

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

WRIT PETITION NO. 524 OF 2023

The Ashtavinayak Blood Bank
Through its Head & Incharge
Dr. Shailendra Ashok Patankar
Situate at 1st Floor, Sai Palace,
Opposite Akashwani Kendra,
Near Professor Colony Chowk,
Ahmednagar.

.. **Petitioner**

Versus

1. The Union of India
Through the Directorate General of
Health Services Ministry of Health &
Family Welfare, Government of India
Room No. 560 'A' Wing, Nirman Bhawan,
New Delhi-110108
2. The National Blood Transfusion Council
Through its Director
9th Floor, Chanderlok Building 36,
Janpath, New Delhi - 110001, India.
3. The State of Maharashtra
Through the Secretary
Public Health Department,
Mantralaya, Mumbai-32.
4. The State Blood Transfusion Council
Through its Director
Ravindra Annexe, 5th Floor,
Dinshaw Vacha Road, 194,
Churchgate Reclamation, Mumbai-400020.
5. The National AIDS Control Organisation,
Through its Director General
6 & 9th Floor, Chanderlok Building
36, Janpath, New Delhi - 110001, India.

.. **Respondents**

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Mr. A.A. Yadkikar, Advocate for the Petitioner.
Mr. V.M. Kagne, AGP for Respondent Nos.3 & 4.
Mr. R.B. Bhosale, Advocate for R/1, 2 & 5

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**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRADE, JJ.**
DATE : 14th June, 2023

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner is a blood bank which is working in the field of transfusion medicine since the last decade and claims to have an annual collection of approximately 5000 blood bags and has an approximate annual distribution of 11,000 blood bags. The Petitioner has been awarded a Regional Blood Transfusion Center status by the State of Maharashtra in 2015. It claims distinction of being a solitary accredited blood bank by the National Accreditation Board for Hospital and Healthcare Providers (an accreditation board established under the Quality Council of India)

3. The petitioner has put forth prayer clauses A, B and C as under:-

“A. By way of Writ of Mandamus or any other Writ, this Hon'ble Court may kindly be pleased to direct the Respondent Authorities to consider its representation dated 27/09/2022 and make appropriate changes to the guidelines dated 14/06/2022.

B. By way of Writ of Mandamus or any other Writ, this Hon'ble Court may kindly be pleased to direct the Respondent Authorities to enhance the processing charges for Blood & Blood Components by taking into confidence the stake holders including the Petitioner for determining such revised charges.

C. In the alternative, By way of Writ of Mandamus or any other Writ, this Hon'ble Court may kindly be pleased to direct the Respondent Authorities to consider the Petitioner's representation dated 27/09/2022 and extend NACO assistance to the Petitioner.”

4. The petitioner places reliance upon a notification issued by the Ministry of Health and Family Welfare, Department of AIDS Control, dated 12.02.2014 which pertains to guidelines for recovery of processing charges for blood and blood components-reg. It is set out in the said notification that the National Blood Transfusion Council convened its 24th Governing Body Meeting on 20.01.2014 and has approved processing charges for blood and blood components. As per the guidelines enclosed, the processing charges can be subsidized by the State Governments / State Blood Transfusion Councils / Blood Banks in the Government sector / Department of Aids Control (DAC) supported blood banks. State Blood Transfusion Councils (SBTCs) were permitted to constitute an expert sub-committee to assess the additional testing / service being included in the processing charges required to enhance blood safety. Due diligence is expected while considering maximum donated units as per testing/processing of blood components based on operative protocols / SOPs of the blood banks. It was also made mandatory for all blood banks (DAC

supported and non DAC supported) to provide blood / blood component free of cost to patients who require blood transfusion as a life saving measure while suffering from Thalassemia, Hemophilia, Sickle Cell anemia and any other blood dyscrasia requiring repeated blood transfusions. It was also provided that processing charges for blood and blood products for below poverty line (BPL) patients from non DAC supported blood banks shall be in compliance with the charges decided by the respective State Governments / SBTC.

5. The learned advocate for the Petitioner further submits that though Clause-14 of the said guidelines requires revision every three years, the first revision after issuance of the guidelines on 12.02.2014, has been made on 14.06.2022 whereby a marginal increase in three cases was made and a reasonable increase was made in two cases. The said details read as under:

Sr. No.	Blood/Component	Processing Charges (for Govt. Centers)	Processing Charges (for Non Govt. Centers)
1.	Whole Blood	1100	1550
2.	Packed Red Cells	1100	1550
3.	Fresh Frozen Plasma	300	400
4.	Platelet Concentrate	300	400
5.	Cryoprecipitate	200	250

6. The learned advocate further submits that the Petitioner is an ultra modern blood bank which deals in supplying blood. It has ultra modern

machines to ensure the highest quality check for the blood that would eventually be infused in patients. A sufficient work force is engaged which has to be a specialised work force and, therefore, disbursing the blood at the rates prescribed and absorbing the processing charges has virtually made it impossible for the Petitioner to 'break even' in so far as the revenue generated and the amounts spent inclusive of the salaries of the specialised technicians.

7. Considering the peculiar conspectus of this matter, we are of the view that it would be best left to the statutory authorities / Government to take a call as regards the processing charges and making blood available to be administered to the patients. Neither does this Court have the expertise of going into the economic angle of this activity, nor would it be appropriate for this Court to direct either of the Respondents to escalate the processing charges, which in turn would escalate the cost of blood.

8. In this backdrop, the Petitioner submits that Respondent No.5 - National Aids Control Organisation (NACO) may consider enlisting the Petitioner under the scheme made applicable to enroll blood banks. In the representation tendered by the Petitioner dated 27.09.2022 to the Directorate General of Health Services, it is pointed out that, on the one hand the Government desires to provide blood to the common man at reasonable charges and on the other hand, there are few blood centers which are NACO

assisted to whom empty bags and reagent kits are provided. If the Petitioner succeeds in being enlisted with NACO, the Petitioner submits that it would be able to maintain its highest professional standards and ensure that the blood and blood components could be made available to the society at large at reasonable prices.

9. In view of the above, **this petition is disposed off.**

10. We expect Respondent No.5 to respond to the representation tendered by the Petitioner on 27.01.2021 and after considering the same, arrive at a decision as it may deem fit and proper. If the Petitioner desires to approach the State Government through its Public Health Department for a similar purpose, it would be at liberty to do so. Let Respondent No.5 conclude on the representation of the Petitioner as expeditiously as possible and preferably within four months from today.

11. Rule is discharged.

[Y.G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]