

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 780 OF 2019**

(A Writ Petition under Article 32 of Constitution of India)

IN THE MATTER OF:

STATUS OF PARTIES

Manohar Pratap

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

VERSUS

- | | |
|--|------------------|
| 1. Union of India,
Through Secretary, Ministry of
Health & Family Welfare,
Nirman Bhawan, New Delhi -
110011 | Respondent no. 1 |
| 2. State of Bihar
Through Secretary
Health Department
Govt. of Bihar.
1st Floor, Vikas Bhawan, Bailey
Road, Patna. 800015. | Respondent no. 2 |
| 3. State of Uttar Pradesh
Through Secretary
Department of Medical, Health
and Family Welfare
Sachivalaya, Lucknow. | Respondent no. 3 |

**A WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN
NATURE OF MANDAMUS, APPROPRIATE ORDER OR
DIRECTION DIRECTING THE RESPONDENTS TO TAKE
URGENT STEPS TO CONTROL THE OUTBREAK OF
EPEDEMIC CALLED ACUTE ENCEPHALITIS SYNDROME
(AES) AND PROVIDE NECESSARY MEDICAL FACILITIES TO
PERSONS SUFFERING FROM SAID DISEASE.**

To

The Hon'ble Chief Justice of India
And his companion Judges of the
Supreme Court of India at New Delhi

The humble Petition of the
Petitioners above-named.

- 1.** That the present Public interest litigation is being filed by the humble petitioners seeking issuance of Writ, order or direction to the respondents to urgently constitute a team of medical experts for treatment of children suffering from Acute Encephalitis Syndrome (AES) in State of Bihar and provide all necessary medical equipment and other supports for effective treatment of children suffering from the said epidemic disease.
 - 1A.** The cause of action for filing present petition has arisen on 17.06.2019 when petitioner came in knowledge of the fact that due to negligent act of the respondents hundreds of children has lost their lives and is still continuing since numbers of deaths are increasing day by day.
 - 1B.** That the present Writ petition is being filed praying for certain directions which will be very helpful to the needy persons who are suffering from said Acute Encephalitis Syndrome (AES). If such directions are not passed there is high probability that respondents will not provide adequate medical facilities to the affected persons resulting in injury to public health at large.

1C. That there is no civil criminal or revenue litigation involving the petitioner which has any legal nexus with the subject matter of the present Writ petition.

1D. The petitioner states that he has not moved any Government authority for the relief sought in the present Writ Petition.

2. That the petitioner herein is practicing advocate (D/2994/2014) in this Hon'ble Court and is permanent member of Supreme Court Bar Association having membership number P-00757 and is also member of Youth Bar Association of India. Complete particulars of petitioner are as follows: -

[REDACTED]

3. The petitioner declares that he has no personal interests of whatsoever nature connected with the subject matter of the present Public Interest Litigation and same is being filed purely for benefit of society at large.

4. FACTS OF THE CASE

A. That the Japanese encephalitis (JE), Acute Encephalitis Syndrome (AES) or Chamki Bukhar is a vector-borne viral disease. Due to its high epidemic potential, high case-fatality, it is taking thousand is lives annually. The epicenter of said

disease in India is eastern parts of Uttar Pradesh and Bihar.

B. The data available on internet states that in State of Uttar Pradesh numbers of deaths reported due to said Acute Encephalitis Syndrome (AES) is as follows:

Year 2014: 5, 850

Year 2015: 6,917

Year 2016: 6,121

Year 2017: 1,317

C. That in recent years, the disease has changed its epicenter of outbreak and presently its outbreak has been reported in Muzaffarpur area of Bihar where more than 126 of children has died due to said outbreak in past week.

True Typed Copy of New Reports reporting death of Children in Bihar dated NIL has been annexed herewith as ANNEXURE NO. P-1 at pages 15-36.

D. That the said disease is completely curable and lives of young children are being lost due to the inaction of the state machinery which has failed to take any steps to prevent the said outbreak.

