

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) No. ____ OF 2020
IN THE MATTER OF A PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

YASH AGGARWAL & ANOTHER

...PETITIONERS

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENT

WRIT PETITION IN PUBLIC INTEREST UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA SEEKING ISSUANCE OF WRIT, ORDER OR DIRECTION IN THE NATURE OF MANDAMUS OR ANY OTHER WRIT, ORDER OR DIRECTION THEREBY DIRECTING THE RESPONDENT TO ISSUE THE DIRECTIONS TO THE HOSPITALS TO RUN OPDs AND OTHER FACILITIES NECESSARY FOR PATIENTS WELL BEING WHO ARE NOT SUFFERING FROM COVID-19

TO,

HON'BLE THE CHIEF JUSTICE AND HIS COMPANION JUDGES OF THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

THE HUMBLE PETITION OF THE PETITIONERS ABOVE NAMED:

MOST RESPECTFULLY SHEWETH:-

1. That the Petitioners are filing the instant writ Petition in the public interest. The Petitioners have no personal interest in the litigation, and the Petition is not guided by self-gain or for gain of any other person/institution/body and that there is no motive other than of public interest in filing the present writ Petition.

2. That the Petitioners have based the instant writ Petition on official documents, orders which are part of the official record and which are in the public domain and also newspaper reports.
3. That the Petition, if allowed, would benefit the public exchequer and which in turn would benefit the citizens of this country. Since these persons are too many in number and have no direct personal interest in the matter, they are unlikely to approach this Hon'ble Court on this issue, especially under the present circumstances wherein the people are asked to remain in Quarantine. Hence the Petitioners herein are preferring this PIL.
4. That the public at large including but not limited to the people suffering from kidney disorders, heart diseases, physical injuries, neurological diseases, psychiatric patients, patients suffering from lung and liver failures, are aggrieved by the inaction of the Respondents in taking necessary steps. To the best of the knowledge of the Petitioners, no persons/bodies/institutions other than the Respondents impleaded in the present Petition are likely to be affected by the orders sought in the writ Petition since no relief is sought against them.
- 5.
6. That the Petitioners have not made any representations to the Respondents in this regard because of the urgency of the situation considering global pandemic and deteriorating health of people.

BRIEF FACTS OF THE MATTER:

1. That the Petitioners are filing the instant writ Petition in the public interest for upholding the rule of law and for enforcement of the rights of the citizens under Articles 14 and 21 of the Constitution of India. This Petition seeks a direction to be issued by the Respondents to all the Hospitals to provide proper treatment to the patients suffering from any illness, disease or injury other than COVID-19, and make available the facilities like OPD and other necessary facilities to all the patients irrespective of the fact that patient is suffering from COVID-19 or any other illness, disease or injury .
2. Whereas the Respondent No. 1 is the governing body for government hospitals in the territory of India. Whereas the Respondent No. 2 is the governing body for government hospitals in the National Capital region of Delhi. Whereas the Respondent No.3 is the registration body of doctors with recognized qualifications in India.
3. That because of the Lockdown, many OPDs had to be shut down for all illnesses other than COVID-19 and the patients are not able to consult their doctor or get the necessary treatment.
A copy of Newspaper article dated 10.04.2020 from The Times of India is annexed hereto and marked as **“ANNEXURE P-1”**.
4. That in majority of the Hospitals such as Lok Nayak Hospital, OPD space is used to create beds for patients with COVID-19, thus leaving no space for the treatment of people suffering from other illnesses, diseases or injuries.
A copy of Newspaper article dated 10.04.2020 from The Times of India is annexed hereto and marked as **“ANNEXURE P-2”**.
5. That patients suffering from chronic diseases and even those who require necessary facilities like Dialysis are not being given treatment at the Hospitals both Government and Private, and they have to run pillar to post to get the treatment as many Hospitals are being converted to COVID-19 special Hospitals whereas remaining Hospitals are

afraid to take the patient as the Doctors of these Hospitals are worried that patient might be corona patient.

