

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 3427 OF 2000

C.H. Sharma and others vs. State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
directions and Registrar's orders.

Court's or Judge's Orders. or

Shri Anup J. Gilda, Advocate/Amicus Curiae for petitioners.
Shri F.T.Mirza, Special Counsel.
Shri D.P.Thakre, Additional Government Pleader for respondent /
State
Shri S.M.Puranik, Advocate for respondent no.5.
Ms Mughdha Chandurkar, Advocate for respondent no.6.
Shri K.S.Narwade, Advocate for Haffkin Institute.

**CORAM : SUNIL B. SHUKRE AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 16th FEBRUARY, 2023

1. Mr. Hemant Patil, Executive Engineer, Public Works Department (Electrical Division), is personally present before the Court in pursuance of the order passed by this Court on 15th February, 2023. Orally, he tenders unconditional apology and assures the Court that now the entire work relating to installation of fire safety machinery and equipment at both the Hospitals would be placed on fast track and for that purpose, he intends to visit Mantralaya, Mumbai for making a request for expediting the necessary permissions and approvals. The learned Additional Government Pleader submits on his behalf that

the Executive Engineer would tender his written unconditional apology on the next date and would also place on record the facts relevant for expediting the work.

2. About the robotic machines to be installed for facilitation of robotic surgery at GMCH, Nagpur, we had made request to Mr. K.S. Narwade, learned counsel for the Haffkin Institute to get instructions regarding the date by which the work order and date by which the robotic machinery is installed at GMCH, Nagpur. This is so because of the fact that the necessary funds totalling to about Rs.21 Crores are already lying idle and the entire tender process has been completed and that, even the challenge to the tender process raised before the High Court had been dismissed on 9th January, 2023. There was one more reason for making such a request. During the course of hearing, it was brought to the notice of this Court that the concerned file was lying on the table of Mr. Abhimanyu Kale, Incharge Managing Director of Haffkin Institute and the only thing that has remained to be done by the Haffkin Institute is signing of the file so that the work order to the lowest bidder could be issued, without any further loss of time.

3. Today Mr. K.S. Narwade, learned counsel for the Haffkin Institute informs the Court that he tried his best to establish telephonic contact with Mr. Abhimanyu Kale, Incharge Managing Director of Haffkin Institute, but, in

vain. He submits that first he contacted Mr. Patil, Personal Assistant of Mr. Abhimanyu Kale on his cell phone No.7303007686, but, was informed by Mr. Patil that Mr. Narwade, learned counsel should contact the concerned person and did not share with him the mobile number of Mr. Abhimanyu Kale. He also informed Mr. K.S. Narwade, learned counsel that Mr. Abhimanyu Kale was already seized of the matter. Mr. Narwade, learned counsel also informs the Court that Mr. Sunil Pundge, Manager (Equipment) of Haffkin Institute is in constant touch with him and when he was contacted by him, Mr. Sunil Pundge informed him that he had already forwarded the concerned file to Mr. Abhimanyu Kale, but, he was not aware of the fate of the file.

4. Mr. Narwade, learned counsel for the Haffkin Institute has taken whatever efforts he could have taken in the matter, but, unfortunately, he has not received any instructions with regard to the date by which the work order would be issued and the date by which the installation of robotic machinery would be completed at GMCH, Nagpur. We hope that the Haffkin Institute in general and it's Incharge Managing Director in particular would take urgent steps and would ensure that the robotic machinery is in place within a week's time or so, though, we are inclined to grant some more time.

5. In view of the above, we direct the Haffkin Institute i.e. respondent No.12 to issue work order to the concerned as per rules within a period of one week from today and we further direct respondent No.12 to ensure that robotic machinery, which is Robotic Surgery System, is installed at GMCH, Nagpur latest by 15th March, 2023. We further direct that in case there is any failure on the part of the respondent No.12 in complying with this direction or any part of it, Mr. Abhimanyu Kale, Incharge Managing Director of Haffkin Institute shall personally remain present before this Court for showing cause as to why no further coercive action be taken against him for committing wilful breach of the order of this Court.

