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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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W.P.(C) 9008/2016

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Date of decision : 31st July, 2018

NISHA

..... Petitioner

Through : Ms. Sija Nair Pal, Adv.

versus

GOVT. OF NCT OF DELHI & ORS Respondents

Through : Ms. Sukriti Ghai for Mr. Deves
Singh, ASC(Civil)-GNCTD.
Mr. Sushil Dutt (SO) in person
Mr. A.P. Singh, Adv. for
R-5 & 6.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. The additional affidavit dated 31st July, 2018 filed by the petitioner is taken on record.
2. This writ petition has been filed in public interest seeking issuance of appropriate writ to the respondents to implement the Government's scheme to ensure timely disbursement of grant under the Janani Suraksha Yojana (JSY Scheme) during pregnancy or after child birth for the residents of the Chilla Khadar Jhuggi Camp, Mayur Vihar, Phase-I, New Delhi. Alongwith the affidavit, a list of several

women has been filed disclosing their ignorance about the availability of the cashless assistance available under the JSY Scheme. Most of the women detailed in the annexure to the affidavit are not even registered under this Scheme. Very few of them have bank accounts or post office accounts and many of them do not have Aadhar Cards. Several of the listed women have not linked their bank account with the Aadhar Card.

3. The aspect that most of the women are not even aware about the availability of the facilities of the Government's JSY Scheme which is to be worked by the Govt. of NCT of Delhi is an unfortunate state of affairs.

4. The affidavit highlights the position that much more needs to be done by the respondents to publicise the availability of the benefits under the Scheme and to ensure its disbursement. More pro-active steps are required to be ensured which would enable the enjoyment of the benefit under the Scheme are ensured to the women entitled to the benefits thereunder.

5. It is submitted by Ms. Sija Nair Pal, learned counsel for the petitioner that in order to avail the benefits under the JSY Scheme, the mother has to produce the following documents :

- “1. Photocopy of Bank Passbook*
- 2. Photocopy of Aadhaar Card*
- 3. BPL/ST/ST Certificate*
- 4. MCTS No*
- 5. Photograph.”*

6. A perusal of the JSY Scheme placed on record shows that no

such requirement of the above-listed documents is set out in the Scheme except the BPL certificates with regard to the BPL certification. Clause 8(b) of the Scheme (*page 156*) notes that if BPL Cards had not yet been issued, the State/Union Territory/Government/Municipalities would lay down a simple criteria for BPL certification through panchayat or other mechanism. The petitioners have informed us that in Delhi, EWS certification is being issued. There is no legal basis or requirement under the scheme as notified by the Central Government for the respondents to insist on the production of the documents.

7. It is pointed out that no BPL/SC/ST Certificates are issued in Delhi. Only Economically Weaker Sections Certificates are issued to persons who come under the Economically Weaker Sections. Additionally, it is submitted that the requirement to produce a photocopy of the Aadhar Card is unfair.

8. It is submitted by Ms. Sija Nair Pal, learned counsel for the petitioner that even the insistence by the official respondents on production of the Aadhar Card in order to avail the benefits under the public distribution service has been waived under the Framework for Implementation National Health Mission, 2012-17.

9. So far as the bank passbook is concerned, it is submitted by Ms. Sija Nair Pal, learned counsel for the petitioner that most of the poor women have no money to put in their bank account and that most of these women rely on their other family members bank accounts, if any.

10. There is certainly substance in the difficulties pointed out by the

petitioner.

11. It is submitted by Mr. Gautam Narayan, Id. *amicus curiae* that so far as the insistence of the documents is concerned, the same is because the requirement thereof have been imposed under clause 25 (page 165) of the JSY Scheme by the Central Government.

12. Mr. Gautam Narayan, Id. *amicus curiae* draws our attention to clause 25 of the Scheme which reads as follows :

“25. Grievance Redressal Mechanism

Under NRHM, ombudsman shall be positioned at the National, state and District Level to address quality concerns and grievances of the people for the public health programme. This mechanism shall also cater to the JST initiative. The state and the District Mission will notify this fact and identify a nodal officer for this purpose. Only such officer would be identified who is not part of the implementation set for JSY in the district. In addition, names of such nodal officers along with his postal address, telephone number wherever available should be widely circulated and displayed on the walls of sub-centre, PHC, CHCs, all public buildings, District hospital, panchayat buildings and all prominent places.”

13. It cannot be denied that women for whose benefit the writ petition has been filed could not avail the benefits under the JSY Scheme for so many years.

14. In view thereof, we direct the Govt. of NCT of Delhi to take appropriate steps for informing, taking and filing appropriate representations to the Ombudsman under the National Rural Health Implementation Scheme and apprising him of the above situation. A view shall be taken with regard to the mandatory requirement and insistence upon the documents which have been required by the

Central Government under the Scheme in the light of the observations made by us herein.

15. In view of the above, this writ petition is disposed of with a direction to the respondents to ensure that the JSY Scheme receives the maximum publicity and is brought to the notice of all needy women. The benefits under the Scheme shall be released by the respondents without insisting on the documentation noted in para 4 above requiring only compliance of the stipulation under the JSY Scheme.

Dasti to parties.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

JULY 31, 2018/kr