6. That one patient namely Ashok Kumar aged about 61 years, who was advised to get Dialysis thrice a week at Mool Chand hospital and had been doing the same since many years was refused the same in the following Hospital, and after great difficulty, he was able to get Dialysis in Maharaja Agarsain Hospital at Punjabi Bagh at a distance of more than 20 km from his house which causes further suffering, both physical and financial, to a person already suffering from a chronic illness. He was fortunate enough to have the resources to move to another Hospital and for pulling strings to be treated there, but the same is not possible by the majority population of our Nation who majorly belong to lower strata of the society.

Copy of a letter by Moolchand Hospital mentioning the patient's requirement of Dialysis is annexed hereto and marked as **“ANNEXURE P-3”**.

7. That another similar incident has been reported in the Times of India newspaper dated 10.04.2020 wherein a patient was staying in the waiting room of LNJP Hospital as he had Kidney failure and spinal problem and needed Dialysis twice a week, but rather than being treated he was just asked to go to another Hospital.

Copy of the following article is already annexed and has been marked as **“ANNEXURE P-2”**.

8. That another similar incident took place at Sir Ganga Ram Hospital wherein a Doctor, namely Dr. Lovish Garg of Safdarjung Hospital, suffering from Acute Hepatitis condition was asked to first get himself tested for Coronavirus and only after presenting a COVID-19 negative report will he be treated for his illness.

9. That Nav Bharat Times published a report with the heading “Corona se ladne main jute sab aspatal bahar tadaph rahe cancer tak ke marij”- All Hospitals are fighting with Corona whereas outside even a Cancer patient is suffering, which itself speak plight of the other patients.

A copy of Newspaper article dated 11.04.2020 from The Navbharat Times is annexed hereto and marked as **“ANNEXURE P-4”**.

10. That before India went on lockdown, Indian Institute of Allied Science was receiving at least 1200 patients daily, the number now has fallen to almost zero. Similarly, fewer admissions for psychiatric illness and admissions are happening in All India Institute of Medical Science (AIIMS) and Ram Manohar Lohia Hospital. That in case the facilities are not made to facilitate and continue treatment for people with psychiatric illness, it could lead to humanitarian crisis. Stress and uncertainty which is ubiquitous due to COVID-19 crisis affects psychiatric patients the most and their condition might worsen. Video conferencing sessions with Doctor can be used in some cases, but this facility is not available with the lower strata of our society.

A copy of Newspaper article dated 10.04.2020 from The Times of India is already annexed hereto and marked as **“ANNEXURE P-2”**.

11. That Hindustan Times published a report that cancer patients are not even able to get even the treatment for cancer, and hospitals are rejecting their chemotherapy. Delhi State Cancer Institute (DSCI) stopped treating patients after the Doctors and nurses started testing positive for COVID-19. Other private hospitals have rejected to admit the patient as they said treatment should continue in the same hospital in which it was started. "Hospitals across the city, government and private, have curtailed or halted "routine" services to decongest and keep beds for Covid-19 patients. This, coupled with the 21-day lockdown, has severely limited people's access health services in Delhi."

A copy of Newspaper article dated 13.04.2020 from The Hindustan Times is annexed hereto and marked as **"ANNEXURE P-5**.

12. That renowned Private Hospitals such as Max Hospital, Shalimar Bagh are only open for emergency cases and in that too peoples' body temperature is taken on the entrance gate itself and the ones who have a high body temperature are not permitted to enter the Hospital premises.

13. That even in localities local Doctors are not running their private clinics and the Hospitals are not running their regular OPD due to which even for ailments such as Dengue, Chickenpox, Accidental injuries, etc., no treatment is available and the people are made to suffer and their conditions are bound to get worse in most cases.

