

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 987 of 2016

Kothari Nursing Home Through The Proprietor, Smt. Vijaylaxmi Kothati W/o Shri S. M. Kothari, Aged About 63 Years, R/o Jawahar Chowk, Durg, Police Station District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mantralaya, Mahandi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. The Collector, Supervisory Authority, District Durg Chhattisgarh
3. Chief Medical And Health Officer, Main Hospital, District Durg Chhattisgarh
4. Smt. Rachna Sonkar, Councillor Aappapura Ward No. 31, Municipal Corporation Durg, District Durg Chhattisgarh

---- Respondents

Ms. Sunita Jain, counsel for the petitioner/s.
Shri B.Gopa Kumar, Dy.A.G. for the State / respondents 1 to 3.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

26/04/2016

This petition has been filed by the petitioner challenging order dated 04/04/2016 passed by the Chief Medical and Health Officer directing the petitioner to close the nursing home and allowed to run only OPD.

2. Learned counsel for the petitioner submits that the petitioner holds a valid license to run nursing home at Shanichari Bazar, Durg. In order to carry out some renovation work, the petitioner temporarily shifted the nursing home from Shanichari Bazar to Hatri Bazar. The nursing home at Shanichari Bazar is completed and completion certificate has also been issued on 06/04/2016. However, in the meantime, the Chief Medical Officer passed an order directing the petitioner to close the nursing home. It is submitted that there are certain patients admitted in the nursing home and closure of nursing home abruptly will

adversely affect treatment of those patients.

3. On the other hand, learned State counsel submits that the petitioner was granted license to run nursing home at Shanichari Bazar, Durg. There is no permission so far granted by the competent authority / Collector to facilitate temporary arrangement at Hatri Bazar. Therefore, the Chief Medical Officer has rightly directed the petitioner to close the nursing home only allowing OPD facility.

4. Even if it were to be accepted that the Chief Medical Officer does not have authority to grant license or to cancel license, in the absence of there being any permission by the licensing authority to even temporarily run the nursing home at a new place, I am not inclined to hold that the petitioner has authority under the law to run the nursing home at Hatri Bazar, though the petitioner may continue with the OPD facility.

5. It appears that the petitioner has written a letter to the licensing authority / Collector and Chief Medical and Health Officer seeking their indulgence to provisionally permit the petitioner to continue the nursing home for another 2-3 weeks till the nursing home is shifted from Hatri Bazar to Shanichari Bazar.

Therefore, all that can be done in the present case is to direct the Collector / licensing authority to look into the request of the petitioner to allow her to provisionally continue the nursing home for a short period, till shifting is complete. On petitioner approaching the Collector with a copy of this order and fresh representation, the Collector shall decide the same within a period of five days.

6. With the said observation, the petition is finally disposed off.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge