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

+ **W.P.(C) 5188/2014**

SARVESH

..... Petitioner

Through: Mr. Ashok Aggarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates.

versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES & ORS.

..... Respondents

Through: Mr Satya Ranjan Swain (Panel
Counsel -AIIMS) & Adv Mr Kautilya
Birat for AIIMS.

Mr. T. Singhdev, Amicus Curiae with
Ms. Anum Hussain, Mr. Tanishq
Srivastava, Mr. Abhijit Chakravarty,
Mr. Bhanu Gulati, Advocates.

Ms. Monika Arora, CGSC with
Mr. Subrodeep Saha, Mr. Yash Tyagi,
Advocates.

Mr. Tushar Sannu, Ms. Karishma
Rajput, Advocates for GNCTD with
Mr. Giri, Billing Assistant, Delhi
Arogya Kosh.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

20.09.2023

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1. The initiation of this petition can be traced back to the refusal by Respondent No.1, the All India Institute of Medical Sciences (“AIIMS”), to conduct a Total Hip Replacement and Total Knee Replacement Surgery on



the Petitioner, on account of his financial inability to bear the surgery costs.

2. The Petitioner's dire need for surgical intervention arose from affliction with Reiter's Syndrome, alternatively known as reactive arthritis, which has led to his immobilization. This debilitating condition consequently rendered him unable to engage in gainful employment. His financial sustenance is the modest income of his spouse, which amounts to INR 4,000 per month—a sum grossly inadequate for even basic sustenance, let alone the substantial financial burden of the necessitated surgery, which was estimated at INR 8 lakhs. The intricacies of the Petitioner's medical condition dictated that the surgical procedures—Total Hip Replacement and Total Knee Replacement—be performed exclusively at AIIMS, as corroborated by the medical opinion secured from Primus Hospital, New Delhi. Upon conveying his grave financial constraints to Respondent No. 1, communication from AIIMS ceased abruptly leaving the petitioner in a state of precarious health and uncertainty.

3. Compelled by these circumstances, the Petitioner sought the intervention of this Court, seeking directions to the Respondents for the provision of the requisite Total Hip Replacement and Total Knee Replacement Surgery, free of cost. Subsequent to the filing of the writ petition, and during its pendency, Respondent No. 1 acquiesced to perform the indispensable surgery on the Petitioner.

4. In light of the preceding circumstances, the Ld. Single Judge *vide* order dated 25th July, 2023 noted that although the Petitioner expressed a desire to withdraw the petition, the facts of the case provoke crucial issues concerning accessibility of quality medical care for patients from marginalized sections of society. Given the significance of these concerns,



the learned Single Judge reclassified the petition as a Public Interest Litigation. Consequently, the matter has been duly listed before this Court.

5. This Court has been duly informed of the manifold challenges encountered by the economically disadvantaged segments of society while endeavouring to avail benefits emanating from schemes instituted by Government of NCT of Delhi (“GNCTD”) and Union of India. The memorandum tendered by the *Amicus Curiae* cogently encapsulates the dire straits faced by indigent patients striving to secure financial aid, an excerpt of which is reproduced below:

“6. In the facts of the case, it can be seen that the process of procuring financial assistance under Delhi Arogya Kosh Scheme of Govt. of NCT of Delhi is extremely harassing for the patient since they are made to run from pillar to post in order to obtain various certificates from various authorities even before they could submit their application to the Patient Welfare Cell of Directorate of Health Services under the Govt. of NCT of Delhi.

7. The Application Form has to be accompanied by an Income Certificate issued by the concerned SDM and an Estimate Certificate, which includes three quotations from three different vendors of the required implants whereafter the same needs to be signed by the treating doctor and counter signed by the Head of the concerned Department along with the Medical Superintendent of the hospital.”

6. We have heard the learned *Amicus Curiae*, and counsel for GNCTD and Union of India. It has been brought to our notice that at present, GNCTD has formulated schemes such as the Delhi Arogya Kosh and Delhi Arogya Nidhi, which are germane to the subject matter of the present petition. These initiatives are complemented by ancillary schemes aimed at furnishing medical services to the residents of Delhi. Likewise, the Union of India has promulgated schemes like the Rashtriya Arogya Nidhi and the Health Minister’s Discretionary Grant.