GROUND:

- A. Because the Respondents have no justification in delaying/denying the medical attention and facilities to the patients on the basis of the disease they are suffering with.
- B. Because the Respondents are obligated to run all the Medical treatment departments and facilities necessary for a person's health by virtue of Article 21 of the Constitution of India.
- C. Because the Respondents are obligated to treat every person equally and provide them with the facilities required irrespective of giving priority to a certain medical condition over others.
- D. Because without the issuance of necessary directions by the Respondents' necessary medical treatment will be kept on denying by the Hospitals, which can lead to severe consequences.
- E. Because the Respondents have failed to perform their duties as enshrined under the law.
- F. Because the acts of the Respondents as detailed hereinabove, are against all cannons of law, equity and justice.
14. That the Petitioners totally understand the gravity of the unfortunate situation that the entire World is suffering from at the moment, but at the same time if this Petition is not allowed, the people who are suffering from other Chronic diseases, illnesses or injuries

may suffer and eventually die, acting as “Collateral Damage” in the present situation, which would be nothing but a further Horror for the already suffering Nation.

15. That the Petitioners have no other remedy under the law except to seek the indulgence of this Hon'ble Court to give direction to the Government and Indian Medical Council to take necessary action to treat the patients suffering from illnesses, diseases and injuries other than COVID-19, and also direct the Hospitals, both Government as well as private, and Doctors to run their clinics as it is an essential life-saving service.
16. That the Petitioners have not filed any other Petition, appeal, application, suit etc. with regard to the present matter before any court of law including Hon'ble Supreme Court of India except the present Petition before this Hon'ble Court.

PRAYER:

Under the facts and circumstances of the case, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- (a) Issue a writ in the nature of mandamus or any other writ, order or direction thereby directing the Respondents to treat the patients of other diseases also and direct the Hospitals, both Government and private, as well as Doctors to run their clinics, as it is an essential life-saving service.; and
- (b) Pass such other further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER SHALL EVER PRAY.

New Delhi
Dated: 13.04.2020

Petitioners, through Counsel

✓

✓

VERIFICATION

Verified at New Delhi on this 13th day of April, 2020 that the contents of this petition have been read over and explained to me by my engaged counsel in very simple constitutional language of Hindi, same have been understood by me, are true and correct to the best of my knowledge and belief. Nothing has been concealed therein.

New Delhi.
Dated: 13.04.2020



PETITIONERS

**IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) No. ____ OF 2020
IN THE MATTER OF A PUBLIC INTEREST LITIGATION**

IN THE MATTER OF:

YASH AGGARWAL & ANOTHER

...PETITIONERS

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENT

AFFIDAVIT

1. That I am the Petitioner No. 1 in the above-noted case and well conversant with the facts and circumstances of the case hence competent to swear this affidavit.
2. That the accompanying writ Petition has been drafted by my counsel under my instruction and contents of the same, have been read over to me in my vernaculars and have been understood by me as true and correct.
3. That the contents of the accompanying Petition may be read as part and parcel of this affidavit and are not repeated here for the sake of brevity and to avoid repetition.

DEPONENT

VERIFICATION:

Verified at Delhi on this 13th day of April 2020 that the contents of above affidavit are true and correct to the best of my knowledge; no part of it is false, and nothing material has been concealed therefrom.

DEPONENT

**IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) No. ____ OF 2020
IN THE MATTER OF A PUBLIC INTEREST LITIGATION**

IN THE MATTER OF:

YASH AGGARWAL & ANOTHER

...PETITIONERS

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENT

AFFIDAVIT

4. That I am the Petitioner No. 2 in the above-noted case and well conversant with the facts and circumstances of the case hence competent to swear this affidavit.
5. That the accompanying writ Petition has been drafted by my counsel under my instruction and contents of the same, have been read over to me in my vernaculars and have been understood by me as true and correct.
6. That the contents of the accompanying Petition may be read as part and parcel of this affidavit and are not repeated here for the sake of brevity and to avoid repetition.



DEPONENT

VERIFICATION:

Verified at Delhi on this 13th day of April 2020 that the contents of above affidavit are true and correct to the best of my knowledge; no part of it is false, and nothing material has been concealed therefrom.



DEPONENT