- E. That it has been reported that 3 children died during the presence of the Union Minister for Health in the hospital.
- F. That is been widely reported that the Superintendent of the S K Medical College, Muzaffarpur, where most of the affected children are being treated has expressed his inability to cure the affected children due to acute shortage of medical facilities.
- G. That the inaction of state as well as central govt. has resulted in loss of precious lives of young children who were yet to see the colors of life.
- H. The print media as well as TV media has consistently shown that there has been a great inaction on the parts of the Govt. and doctors has been quoted who showed their inability in absence of proper facilities.
- I. That despite death of more than 100 children, state govt. has shown no prompt steps to prevent the spread of the said disease in adjoining districts.
- J. Hence, present Writ Petition.

5. The Petitioner states that he has not filed any other petition praying for same or similar relief before this Hon'ble Court or any other Court.

6. GROUNDS

A. Because Right to Life is sacrosanct fundamental right guaranteed under the Article 21 of the Constitution of India. This Hon'ble Court in catena of judgments has accepted it as highest in all fundamental rights. The present act of the negligence by the Respondents who are state within the framework of India Constitution has resulted in death of hundreds of young innocent lives. This continuing act of negligence on the part of state is consistently violating the fundamental right to life guaranteed under the Article 21 of the Constitution of India.

B. Because there is complete failure of State machinery to deal with the wide outbreak of Japanese encephalitis (JE), Acute Encephalitis Syndrome (AES) or Chamki Bukhar. There is no availability of doctors, beds, intensive care units, medical professionals to deal with an epidemic level situation which has resulted in more than 126 reported death of children in state of Bihar

particularly in Muzaffarpur and its adjoining areas.

C. Because various media reports suggest that doctors are showing inability to control deaths due to lack of facilities (like Intensive care units & Medicines) and trained medical professionals required to deal with the epidemical situation that has arisen in the area.

D. Because there is no evidence that Japanese encephalitis (JE), Acute Encephalitis Syndrome (AES) or Chamki Bukhar is incurable disease. Most of the deaths are occurring due to lack of medical facilities in the area of outbreak.

E. Because annually thousands of young lives are lost due to inaction of the state machinery which has shaken the conscience of the nation. The citizens are in greatest grief that one hand we are claiming to land on the moon within course of few months but on the other hand we are letting our young children die on their conditions without providing them adequate medical attention.

F. Because the state govt. and central govt. has been constantly ignoring the deaths of young

children which are exceeding in thousands in numbers every year.

G. Because indulgence of this Hon'ble Court can save lives of thousands of young children who are future of India but are dying unnatural death due to inaction and negligence of the state machinery.

H. Because the children are losing their lives in scores due to unavailability of medicines, proper care and lack of intensive care units in the hospitals of the area.

I. Because the strikes of the doctors on issue of their safety has co-incidentally collided with the outbreak of the diseases which is also affecting the proper care of the patients.

J. Because there is lack of specialty doctors in the state of Bihar to take proper care of the ailing children and govt. has chosen to close eyes.

K. Because the fundamental rights guaranteed under Article 21 of the constitution is being violated by acts of state as well central govt. in consistently ignoring the cause of the underprivileged.

L. Because the affected persons are mostly from the poor sections of the society who have no means

for getting good treatment and hence, they are heavily dependent upon the Governments.

M. Because the persons who are worst hit by the outbreak of the said epidemic has not means to get access to justice.

N. Because the Respondents owes duty to take care of its citizens in most careful and judicious manner but whatever efforts are being done in present case is far from being satisfactory.

O. Because there is urgent need of specialized doctors and experts in the medical fields who can visit the epicenter of the outbreak and find steps to prevent further spread of the epidemic in the area.

