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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 05.06.2020

W.P.(C) 3015/2020

NAYEE SOCH SOCIETY (REGD.)

.....Petitioner

versus

UNION OF INDIA AND ORS

.....Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr. M.K. Gahlaut, Advocate
For the Respondents	: Mr. Kirtiman Singh, CGSC with Mr. Rohan Anand, Advocate for UOI
	Mr. Gautam Narayan, ASC with Ms. Dacchita Sahi, Advocate along with Dr. R.N. Das, Dr. Surinder Miglani and Dr. Daljeet Kaur for GNCTD.

CORAM:

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH**

JUDGMENT

SIDDHARTH MRIDUL, J. (OPEN COURT)

1. The present Public Interest Litigation (PIL) has been instituted on behalf of the petitioner/Nayee Soch Society (Regd.), praying as follows:

- i. Issue a writ, order, direction and instruction in the nature of mandamus in favor of the petitioner and against the respondents thereby directing the respondents jointly and severally to provide the medical facilities, services, benefits and advantages to all citizens who are suffering from the disease other than COVID-19.
- ii. Issue a writ, direction and instruction in the nature of mandamus in favour of the petitioner and against the respondents thereby directing the respondents jointly and severally to provide the medical facilities and treatment to the other citizens suffering from other disease after conducting the test of COVID-19 of that patient and to conduct their diagnosis, medical treatment and to provide the medicines immediately to them without developing any pretext.
- iii. Issue a writ, order direction and instruction in the nature of mandamus in favor of the petitioner and against the respondents thereby directing the respondents jointly and severally to provide the Ambulance services to the citizens suffering from the disease other than COVID-19 with immediate effect so that they may avail the medical services with immediate effect.
- iv. Issue a writ, order, direction and instruction in the nature of mandamus in favor of the petitioner and against the respondents thereby directing the respondents jointly and severally to make ensure that they will not denied the medical services and benefits and advantages to the citizen suffering from the disease other than COVID-19 by developing the pretext that they are not having the medicines, staff, resources and infrastructure due to the busyness in the COVID-19 and if any death occurs due to non-providing the medical treatment then the respondents and

its officials liable to suffer civil and criminal consequences as per law and will compensate the citizen and family of the deceased.

- v. Issue a writ, order, direction and instruction in the nature of mandamus in favor of the petitioner and against the respondents thereby directing the respondents jointly and severally to constitute independent and impartial body to make ensure that no citizen will be deprived of medical treatment and facility due to COVID-19.
- vi. Issue a writ, order, direction and instruction in the nature of mandamus in favor of the petitioner and against the respondents thereby directing the respondents jointly and severally to pay the compensation to the family of the deceased as this Hon'ble Court deems fit, just and proper.
- vii. Issue a writ, order, direction and instruction in the nature of mandamus in favor of the petitioner and against the respondents thereby directing the respondents jointly and severally to release the dead body of Jahira Khatoon to her husband Lal Babu.

2. Insofar as, the prayer clauses (i), (ii), (iii), (iv) & (v) are concerned, they are with regard to the continuity of essential medical and health services during COVID-19 pandemic, which are also the subject matter of a decision rendered by a Coordinate Bench of this Court in W.P. (C) 2969/2020 titled as '*Yash Aggarwal & Another vs Union of India and Others.*' vide judgement and order dated

17.04.2020. The relevant portion of the said judgment is extracted hereinbelow:-

“.....

21. After a lengthy hearing on the matter, we are of the view that the respondents have formulated detailed Guidelines for putting into place an effective system of treating non-COVID illnesses and diseases to the best of their capacity, given the enormity of the calamity they are faced, with. What is of significance is that the Guiding Note to these Guidelines clearly indicates that the Government has declared Services for all crucial areas such as Maternal, New Born and child health, prevention and management of the communicable diseases, treatment for chronic diseases to avoid complications and addressing emergencies, as “Essential Services” and there is a clear direction that all Health Services including Ayush would remain functional, such as hospitals, nursing homes, clinics, telemedicine facilities as well as dispensaries, chemists, pharmacies, medical laboratories and Collection Centres. Various aspects have been covered in these Guidelines which also include various measures with respect to illnesses like Hypertension, Diabetes, Mental Health and diseases such as Tuberculosis, Vector Borne diseases, Viral Hepatitis, etc.

22. Thus, in our view, the contention of the petitioners that non-COVID-19 patients suffering from cancer or kidney diseases, etc. are not being treated, is incorrect. The Guidelines have made provisions for treatment of these diseases and have clearly stipulated that the Government would ensure uninterrupted availability of dialysis and

cancer treatment services and Directives have been issued to the District Administration to allow easy movement of these patients to access care. Special mention has been made in the Guidelines for care and medical treatment for the elderly/disabled and palliative care patients. It is also mentioned that services for patients with blood disorders would also be ensured and blood banks have been directed to remain operational.

