

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

W.P. No. 24836 of 2016

DATE: 17.08.2016

Between:

M/s.Nandikeswara Educational &
Service Society .. Petitioner

And

The Union of India
and four others .. Respondents

ORDER:-

This writ petition is filed for the following substantive relief:
“.. to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing G.O.Ms.No. 43 Health, Medical and Family Welfare (E-2) Department, dated 28.04.2016 in withdrawing the services of the petitioner-society for operating the Urban Health Center, as illegal, arbitrary and violative of principles of natural justice and contrary to the scheme of National Urban Health Mission and set aside the same,

and consequently, direct the respondents to continue the petitioner-society..”

The learned counsel for the petitioner-society has submitted that the petitioner has been functioning for the last 12 years without any adverse remarks. The issuance of the G.O.Ms.No.43, dated 28.04.2016 terminating the services rendered by the petitioner-society without issuing any notice is illegal, arbitrary and violative of principles of natural justice and contrary to the scheme of N.U.H.M.

It is an admitted fact that the whole budget for providing services for operating Urban Health Center is borne by the Government. While 75% is contributed by the Central Government, 25% is by the Government of Andhra Pradesh. It is also not disputed that the petitioner has been running services for the past twelve years, however, vide G.O.Ms.No.43, dated 28.04.2016, the services of the N.G.Os. were dispensed with and the Commissioner of Health and Family Welfare is permitted to take administrative control of all Urban Health Services mentioned in G.O.Ms.43. In the aforesaid G.O., it is stated that the existing 193 UHCs. have been upgraded as e-UPHCs. with the staff approved in ROP of the National Health Mission (N.H.M.) and provide specialist services on tele-mode in a HUB and spoke model. Accordingly, permission is accorded to the Commissioner of Health and Family Welfare to call for a Request For Proposal (RFP) for identifying total service providers for operation and maintenance of (193) e-UPHCs.

The Government of India have launched National Urban Health Mission as a Sub-Mission under the overarching umbrella of National Health Mission during the year 2013-14 with National Rural Health Mission (N.R.H.M.) being the other Sub-Mission. The National Urban Health Mission will aim at improving the health status of the urban population in general, but particularly of the poor and other disadvantaged sections by facilitating equitable access to quality health care through a revamped public health system, partnerships, community based mechanism with the active involvement of the urban local bodies. Accordingly, the Government of A.P. had accorded administrative approval for establishment and operationalisation of Urban Health Cell in the State. After implementation of National Urban Health Mission (NUHM) in that State, the fresh contract agreements with the NGOs. for the years 2014-15 and 2015-16 for operation of Urban Health Centres (UHCs) was not entered into and the existing service delivery with the NGOs is continued without any specific orders and payment is also made from time to time. Currently, there is no evaluation undertaken.

The Government of India have approved upgradation of all existing 193 Urban Health Centres as Urban Primary Health Centres in the ROP for the years 2014-15 and 2015-16. Each Urban Primary Health Centre is provided with additional human

resources including Medical Officer, Staff Nurse, Lab-technician, Pharmacist, Ministerial Assistance, Supporting staff to work in Urban Primary Health Centres (UPHC) and five ANMs. provided at the rate of one Urban Primary Health Centre (UPHC) for providing community services.

In view of the above, there seems to be no expenditure incurred by the petitioner-society. The whole budget had been provided by the Central Government and the Government of Andhra Pradesh. If the Central and the State Governments want to improve the services rendered by the petitioner and no expenditure is incurred by the petitioner, then the report should not come in the way of the mission. Moreover, it is settled law that any policy matter unless and until it is against the public interest, should not be interfered with by the Court.

Hence, this Court finds no merit in the writ petition, and accordingly, the same is dismissed. No order as to costs.

As a sequel to the dismissal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

17.08.2016

bcj