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

\+ W.P.(C) 2140/2018

% *Date of Decision: 7th August, 2019*.

ARPIT BHARGAVA ..... Petitioner

Through: Petitioner in person with Ms.Hina Bhargava, Mr.Varun Talwar, Advs.

Versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr.Kirtiman Singh, CGSC with Mr.Waize Ali Noor, Mr.Prateek Dhanda, Advs. for R-1.

Mr.A.K.Nag, Adv. for R-2.

**CORAM:**
**HON'BLE THE CHIEF JUSTICE**
**HON'BLE MR. JUSTICE C.HARI SHANKAR**

**O R D E R**

: **D. N. Patel, Chief Justice** *(Oral)*

1. This so-called public interest litigation has been preferred for the following prayers:-

> "A. Issue a writ of mandamus or any other appropriate writ thereby directing the Respondent No.l and 2 not to violate the most basic fundamental right of citizens being 'Right to Life' as enshrined under Article 21 of Constitution of India since 'healthy nation is a wealthy nation'.
>
> B. Issue a writ of mandamus or any other appropriate writ thereby directing the Respondent No.l and/or 2 to determine and place on record the number of consumer and such other cases pending in different consumer forums etc. in Delhi against all insurance companies relating to life/ health/general insurance policies being issued without medical examination/health check up of insured persons and determine

the number of cases in which insurance companies etc. have repudiated claims on account of pre-existing diseases and alleged suppression of material facts relating to health,

C. Issue a writ of mandamus or any other appropriate writ thereby directing the Respondent No.l and/or 2 to frame regulations/policies/guidelines etc. in a time bound manner making it mandatory for life/health/general insurance companies to carry out medical examination/health check up of each and every person intending to take policies relating to health and/or life before the insurance policies are issued (without any discrimination),

D. Issue a writ of mandamus or any other appropriate writ thereby directing the Respondent No.l and/or 2 to implement the said regulations/policies/guidelines etc. in a time bound manner,

E. Issue a writ of mandamus or any other appropriate writ thereby directing the Respondent No.l and/or 2 to fix accountability of officers of Respondent No.l and/or no.2 incase the aforesaid regulations/policies/guidelines etc are not framed and implemented in a time bound manner,

F. Appoint an expert committee/ court monitored committee to ensure the aforesaid is done in a time bound manner,"

2. Having heard the petitioner, who is a practicing advocate and appears in person and looking to the facts and circumstances of the case, it appears that the petitioner wants medical check up to be done prior to issuance of health/life insurance policies. Moreover, the petitioner submitted that respondent No.1 and respondent No.2 be directed to frame the regulations/policies/guidelines etc. in this regard.

3. We see no reason to direct the respondents to frame the regulations or policies or guidelines mainly for the reason that to draft a policy is the

function of the respondents and we cannot even replace it with a better policy. Moreover, issuance of insurance policy is a contract between a private person and the insurance company. The terms and conditions of the agreement can neither be altered by this Court nor we can add any term in the contract like medical check up prior to the health/life insurance policy.

4. Moreover, Insurance Regulatory and Development Authority ('IRDA') is a statutory regulatory body and if there is any requirement of medical check up, all care can be taken by such type of authority which is constituted under the provisions of the law.

5. Neither this petitioner who is an advocate nor this Court has expert knowledge about the issue. The insurance company is always working with the help of their expert advisors and the terms of the contracts are based upon their own policy. We do not want to add any term to the contract like a prior medical check up to be done compulsorily. It all depends upon the facts and circumstances of the case.

6. Much has been argued out by the petitioner that when the insurance claim is being made by the private persons, sometimes insurance companies are rejecting them on the ground that the insured person is already suffering from some pre-existing deceases. It is submitted, therefore, by the petitioner that this type of defence of the insurance companies should be ousted much in advance and, therefore, medical check up is must.

7. We see no reason to entertain this contention mainly for the reason that the whole argument is based upon presumptions and surmises. If such type of defence is advanced by the insurance company, the decision will be taken by the concerned Court looking to the facts of the individual cases. In general, it cannot be such that the insurance companies must go for medical

check up of the persons before the insurance policy is given to them.

8. This writ petition is devoid of merits and the same is, therefore, dismissed with no orders as to costs.

**CHIEF JUSTICE**

**C.HARI SHANKAR, J**

**AUGUST 07, 2019**
*'anb'*