IN THE HIGH COURT OF MANIPUR
AT IMPHAL

PIL No. 57of 2018

Ngangbam Reeta, aged about 27 years, D/o Ngangbam Indrajit, a resident of Luwangsangbam Makha Leikai, P.O. Mantripukhri, P.S. Heingang, Imphal East District, Manipur – 795002.

... *Petitioners*

-Versus-

1. The State of Manipur through the Principal Secretary (Health & Family Welfare), Government of Manipur, Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
2. The State Mission Director (NHM), State Health Society, Manipur, Directorate of Health Services, Lamphelpat, Imphal, Manipur – 795004.
3. The State ASHA Nodal Officer (NHM), State Health Society, Manipur, Directorate of Health Services, Lamphelpat, Imphal, Manipur – 795004.
4. The Union of India through the Additional Secretary & Mission Director, National Rural Health Mission, Ministry of Health & Family Welfare, Government of India, Nirman Bhawan, Maulana Azad Road, New Delhi – 110011.

... Respondents

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner	:	Mr. M. Rakesh, Advocate
For the respondents	:	Mr. N. Kumarjit, Advocate General
Date of hearing & order	:	11.08.2020

O R D E R

[A.B., J]

[1] When the present PIL is taken up, Mr. M. Rakesh, learned advocate informs that the conducting counsel Mr. J. Hillson Angam, for the petitioner is absent today and accordingly, he prays for adjourning the hearing of this case on another date.

[2] Mr. N. Kumarjit, learned Advocate General appears for the respondents No. 1, 2 & 3 and Mr. S. Samarjeet, learned CGC appears for the respondent No. 4.

[3] Considering the issue involved in the present case, we are not inclined to adjourn the hearing of this case and the matter is taken up today for disposal.

[4] The present public interest litigation is being filed under Article 226 of the Constitution of India for issuance of writ in the nature of mandamus or any other appropriate writ or order directing the respondents to fully implement the ASHA programme as per ASHA's guidelines in the State of Manipur.

[5] The petitioner pleaded that Accredited Sufficient Health Activities (ASHA in short) were introduced in the year 2005 under the National Rural Health Missioin in order to provide every village in the country with a trained female community health activist. ASHA is the grass root health functionary and her three main roles are :

(i) As a facilitator or link worker – where there is low use of health services, the ASHA enables people to access health services.

(ii) A volunteer and activist – to enable access to health entitlements and reaching the marginalized.

(iii) A community level care provider – important for her credibility, to respond to local health needs, particularly in undeserved areas.

[6] ASHAs are women selected by the community who is a resident in the community, trained and supported to function in her village to improve the health status of the community by enabling improved health care practices and behaviours, healthcare provisions and securing people's access to healthcare services as is feasible at the community level. She forms a critical link between the community and the public health system.

[7] ASHA's are honorary volunteers and do not hold any post under the Central Government or the State Government. Under the National Health Mission, ASHAs are envisaged to be community health volunteers and are entitled only to task / activity based incentives. The incentives to ASHAs, finalised at the National level, are regularly reviewed by the Government and activities for which ASHAs would get incentives, are expanded from time to time.

[8] The guidelines for implementation of the ASHA programme were issued by the Ministry of Health and Family Welfare in 2006. The programme has evolved substantially through revised guidelines built on the original guidelines and various orders issued over a period of time. The latest revised guidelines for implementation of ASHA programme was published on 26th June, 2013 consisting of Guidelines for Community Processes encompass the guidelines for ASHA, Village Health Sanitation and Nutrition Committees and Support Structures. The petitioner claims that she is a

progressive lawyer and she is very much concerned with the improvement of public health system and the petitioner is concerned with the prevailing issue concerning the implementation of ASHA programme in the State of Manipur.

[9] In the present PIL, it is averred by the petitioner that a team of three lawyers namely, J. Hillson Angam, Th. Premlata and Ng. Sarah Devi conducted fact findings in three Districts of Manipur namely, Imphal West, Senapati and Imphal East to assess the implementation of the ASHA programme. On 17.08.2018 the said lawyers visited the ASHA worker of Tabunghok Makha Leikai, Imphal West, Manipur namely, Smt. Purnimashi Devi who is also the President of All Manipur ASHA Workers Union and enquired about various aspects of implementation of ASHA programme in the State of Manipur particularly in Imphal West District. The team found several loopholes in the implementation of ASHA programme in the State of Manipur. It was found that the support system provided to the ASHA workers in the State of Manipur was not up to the mark. It was observed that there is inordinate delay in payment of compensation to the ASHAs, and the amount of compensation is not at par with the other States. Further, it was observed that due to lack of adequate supply of facilities such as equipment kits, drug kits, and delay in payment of compensation etc. the ASHA workers faced great hardship while performing their duties.

