

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

P.I.L. No. 121 of 2013

Dinanath Waghmare vs. The District Collector, Nagpur District and others.

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

Mr. N.B.Rathod, Advocate for the petitioner.

Mrs. Bharti Dangre, Government Pleader for
respondents 1 to 6.

Ms. Gauri Venkatraman, Adv. for R-7.

CORAM: B.R.GAVAI & V.M.DESHPANDE, JJ

DATE : 10.12.2014

The present public interest litigation has been filed by the present petitioner, who claims to be a social worker, pointing out to the notice of this Court the unhygienic conditions of the various Government Hospitals including Medical College and Hospitals, Rural Hospitals, Cottage Hospitals, Public Health Centers and Sub Centers.

2. It is the contention of the petitioner that on account of unhygienic conditions, the women patients in these

Hospitals are forced to deliver their children in unhygienic conditions which is detrimental to the health of such women and also the newly born babies.

3. The petitioner has pointed out to us various observations made by the Fact Finding Team of Human Rights Law Network (an NGO). The said team has visited Indira Gandhi Medical College and Hospital, Nagpur, Government Medical College and Hospital, Nagpur, various Public Health Centers, Sub Centers, Rural Hospitals as well as Cottage Hospitals. Perusal of the report would depict pathetic situation. Even insofar as the Government Medical College and Hospital, which is situated in the City of Nagpur is concerned, the photographs would reveal that the wards are in shamble. The garbage and biomedical waste is dumped in an open area, around the walk-ways and wards. The toilets are totally unhygienic. There is no proper facility for supply of potable drinking water. In some of the wards, two or more women share one bed. In a neonatal ward, 2-3 new born babies are squeezed in one incubator.

4. From the affidavit in reply filed on behalf of the

Dean, Government Medical College and Hospital, Nagpur, it can be seen that one of the major factors in contributing to these unhygienic conditions, is inadequate number of staff. The affidavit would reveal that on account of the large number of vacancies of Attendants and Sweepers, it is not possible to keep control over the egress and ingress of the Hospital. It has been stated that it is not possible to maintain the cleanliness on account of the inadequate staff. One of the other reasons given, is that the Public Works Department contributes to dumping waste and does not carry out adequate maintenance of the sewage lines.

5. Expanding the meaning given to Article 21 of the Constitution of India, the Hon'ble Apex Court in the case of Pt. Parmanand Katara vs. Union of India and others, reported in (1989) 4 Supreme Court Cases, 286 and also in the case of Paschim Banga Khet Mazdoor Samity and others vs. State of W.B. And another reported in (1996) 4 Supreme Court Cases, 37 has recognized the right to health to be a fundamental right of the citizen. Largely the patients from the lower strata of the Society are using medical facilities in Government Hospitals, since such citizen cannot afford to avail of private

medical service and the facilities, where the costs are prohibitive and the citizens are forced to use facilities provided by the State Government. The right to health, which now has been recognized by the Apex court to be fundamental right, cannot be an empty right. The right to health would also include the facilities to be provided by the State Government which are conducive of maintenance of health and not detrimental to the maintenance of health.

6. If the pathetic situation as is evident from the various photographs placed on record by the learned counsel for the petitioner is to be seen, the situation is rather conducive to in-health than curing the patients. Such a situation would add to their miseries and lead to more health problems on account of unhygienic conditions.

7. It is commonly known that the Hospitals to have special infections, known as Hospital's infections. Such sort of infections are possible even in the Hospitals which are kept clean and neat. However, in the Hospitals which are full of garbage and unhygienic conditions, possibility of such sort of infections would multiply.

8. The State cannot run away from its obligation to provide proper medical facilities to the citizens. No doubt that we have no power to issue directions to the State as to in what manner it shall utilize its funds. However, the Court, as a custodian of the fundamental rights of the citizens, is bound to ensure that the fundamental rights as interpreted by the Hon'ble Apex Court are made available to the citizens in true spirit.

9. In that view of the matter, we direct that the Committee of the following Officers shall be forthwith constituted.

- i) Chief Secretary of the State of Maharashtra.--Chairman
- ii) The Principal Secretary of Finance Department.
- iii) The Secretary of the Health Department.
- iv) The Secretary of Medical Education and Research.
- v) The Secretary of Public Works Department.

This Committee is directed to look into the matter of providing basic facilities to all the Government run Medical Institutions in the State of Maharashtra. It shall find out as to what are the

lacunae in the system and what are the corrective measures that can be taken for ensuring that the right of Health available to the citizen is made available to him in its true perspective.

10. We make it clear that what has been stated above is only the larger issue and the Committee would be free to look into all other ancillary matters related to the main issue.

11. We further make it clear that the aforesaid Committee of which the Chief Secretary shall be the Chairman and the Secretary of Health shall be convener would also be free to appoint such other members on the Committee, as are found necessary. We further make it clear that the Committee would also be empowered to appoint Sub-committees for various purpose, if found necessary..

12. Needless to state that the Committee shall take into consideration the problems, which have been specifically earmarked in the affidavit of the Dean and give due weightage to the same in giving its recommendations.

13. Since all the Officers would be very much available

at Nagpur on account of the Winter Session, we would appreciate if the problems being faced at the Government Medical College and Hospital, Nagpur, Indira Gandhi Medical College and Hospital, Nagpur and other Hospitals at Nagpur are given due attention at the earliest, at least during their stay at Nagpur.

14. The Committee to submit its report within twelve weeks from today.

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Bombay High Court