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

Date of decision: 18th June, 2020

+ **W.P.(C) 3298/2020 & CM APPLs. 11567-11568/2020**

GOVIND SWAROOP CHATURVEDI Petitioner

Through: Petitioner in person.

versus

STATE OF NCT OF DELHI & ORS. Respondents

Through: Mr. Rajiv Nayyar, Senior Advocate
with Mr. Satyakam, ASC GNCTD.
Mr. K.C. Mittal, Chairman Bar
Council of Delhi along with Mr.
Yugansh Mittal & Amit P. Shahi,
Advocates.

WITH

+ **W.P.(C) 3362/2020 & CM APPLs. 11901-11902/2020**

BAR COUNCIL OF DELHI THROUGH: ITS CHAIRMAN K.C

MITTAL Petitioner

Through: Mr. Kailash Vasdev, Senior Advocate
with Mr. Yugansh Mittal and Mr.
Amit P. Shahi, Advocates. Mr. K.C.
Mittal, Chairman Bar Council of
Delhi

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Mr. Rajiv Nayyar, Senior Advocate
with Mr. Satyakam, ASC GNCTD.
Mr. Anil Soni, CGSC with Mr.
Devesh Dubey, Advocate for UOI.

AND

+

W.P.(C) 3357/2020

BALVINDER SINGH BAGGA & ORS.

..... Petitioners

Through: Mr. Amarjit Singh Chandiok, Senior Advocate with Mr. Naginder Benipal, Advocate along with Petitioner No.1 and 6 in person.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Mr. Rajiv Nayyar, Senior Advocate with Mr. Satyakam, ASC GNCTD. Mr. K.C. Mittal, Chairman Bar Council of Delhi along with Mr. Yugansh Mittal & Amit P. Shahi, Advocates.

**CORAM:
JUSTICE PRATHIBA M. SINGH**

Prathiba M. Singh, J.(Oral)

1. This hearing has been held through video conferencing.
2. These three writ petitions relate to the 'Chief Minister Advocates' Welfare Scheme' (hereinafter 'Scheme'), which was approved by the Government of NCT Delhi (GNCTD) vide the decision of its Cabinet dated 18th December, 2019. The Scheme is stated to have been floated with an intention to give assistance to lawyers with the following measures:

“

1. Group (Term) Insurance for practising advocates providing life cover of Rs.10,00,000/- (Rupees Ten Lakhs) per advocate.

2. Group Medi-claim coverage for the advocates, their spouse and two dependent children up to the age of 25 years, for a family floater sum insured of Rs.5,00,000/- (Rupees Five Lakhs)

3. E-library with 10 computers loaded with e-journals and web editions of e-journals, along with printers in all the 6 district courts.

4. Creche facility for advocates and staff employees in each of the 6 district courts.”

3. The I.T. Department of the GNCTD opened its website for registration of lawyers who wish to avail the above benefits, and applications were received till 19th April, 2020. A total of 37,142 lawyers applied for availing of benefits under the Scheme. The said data was sent to the Bar Council of Delhi (“BCD”) for verification, which thereafter confirmed that 29,098 advocates stood verified, as being residents of Delhi, who are enrolled with the BCD. The said data was transmitted by the BCD to the GNCTD.

4. It is the case of the BCD that further steps in respect of obtaining insurance etc., have not been taken, and hence W.P.(C) No. 3362/2020 has been filed, seeking the following prayer:

“A. Issue a writ in the nature of mandamus, directing the Respondents, their officers and all concerned to release money and issue insurance policies for Mediclaim for Rs.5 lacs and Term insurance of Rs.10 lacs to advocate numbering 29,098, already registered under the Chief Minister Advocates' Welfare Scheme.”

5. At the outset, Mr. Kailash Vasdev, Id. Senior counsel appearing for the BCD submits that in fact, the prayer of the BCD is that the term

insurance and the mediclaim insurance policy for the lawyers should be obtained, and it is not his claim that the amount of Rs.5 lakhs or Rs.10 lakhs is to be paid to the advocates directly. Thus, the prayer of the BCD as of today is that insurance policies ought to be obtained by the GNCTD for all the registered advocates who are 29,098 in number and the policies should then be forwarded to the said advocates. Mr. Vasdev, refers to the provisions of Section 3(g) and Section 24 of the Advocates' Welfare Fund Act, 2001 and submits that such schemes, which are floated for the purposes of advocates have to be implemented by the appropriate Government and thus, once the names of the advocates have been verified by the BCD, the insurance should be immediately obtained for the advocates.

6. Mr. Rajiv Nayyar, Id. Senior Counsel appearing for the GNCTD has taken the Court through the various steps which have been taken by the Government in furtherance of the Scheme. It is his submission that GNCTD does not adopt an adversarial approach in this case. He submits that as a first step, since the names of 29,098 advocates stand verified by BCD, at least the insurance in respect of those advocates can be implemented. He further submits that the notice inviting tender has to be issued by the GNCTD and the Court may pass appropriate orders in respect thereof without *prejudice* to the rights of the GNCTD and subject to the adjudication of the larger issues arising in these cases.

7. Mr. Govind Swaroop Chaturvedi, who is the Petitioner-in-person in W.P.(C) 3298/2020 submits that the decision of the GNCTD to only allow those Advocates registered with the BCD and who are on the electoral rolls in Delhi, thereby excluding Advocates from the NCR region, is completely discriminatory. He submits that as per the conditions of enrolment of the

BCD, all persons who are practising in Delhi can be enrolled with the BCD. Thus, all persons enrolled with BCD are entitled to avail of the benefits under the Scheme. Vehement reliance is placed on the judgment of a Division Bench of this Court in *Social Jurist (A Civil Rights Group) v Government of NCT of Delhi & Ors. 253 (2018) DLT 466*. According to Mr. Chaturvedi, as per the said judgment, discrimination between patients coming from outside Delhi and patients who are residents of Delhi is not permissible. Similarly, advocates cannot be discriminated against under the present Scheme as well.

8. Mr. Amarjit Singh Chandiok, Id. Senior Counsel appearing for the Petitioner in W.P.(C) 3357/2020 submits that insofar as advocates are concerned, they are governed by the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015. He submits that an important feature of these Rules is that it is the '*place of practice*', which entitles an advocate to seek registration under the local Bar Council, and not the place of residence. According to Id. Senior Counsel, as per Rules 6, 8.1 and 8.2 of the said Rules, if the place of practice is Delhi, an advocate can enrol with the local Bar Council and also become a member of the local Bar Association. He thus, submits that the distinction, which is sought to be carved between advocates, who are residents of Delhi and those who are not residents of Delhi, for the purpose of extending the scheme, would be completely unlawful and untenable.

9. This Court has heard all the Id. Sr. Counsels, Counsels for the parties, as also the Petitioner in person. The question as to whether Advocates, who are from the NCR region, who are registered with the BCD are entitled to benefits under the Scheme has to be adjudicated by the Court after hearing

all the parties as there are various legal issues which would arise.

10. Insofar as the 29,098 advocates, whose verification has already been carried out, there need not be any further delay in steps to be taken to provide insurance, especially considering the outbreak of the current pandemic due to COVID-19. Almost all advocates, who are residents of Delhi, would benefit from both the insurance schemes and the same ought to be provided to them in a timely manner. The purpose of the Scheme would be rendered nugatory if insurance policies are not obtained for them during the outbreak of an unprecedented pandemic, as is currently prevalent.

11. Thus, while the larger legal issues are pending adjudication by this Court, the following directions are issued:

i. The GNCTD is directed to take all steps required for the immediate procurement of insurance policies for the 29,098 Advocates whose names have been verified by the BCD. Any verification of the said names which the GNCTD wishes to conduct, to check if they are on the electoral rolls of Delhi or not, would be done parallelly, to ensure that there is no delay in implementation of the Scheme. This verification would, however, be subject to the further adjudication of the legal issues arising in the present writ petitions.

ii. The GNCTD is further directed to go ahead with the issuance of the Notice Inviting Tenders ("NIT") seeking bids from the insurance companies, in order to finalise the insurance company which would be awarded the tender for the group insurance and mediclaim insurance of the 29,098 Advocates. Let the NIT be issued within a period of one week from today by the Principal Secretary, Department of Law, Justice and Legislative Affairs, GNCTD.

iii. The draft of the NIT is stated to have already been approved by the Committee, which was appointed by the GNCTD. Accordingly, Mr. Kailash Vasdev and Mr. K.C. Mittal may peruse the draft NIT, and if they have any suggestions, the same may be forwarded to Mr. Satyakam, ASC GNCTD by 19th June 2020. The last date for bids shall be specified in the NIT. The process of opening all the bids shall be completed. After the GNCTD opens the bids and identifies the successful bidder, the decision of the GNCTD, taken in this regard shall be placed before the Court not later than two days before the next date of hearing.

12. Rejoinder in W.P.(C) 3298/2020 be filed within a week. The BCD shall also place on record, in a sealed cover, before this Court the list of the 29,098 advocates whose names have been verified. Apart from the said list, the BCD will place on record the list of Advocates, who may be hailing from the NCR region who are registered with it.

13. The above directions are without *prejudice* to the rights and contentions of all parties. List for further hearing of these matters on 17th July, 2020 at the end of board.

PRATHIBA M. SINGH
JUDGE

JUNE 18, 2020

dj/rg