressing the viral hepatitis disease burden since 2019. In that regard Annexure I of the said affidavit is very relevant as it consists of the NHM record of proceedings collectively of the years 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24. Annexure II to the said affidavit is of significance in as much as the Joint Secretary to the Government of India, Ministry of Health and Family Welfare vide the communication dated 15.06.2020 issued directions to the State Health Missions stating that the NVHCP have been rolled out for diagnosis, treatment and management of viral Hepatitis and, under

the programme, free drugs and diagnosis are provided to all those in need. It was also mentioned that the testing kits for serology (ELISA/ rapid test kits for hepatitis B and hepatitis C) were being procured centrally and provided to the State. However, due to certain quality concerns and delay in supplies reported by some States, and also in view of the COVID-19 pandemic adding to disruption in supply chain of the test kits in the States, it was decided to decentralize the procurement of the said test kits. The test kits were directed to be procured directly by the States/UTs from the existing cash grant or with minimum re-appropriation of funds, if required, as per the PIP of the current year. It was also stated in the affidavit that although the central government provides 90% of the funding but as per Entry 6 of the List II of Seventh Schedule of the Constitution of India, the implementation of the program is the responsibility of the State Government.

**10.** We have duly heard the learned counsels appearing on behalf of the parties. It has been brought to the attention of this Court that since the filing of the Public Interest Litigation there had been various steps taken for providing the benefits in terms of the NVHCP. It was submitted that the said NVHCP is presently fully operationalized in the State of Nagaland and free treatment have been duly provided. However, the learned counsel appearing on behalf of the petitioners submits that Model Treatment Centres so set up do not provide

free services for testing like Complete blood count, Liver function test, Kidney function test, etc for which expenses have to be incurred by the poor patients.

**11.** Per contra, Mr. Mozhui, learned counsel submits that all tests which are required for diagnosis and treatment of Hepatitis B and C would fall within the ambit of the NVHCP. He further submits that if there is a requirement that testing relating to Complete blood count, Liver function test, Kidney function etc are required to be made having relation with the prevention, diagnosis and/or treatment in connection with Hepatitis B and C or for that matter, the program of NVHCP, the NHAK as well as the Model treatment centres would duly provide the said testing services. However, if it is not in connection with the prevention, diagnosis and/or treatment of Hepatitis B and Hepatitis C, the scheme would not provide such benefits.

**12.** We upon hearing the learned counsels are of the opinion that a perusal of the guidelines categorically states that free medical diagnosis and treatment both for Hepatitis B and Hepatitis C would be made available in all levels of health care. It is an admitted fact that for the purpose of NVHCP, Model treatment centres have been set up at Kohima, Dimapur, Mokokchung, Tuensang, Zunheboto, Mon, Longleng, Kiphire, Phek and Peren and as such, if the testing for Complete blood count, Liver function test, Kidney function test and any other test(s) are required in connection with the prevention, diagnosis

and/or treatment for Hepatitis B and/or C, the said patients have to be afforded free testing.

**13.** Mr. N. Mozhui, learned counsel further submits that as per his instruction, the Model Testing Centres are open throughout the week at present. We take the word of Mr. M. Mozhui, that the Model Testing Centres are fully operationalized. We also direct the State of Nagaland to keep the said Model Testing Centres fully functional so that the patients are in a position to obtain the necessary facilities as provided in NVHCP.

**14.** Taking into account the above observation and directions and also taking into account that the NVHCP is properly implemented in the State of Nagaland, this Court finds no ground to continue with the instant Public Interest Litigation.

**15.** Accordingly, the instant Public Interest Litigation stands closed.

**16.** Before parting with the records, we thank Ms. Neiteo Koza, learned counsel appearing on behalf of the petitioners for bringing to the attention of this Court this Public Interest Litigation. In addition to that we commend on the assistance received from Mr. N. Mozhui and Mr. Yangerwati, the learned counsels for the respondents.

Sd/-  
**JUDGE**

Sd/-  
**JUDGE**

**Comparing Assistant**