[10] On 17.09.2018 the team visited Senapati District and met with two ASHAs namely K. Tinah and M. Ningtharla of Khongdei Khuman Village, Sepanati District Manipur. The team interacted with the ASHAs and enquired about various aspects of implementation of ASHA programme in Senapati District more particularly in their village. The inadequacy and quality of the training and support systems, questions related to the working conditions

and payments of incentives remains a great challenge. Further, it was found that the ASHAs are not given the drug kits and no medicines were supplied to the ASHAs in clear misapplication of the ASHA programme.

[11] On 12.10.2018 the team visited an ASHA worker namely, Smt. Ch. Hemapati Devi of Matai Awang Leikai, Imphal East and interacted with her. It was found that the incentives of the ASHAs in the District are not paid on time and ASHA equipment kits and drug kits are not adequately provided.

[12] It has been stated by the petitioner in her petition that timely payment of the incentives to the ASHAs is an essential factor for the success of ASHA programme. However, in the State of Manipur, the delay in the payment of incentives to the ASHA is a major challenge that requires immediate redress. The ASHA incentives plan framed by the State of Manipur needs to be revisited and make further enhancement as the amount of incentives given to the ASHAs are inadequate and not at par with the incentives paid in the other States. Further, the performance based incentives are not properly applied in the State of Manipur and the respondents authorities arbitrarily pay certain fixed amount of incentives as their monthly allowances in clear misapplication of the ASHA guidelines.

[13] It has been averred by the petitioner in her petition that ASHA help desk and a rest room is required to be set up in all the District Hospitals as per the ASHA guidelines to ensure facilitation of proper service availability to navigate the patients and help them during referrals at the health institutions. ASHAs often need to stay overnight at the facilities and for this a rest room for the ASHAs is required to be provided in all the Districts and Sub-Divisional Hospitals of the State. However, in the State of Manipur ASHA help desk has not been set up in almost all the Districts and no rest

room has been provided for the ASHAs and that due to lack of these facilities the ASHAs could not extend effective service to the patients.

[14] The petitioner further averred that a separate office for the Grievance Redressal Committee has not been constituted in almost all the District Hospitals although, the ASHA guidelines stipulates that the District Health Society is to allocate to the ASHA Grievance Redressal Committee and an office with a full time secretary and a functioning landline number and P.O. Box number both of which are to be widely publicized and displayed at PHC, CHC and District Hospital. Some circumstances of the allegations raised by the petitioner in the PIL are as under :

(a) The respondents have failed its obligation to fully implement the ASHA programme as per the guidelines laid down in this regard thereby, denying patients especially women their rights to receive healthcare service ;

(b) The respondents have failed to ensure timely payment of incentives to the ASHAs causing impediment to the ASHAs to effectively perform their work;

(c) The respondents have failed its obligation to provide the ASHAs with adequate infrastructures, resources and supplies necessary to implement the ASHA programme.

(d) The respondents have failed to provide the ASHAs with adequate minimum wages for their work thereby, violating the women's their right to equality under Article 14, Right to Protection from Discrimination under Article 15 and Right to Life under Article 21 of the Constitution of India.

[15] On the backdrop of the above averments and allegations raised by the petitioner in her petition, the present PIL has been filed seeking for the following reliefs :

> "(ii) To issue a writ in the nature of Mandamus or any other appropriate writ(s) or order(s) directing the respondents to fully implement the ASHA programme as per the ASHA guidelines in the State of Manipur.
>
> (iii) To issue a writ in the nature of Mandamus or any other appropriate writ(s) or order(s) directing the respondents to ensure timely payment of the incentives to the ASHAs.
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> (iv) To issue a writ in the nature of Mandamus or any other appropriate writ(s) or order(s) directing the respondents for payment of adequate wages and ensure payment of minimum wages to the ASHAs for their work.
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> (v) To issue a writ in the nature of Mandamus or any other appropriate writ(s) or order(s) directing the respondents to provide the ASHAs with adequate infrastructure, resources and supplies as per the ASHA guidelines.
>
> (vi) To issue a writ in the nature of Mandamus or any other appropriate writ(s) or order(s) directing the respondents to ensure that ASHA has been appointed in every habitation/villages as per the ASHA guidelines.