P. Because it is primary duty of the state to safeguard the public health of its citizens.

7. That this Hon'ble Court has jurisdiction to entertain present petition under Article 32 of the Constitution of India as it involves violation of basic fundamental rights by the state machinery by their persistent act of negligence. Furthermore, this petition has been filed under Article 32 of the Constitution of India since more than one state is party to it.

8. PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- A. Issue a writ of mandamus or other appropriate writ, order and direction directing the Respondent no. 1 to constitute a medical board of experts in the medical field and immediately send it to the place of the outbreak i.e. Muzaffarpur in Bihar to review and assist the emergency situation;
- B. Issue a writ of mandamus or other appropriate writ, order to the Respondent no. 1 and 2 to immediately arrange 500 ICU (intensive care units) with required medical professionals to deal with the emergent situation which has occurred due to outbreak of Acute Encephalitis Syndrome (AES);
- C. Issue a writ of mandamus or other appropriate writ, order and direction to the Respondent no. 1 & 2 to immediately arrange 100 mobile ICU (intensive care units) with required medical professionals to deal with the affected patients from the remote areas;

D. Issue a writ of mandamus or other appropriate writ, order and direction to the Respondent no. 2 to notify an extra-ordinary government order directing all the private medical institutions in the affected area to admit and provide treatment free of cost to the patients;

E. Issue a writ of mandamus or other appropriate writ, order and direction to the Respondent no. 3 to take all possible preventive steps to stop the outbreak of the said disease called Acute Encephalitis Syndrome (AES) in the earlier epicenter i.e. Gorakhpur;

F. Issue a writ of mandamus or other appropriate writ, order and direction to Respondents No. 1, 2 & 3 to widely publish and advertise the preventive steps and first aid which requires to be given to patient in case of identified Acute Encephalitis Syndrome (AES);

G. Issue a writ of mandamus or other appropriate writ, order and direction to Respondent no. 1, 2 & 3 to provide stocks of the medicines, medical equipment and other technical support which are required for treatment of patients suffering from Acute Encephalitis Syndrome (AES);

- H. Issue a writ of mandamus or other appropriate writ, order and direction to the Respondent no. 2 to grant compensation of Rs. 10 Lakhs to surviving members of family of deceased who have died due to negligence of the state machinery.
- I. Issue a writ of mandamus or other appropriate writ, order and direction directing the Respondent no. 1 & 2 to constitute a fact-finding committee to determine the role of persons/entity negligent in treatment of children which has resulted in mass deaths.
- J. Pass any other or further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, YOUR HUMBLE PETITIONERS, AS IS DUTY BOUND, SHALL EVER PRAY.

DRAWN & FILED BY:

Manohar Pratap

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Dated: 18.06.2019

New Delhi

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) No. 780 OF 2019**

IN THE MATTER OF:

Manohar Pratap

...Petitioner

Versus

Union of India & Ors.

...Respondents

AFFIDAVIT

I, Manohar Pratap, [REDACTED]

[REDACTED] do hereby solemnly affirm and state as under:

1. That I am the petitioner and well conversant with the facts and circumstances of the case and as such I am competent to swear this affidavit.
2. That the contents of the accompanying Writ Petition consisting in paragraph 1 to 8 from pages 1 to 13 accompanied with Synopsis and List of Dates at Pages B to E and IAs has been read over to me and I say that whatever is stated therein are true and correct to the best of my knowledge, belief and nothing material information has been concealed therefrom.
3. That the Annexures P-1 is true/translated copies of their respective originals.

4. That no other Writ Petition has been filed by the petitioners before this Hon'ble Court or any other Court for same or similar relief.
5. That there is no personal interests, motive or connection of the petitioners with the subject matter of the present petition and is filed purely in nature of Public Interest Litigation.

DEPONENT

VERIFICATION:

I, the above name deponent do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge, belief and nothing material information has been concealed therefrom. No part it is false.

Verified at New Delhi on this 18thDay of June, 2019

DEPONENT

APPENDIX

32. Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part

(3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

//True Typed Copy //