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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 59 OF 2017**

Jyoti Virendranath Sushma Tiwari	...Petitioner
Vs.	
Government of Maharashtra through its Health Department	...Respondent
....	
Ms. Jyoti V. Tiwari, petitioner in person.	
Ms. Geeta Shastri, AGP for respondent	
....	

**CORAM : SHANTANU S. KEMKAR &
M.S.KARNIK, JJ.**

**RESERVED ON : 19th MARCH, 2018.
PRONOUNCED ON : 4th APRIL, 2018**

ORDER (PER M.S.KARNIK, J.) :-

The petitioner is an Advocate and Lecturer and is concerned with social causes. By this Public Interest Litigation the petitioner has prayed for the following reliefs :-

- a) That this Hon'ble Court be pleased to give direction to the State Government of Maharashtra to include the following provision in the Draft Maharashtra Clinical Establishment Act Bill, 2014 :-
 - i. There should be Separation of the regulatory, executive and redressal mechanisms to give justice to the work at hand, and to avoid conflict of interest ;

ii. Provision for full time working Grievance Redressal Mechanism for Patients and hence, change in Chairmanship of District Appellate Body ;

iii. Increased representation for civil society groups in the State Council under this Bill, with due process for their selection ;

iv. Provision of prescribing 'Range of Rates' for clinical establishments through consultative multi-stakeholder approach,

v. Reimbursement of charges for emergency first aid given to poor patients.

b) That this Hon'ble Court be also pleased to give necessary direction to the State Government of Maharashtra to take up the said Draft in the upcoming Sessions of the Legislature, for the enactment of the Maharashtra Clinical Establishment Act in the interest of justice.

c) That this Hon'ble Court be pleased to direct the Respondent to take suitable steps for protecting the life of the public at Large.

2. The petitioner is in effect seeking directions against the respondent – State Government to include certain provisions in the Draft Maharashtra Clinical Establishment Act Bill, 2014 and also sought relief for taking up the said Draft Bill in the next session of the Legislature.

3. An affidavit-in-reply is filed on behalf of the

respondents. It would be material to reproduce para 5 and 14 of the said affidavit which reads thus :-

5. I say that Government of Maharashtra had appointed expert committee of 19 members as per Government Resolution dated 20.12.13 to prepare draft of 'Maharashtra Clinical Establishment Act' under Chairmanship of Chairman Maharashtra Medical Council here to Annexed and marked as Exhibit-1. Out of 19 members, 9 members were non official. Objections were raised by Medical Fraternity regarding provision of Stabilization of patients and NGOs and consumer groups regarding absence of patients' rights and responsibilities. With this background the committee was appointed. Objectives of this draft was to define minimum standards for various types of Clinical Establishments, transparency in medical services, and make qualitative service available to poor patients, protect rights of patients and Doctors. The committee held seven meetings. The Draft MCEA was prepared and advertisement was given in State newspapers to invite objections from public. Draft MCEA of act has been published on the website to invite suggestion and objections from public. Public hearing was organized on 03.05.14 at all eight health division's i.e. Thane, Pune, Kolhapur, Nashik, Aurangabad, Latur, Amrawati and Nagpur. 2500 suggestions were received and considered by the committee while preparing the draft MCEA.

14. I say that the Committee after hearing objection and long deliberation had proposed different authorities. I say that as per proposed section 10(vii) of draft MCEA, clinical establishments are required to display notice regarding availability of rates of facility and services. The said Committee after complying the said requisition had sent the final draft of MCA Bill to the government on 15/06/2015. Government vide G.R. dated 18.01.2018 has set up a committee to study the provisions of the proposed bill taking into consideration the remarks of the representatives of concerned fields and institutions. The committee comprises of representatives of private hospitals, MCI, MMC, IMA and representative of pathology lab and as well legal person. The suggestions and objections received by

petitioner will also be placed before this committee who will submit its report to the government before 05.02.2018. Hereto annexed and marked as **Exhibit “4”** is the copy of G.R. dated 18/01/2018 appointing the Committee.

4. It has further been stated in the affidavit that due procedure is being followed for laying the Bill before the Legislature.

5. Suffice it to mention that in the exercise of our writ jurisdiction under Article 226 of the Constitution of India it is not possible for us to issue any direction to the State to legislate the enactment in a particular form. In view of the stand of the State as spelt out in the affidavit-in-reply, we refrain from issuing any directions in the present Public Interest Litigation.

6. Public Interest Litigation is accordingly dismissed with no order as to costs.

(M.S.KARNIK, J.)

(SHANTANU S. KEMKAR, J.)