7. Nonetheless, we have been apprised of the constraints faced by individuals from economically weaker sections when attempting to avail



benefits of the scheme. These constraints manifest at various stages: during treatment, submission of applications for financial assistance, procurement of quotations concerning implants, procedure for disbursing amounts, and finally, while undergoing medical procedures including surgeries. Given these procedural impediments, we are of the opinion that the process for availing medical facilities pursuant to the aforementioned schemes by the GNCTD and Union of India should be significantly streamlined and made more accessible.

8. In light of the above, we are inclined to propose the formation of a committee to devise recommendations for alleviating and curing the defects in the current system to avail financial assistance.

9. Therefore, we direct the constitution of a committee (“**Committee**”) composed of seven members. The Chief Secretary, GNCTD shall be the Chairperson of the Committee. Two members of this Committee shall be nominated by the Secretary of the Ministry of Health and Family Welfare, Union of India, and two members shall be nominated by the Principal Secretary, GNCTD. One member shall be nominated by the Commissioner of Municipal Corporation of Delhi (“**MCD**”). One member shall be a senior officer from the National Informatics Centre be nominated by the Director General. These members shall be authorized to co-opt additional officers from governmental divisions or departments as deemed necessary to efficaciously implement the directives. The Committee shall be free to involve Senior Govt. Doctors from hospitals and institutions administered by GNCTD, Union of India and MCD, who have administrative experience in super-speciality hospitals and have experience in hospital administration; or have worked as Medical Superintendents and Heads of the Departments.



Terms of Reference

10. The terms of reference for the Committee shall be as follows: -

(i) The procedure required for availing free medical treatment must be streamlined, including various surgeries, as well as surgeries for implants / devices and to put in place a single-window mechanism with designated nodal officers at each hospital in Delhi.

(ii) The hospitals must maintain a dynamic information list of drugs, implants and devices on the website of the concerned departments, which may be revised frequently, so that persons seeking treatment are aware of the availability of the same in real time. This may also assist concerned citizens to donate the required drugs / implants / devices as per the need of each hospital.

(iii) The Ministries of Health & Family Welfare at both levels as well as MCD should create revolving funds to cater to the recurring expenditure of patients suffering from chronic, rare, debilitating or lethal diseases, including all necessary forms of treatment such as surgeries and procurements of implants and devices. Funds / grants could be made available in the concerned hospitals expeditiously on the basis of demand. This will benefit hospitals established in the peripheral areas in reference with their unique issues and also hospitals established in the well habited areas in respect of their unique issues. Hospitals in rural areas of the State have distinct issues / ailments / diseases from hospitals in the densely populated areas.

(iv) The procedure for procuring financial assistance under the different schemes formulated by the MoHFW at both levels as well as MCD must be made less cumbersome so that the public could comprehend the same with



little assistance. Instructions must be displayed prominently and clearly in accessible language. Emphasis must be on processing the applications quickly. All forms must be available in regional languages and the requirement of accompanying documents must be kept minimal, keeping in mind that these are for medical emergencies. The designated nodal officers must be adequately sensitized in view of the fact that usually persons belonging to socially and economically weaker sections of the society may not readily have all documents available and viable alternatives may be suggested.

(v) The process of forwarding applications within the hospitals must not involve the beneficiary, as far as practicable, as repeated appearances are extremely costly both in terms of direct costs as well as absence from employment, apart from general difficulties as a result of the medical condition which requires them to seek assistance. A similar methodology could be adopted by various government departments involved in ultimately approving the benefit of the grants.

(vi) The patients or their families must not be called upon to obtain quotations from different vendors in reference with drugs / medicines / implants / devices / procedures, in order to submit their applications seeking financial assistance.

(vii) The Committee may suggest specific methodology under which patients belonging to economically weaker sections of the society may continue to receive benefits of treatment / drugs till such time the financial assistance is finally disbursed. This may entail stop-gap arrangements at various hospitals so as to mitigate the pain and suffering till final treatment / surgery is implemented.



(viii) The hospital must become patient friendly and accessible to the society at large. All the various departments under the Ministries / MCD must work in close association with each other, with effective communication so that greater benefit can be made available to the patients belonging to economically weaker sections of the society.

11. The Committee is requested to furnish their report with their recommendations for implementing the aforementioned terms of reference before the next date of hearing.

12. List on 16th November, 2023.

13. The Registry is directed to dispatch the copy of this order to all the concerned parties.

SATISH CHANDRA SHARMA, CJ

SANJEEV NARULA, J

SEPTEMBER 20, 2023

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