[16] The respondent No. 1 in his counter affidavit stated that the State of Manipur has been implementing the ASHA programme as per guidelines issued by the Ministry of Health and Family Welfare, Government of India. It has also been stated that ASHAs are volunteers who are paid

incentives for certain activities performed by them. The Government of India has conveyed the approval to increase routine incentives of ASHAs from Rs. 1,000/- to Rs. 2,000/- per month subject to their carrying out the activities. Pursuant to the aforesaid letter of the Ministry, the authority has already informed all concerned officers to increase routine incentives packages for ASHAs with effect from 1st October, 2018 and to be paid from November, 2018.

[17] The respondent No. 1 has also stated that even if the Government of India timely releases the required funds, the Treasury Office took time to disburse the funds in all the Districts and as such, there was delay in payment of incentives to the ASHAs. As soon as the funds are disbursed by the Treasury Office, the backlog incentives were paid to the ASHAs by the authorities concerned. ASHA incentive amounts are paid exactly as per the guidelines laid down by the Ministry of Health and Family Welfare, Government of India. There may be differences with other States where the States give additional incentives (by the State and not by the Ministry) as a State Policy.

[18] It has also been stated by the respondent No. 1 that module trainings for ASHAs are being carried out in all Districts. Replacement and new ASHAs are identified and training for them is proposed on a year basis. In order to improve and ensure quality or trainings, the National Institute of Open Schooling (NIOS) ASHA certification programme is currently being rolled out in the State of Manipur in co-ordination with the Ministry of Health and Family Welfare, Government of India.

[19] The respondent No. 1 also stated that ASHAs help desk and rest rooms are proposed to be established in all District Hospitals. However,

establishment of help desk / rest rooms for ASHAs cannot be expected for time being due to lack of spaces / rooms in all the health facilities in spite of giving various effort.

[20] The respondent No. 1 also submitted that the Grievance Redressal Committees are already constituted in all 9 (nine) old Districts in the State with the Deputy Commissioner/Chief Medical Officer as the Chairperson and District Community Mobilizer as Secretary. The details of the committee are shared to all the ASHAs in the State. Constitution of the same in the newly created Districts is currently underway.

[21] The respondent No. 4 in his counter affidavit stated, inter alia, that Shri J. Hillson Angam, Th. Premlata and Ng. Sarah Devi are / were not authorised to conduct any survey, nor do they have any expertise in conducting any such survey. Accordingly, the alleged report of J. Hillson, Th. Premlata and Ng. Sarah Devi is illegal on the face of it and does not have any authenticity.

[22] The respondent No. 4 submitted that the present PIL which had been filed only on the basis of the said illegal and baseless report is not maintainable and liable to dismissed.

[23] It has also been further submitted that the respondent No. 4 had not received any representation from any ASHA volunteer highlighting any grievance or shortcomings for implementing ASHA programme.

[24] After hearing the counsels and after perusal of the records, we are of the view that the roles and responsibilities of ASHA include the functions of a healthcare facilitator, a service provider and a health activist. Broadly her functions involve providing preventive, promotive and basic curative care in a role complementary to other health functionaries;

educating and mobilizing communities particularly those belonging to marginalized communities, for adopting behaviours related to better health and create awareness on social determinants, enhancing better utilization of health services; participation in health campaigns and enabling people to claim health entitlements.

After hearing the counsels and perusal of the pleadings of the parties and relevant documents, we are of the tentative view that the facilities and support system provided to the ASHA workers in the State of Manipur are not upto the mark and there seems to be in ordinate delay in payment of compensation to the ASHA.

[25] Further, we are of the view that due to lack of adequate supply of facilities such as equipment kits, drug kits, delay in payment of compensation, lack of will power to effectively implement the ASHA programme, etc., ASHA workers faced great hardships while performing their duties. We, accordingly, feel that it is essential that proper mechanism is set up to fully implement the ASHA programme as per ASHA guidelines so that the ASHAs can be effectively engaged in providing the residents of this State their rights to avail healthcare services.

[26] In this view of the matter, we dispose of the present PIL with the following directions :

(i) A representation, highlighting the grievance, if any, of the ASHAs and any shortcoming on the part of the authorities for implementing ASHA programme as laid down in the relevant guidelines, can be submitted to the competent authorities by any or group of ASHA workers who are aggrieved within a period of one month;

(ii) On receipt of such representation, if any, the competent authorities shall consider the grievance/shortcoming expressed and take up appropriate action as may be necessary to strictly comply with the relevant ASHA guidelines preferably within a period of six months thereafter.

[27] PIL stands disposed of. No costs.

JUDGE **CHIEF JUSTICE**

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