

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**SUO MOTO PUBLIC INTEREST LITIGATION NO. 5 OF 2020
THE REGISTRAR, HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD
VERSUS
THE UNION OF INDIA AND OTHERS**

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Advocate for Petitioner (*Amicus Curie*) :
Mr. Gaware Niteen V.

GP for Respondents/State: Mr. D. R. Kale
Advocate for Respondent No.7: Mr. S. K. Kadam
Advocate for Respondent No.8: Mr. Gajanan Kadam

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 21st SEPTEMBER, 2020

PER COURT:

1. This Court on 09.06.2020 took cognizance of the news item published in english daily newspaper Lokmat. The Court was pained by the news that a private hospital from Nanded drove away a pregnant woman who wanted to get hospitalised for delivery. The incident happened at late night. The relatives of the patient were ready to deposit the advance fee amount still the admission was denied. The Court at that time was of the view that this is not the only incident. After declaring the first lock down due to COVID-19 the patients with disease other than COVID-19 are also not getting

admission and treatment in private hospitals. Many private hospitals and dispensaries are virtually closed. The Court observed that, some private medical practitioners have stopped practicing due to fear of COVID-19 virus. The Court observed that there are news items that the orders of the Government and Local Bodies directing private hospitals and particularly the hospitals registered as trusts to reserve beds for COVID-19 patients are only on papers and due to that poor and middle class persons are suffering. The Court was concerned with providing basic amenities and to improve the facilities so as to help the poor and middle class patients. The Court took suo moto cognizance and appointed Mr. N. V. Gaware, the learned Advocate as *amicus curiae*.

2. Mr. Gaware, the learned Advocate prepared proper draft and covered multifarious issues in the writ petition.

3. The incident reported in the newspaper concerning Nanded district of a pregnant woman not given treatment in private hospital was enquired

into by the authorities and it was found that the private hospital was not at fault. The pregnant woman had left the Government Hospital without intimating the Government Hospital and without getting proper discharge. The private hospital asked the patient and her relatives to produce the papers which is the normal practice. The Commissioner, Nanded Waghala Municipal Corporation submitted the report of resident doctor Smt. Bhavana Dattatrya Parne and others with confirmation that the said patient left the Government Hospital without informing the authority and returned later on in the morning. The explanation of the doctor of the private hospital was also taken on record, so also the statement of the patient. The Collector submitted his conclusion to this Court based on the report.

4. The report specifically suggests that the patient was at fault and the private hospital cannot be faulted with. Subsequently, on the very same day in the morning the pregnant lady was admitted with the department of Ganecology and

Obstetrics at Dr. Shankarrao Chavhan Government Hospital, Vishnupuri, Nanded and both the mother and the baby are in good health and were in Ward No. 16.

5. Mr. Gaware, the learned Counsel submits that one of the concern is about implementation of the provisions of the Disaster Management Act, 2005 during the times of COVID-19 outbreak. According to him, the committees are required to be constituted under the said Act. Mr. Kale, the learned In-charge Government Pleader submits that the committees are constituted at National, State and District level under the Disaster Management Act, 2005 and they are performing the entrusted job. The affidavit is filed to the effect that proper facilities are provided and steps are taken to upgrade facilities for COVID-19 patients, so also treatment is given to non COVID-19 patients.

6. Extraordinary time require extraordinary measures. We do appreciate that the fraternity of doctors and those concerned in aiding the treatment have risen to the occassion and are

performing their duties and discharging the responsibilities to the best of their ability. The State certainly is required to provide all the infrastructure and facilities for the treatment.

7. It is suggested by the State that the orders are issued from time to time by the State of Maharashtra upon noticing dereliction of their duties on the part of private hospitals, nursing homes, clinics in providing treatment to the patients on account of suspicion of COVID-19. On 05.05.2020, exercising powers under the Epidemic Disease Act, 1897 and the Disaster Management Act, 2005, it is directed that no patient reaching the non-COVID hospital (whether Government or Private) other than confirmed Corona infection (COVID-19) should be denied treatment or admission in the hospital. The guidelines are issued to that effect. The revised guidelines are also issued in that regard. We hope and trust that the State and it's Authorities shall ensure the strict implementation of the guidelines issued from time to time. The State Government is duty bound to

implement the said guidelines in its true letters and spirit and shall not leave any stone unturned to implement the same.

8. This Court in another *Suo Moto Criminal Public Interest Litigation* bearing no. 1 of 2020 has passed a detailed order concerning the implementation of the guidelines and performance of the functions by the State, it's Authorities, medical practitioners and health workers. The respondents are bound to adhere to the directions issued by the Court in *Suo Moto Criminal Public Interest Litigation* no. 1 of 2020 dated 18.08.2020 and at the Principal Seat in PIL-CJ-LD-VC-21/2020 with connected matters dated 12.06.2020.

9. We appreciate the efforts of Mr. Gaware, the learned Advocate / Amicus Curiae.

10. In light of the aforesaid, the *Suo Moto Public Interest Litigation* stands disposed of.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

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