23. We also find that besides issuing Guidelines and Guiding Notes for enabling essential medical services during the outbreak to the citizens, the Central Government has also taken steps to ensure their effective implementation and letters have been addressed to the various State Governments to take steps in that direction.

A Committee has been constituted to oversee the implementation of the Guidelines on ground and a special WhatsApp number has been created to register the grievances/complaints of any patient or his or her family member, in case of any difficulty in getting medical treatment. A citizen friendly web-based tele-consultation has also been launched, where patients can have a safe and structured video-based clinical consultation with the doctor while remaining in the confines of his or her home.

24. Likewise, we have seen the Guidelines issued by the Delhi Government and the steps it is taking to ensure that citizens are given maximum possible medical treatments in case of non-COVID illnesses/diseases. We have already extracted above the Office Memorandum issued by the Delhi Government to deal with emergent cases in fields of myocardial infarction, heart attacks

or other illnesses like cerebral vascular accident, dialysis/ chemotherapy, etc. Delhi Government has also issued an Office Order directing the various nursing homes not to refuse treatment to patients and in case of any such refusal, action would be taken. Delhi Government has also activated a dedicated WhatsApp number for receiving complaints/ requests from the citizens in case of any difficulty in receiving medical treatment. The WhatsApp number according to the Office Order issued on 17.04.2020 would be uploaded on the website of the Department of Health and Family Welfare for wider publicity to enable the citizens to make use of it.

25. We have also been assured by the respective counsels appearing for the respondents, during the hearing that steps in aid of providing medical treatment would continue to be taken earnestly, with respect to the non-COVID patients, having medical emergencies as well as those patients who need treatments such as chemotherapy, dialysis, etc. Medical care is also assured to pregnant women, both during pregnancy and at the time of delivery. We are satisfied that requisite measures are being taken by the respondents to the best of their capacity, despite the enormous pressures which are already existing on the hospital staff and other agencies.

26. Needless to state that if any citizen has any grievance, it can approach the competent Authorities in the Government, to seek appropriate redressal through the helplines and dedicated Whatsapp numbers. Respondents will give wide publicity to the helpline numbers and continue to render medical aid and assistance to the citizens. The Committee which has already been

constituted to oversee the health issues would continue to monitor the situation to ensure that non-COVID patients are also taken care of.

27. In view of the above, no further orders are required to be passed in the present petition, which is accordingly disposed of."

3. In view of the foregoing, Mr. M.K. Gahlaut, learned counsel appearing on behalf of the petitioner does not press the prayer clauses (i), (ii), (iii), (iv) & (v) of the present petition, any further.

4. Insofar as, prayer clause (vi) of the present petition is concerned, learned counsel appearing on behalf of the petitioner does not press the same at this stage and seeks liberty for Mr. Lal Babu, the husband of the deceased late Ms. Jahira Khatoon, to initiate the appropriate proceedings, if any, in accordance with law, in relation to the alleged acts of omission and commission on the part of the official respondents.

5. Liberty granted.

6. The prayer clause (vi) of the present petition is disposed of in the above terms.

7. Further, insofar as prayer clause (vii) of the present petition is concerned, the same has been rendered infructuous, pursuance to the

directions issued by this Court vide order dated 29.04.2020, which has admittedly been complied with by the official respondent. The relevant portion of the order dated 29.04.2020 is reproduced as under:

“.....

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Issue notice.

Counsel, as above, accept notice on behalf of the respondents and pray for time to file short affidavits.

Let the short counter affidavits be filed within a period of three working days from today with advance copies to counsel for the petitioner, who may file rejoinders thereto, if any, before the next date of hearing.

List on 06.05.2020.

In the meantime, the Medical Superintendent, Dr. Ram Manohar Lohia Hospital, as well as, the Delhi Police are directed to release the dead body of the deceased, Ms. Jahira Khatoon, to her husband Lai Babu, from the Mortuary of the former hospital, during the course of the day today.

The counsel appearing on behalf of the petitioner may also contact Sub-Inspector Priyanka Rana, Police Station- Desh Bandhu Gupta Marg on her mobile telephone number 9717459540, for the said purpose.

A copy of this order be provided to learned counsel appearing on behalf of the parties electronically. A copy of this order be uploaded on the website of this Court forthwith.”

8. In view of the foregoing, with the above directions, the present petition is disposed of.

**SIDDHARTH MRIDUL
JUDGE**

**TALWANT SINGH
JUDGE**

JUNE 05, 2020
dn/as

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