6. We request Mr. D.P. Thakare and Mr. K.S. Narwade, learned counsel for Haffkin Institute to send copy of this order to the Incharge Managing Director of Haffkin Institute i.e. respondent No.12.

We direct the Registrar (Judicial) of this Court to serve the copy of this order on the Incharge Managing Director of Haffkin Institute and submit his report accordingly to this Court within a week's time.

Copy of this order shall be sent to the Chief Secretary, State of Maharashtra, for obtaining compliance with this order from the Incharge Managing Director of Haffkin

Institute, Mumbai. The Registrar (Judicial) of this Court shall do the needful in this matter.

List the matter on 01st March, 2023.

CIVIL APPLICATION (CAW) NO. 1063/2021

Nobody is present for the applicants.

2. Heard Mr. A.J. Gilda, learned Amicus Curiae, Mr. Firdos Mirza, learned Special Counsel appointed in this matter and Shri D.P. Thakare, learned Addl. G.P. for the State.

3. This application has been filed by the following five persons (1) Bhushan K. Shingne, (2) Ravindra Ingle, (3) Ramnarayan Mishra, (4) Shivpal Singh and (5) Narendra L. Gajbhiye. These applicants now desire that Mr. C.H. Sharma, the former petitioner No.1, whose name has been deleted from the array of the petitioners vide order dated 23/06/2021, should be allowed to be joined as petitioner No.1 by restoring his lost position. That is the reason why these applicants, who are the remaining petitioners, have prayed for recall of the order dated 23/06/2021.

4. This application has not been filed by Mr. C.H. Sharma. Unless and until he makes such an application, it cannot be ascertained as to whether or not, Mr. C.H. Sharma is still interested to prosecute this petition.

5. Apart from what is stated above, these applicants today have remained absent and they keep saying that they have concern for public interest. If they have any concern for public interest and any desire to prosecute this petition in public interest, they would have certainly remained present before this Court. Rather, their absence demonstrates quite an opposite fact.

6. Even otherwise, this petition has come to a stage where the cause is being prosecuted and taken further by this Court with the able assistance being given by Mr. A.J. Gilda, learned Amicus Curiae, Mr. Firdos Mirza, learned Special Counsel appointed in this matter and Shri D.P. Thakare, learned Addl. G.P for the State, Mr. K.S. Narwade, learned counsel for the Haffkin Institute, Mr. Sudhir Puranik, learned counsel for the Nagpur Municipal Corporation and Mrs. Mugdha Chandurkar, learned counsel for the Union of India and therefore, now the time has come for this Court to convert this petition into a petition in which the cognizance is Suo Motu and on own motion of this Court. For this purpose, it would be necessary that the present petitioners are deleted from the array of the petitioners and even otherwise, they seem to have lost interest in the petition. Of course, if they have any after thought, they would be at liberty to approach the learned Amicus Curiae with their suggestions and if those

suggestions are worthy of consideration, they would always be appropriately considered by this Court.

7. In view of the above, we direct that the names of the petitioners are removed from the array of the petitioners and this petition be converted as *Suo Motu* Petition taken up by this Court on its own motion and it be renumbered as “*Suo Motu* Public Interest Litigation”. We further direct the Registrar (Judicial) of this Court to transfer the entire record, including all the orders, annexures, replies, affidavits, civil applications, notes and every documents i.e. forming part of the paper book of this petition while it is renumbered as *Suo Motu* Public Interest Litigation.

8. We also direct that Mr. A.J. Gilda, learned Amicus Curiae, Mr. Firdos Mirza, learned Special Counsel appointed in this matter and Shri D.P. Thakare, learned Addl. G.P. for the State who have so far given valuable assistance to this Court shall continue to represent the respective parties in the renumbered petition.

9. Civil Application (Caw) No.1063/2021 is disposed in above terms.

(MRS.VRUSHALI V. JOSHI, J.)

(SUNIL B. SHUKRE, J.)