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**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**(Original Jurisdiction)**

**W.P. No. \_\_\_\_\_/2020 (PIL)**

**In the matter of Public Interest Litigation:**

**Between:**

Ramesh Naik. L

...Petitioner

**And:**

State of Karnataka and Ors.

...Respondents

**SYNOPSIS**

<b>Sl. No.</b>	<b>Date</b>	<b>Events</b>
1.	25.03.2020- 17.05.2020	Government of India had imposed complete Lock-Down of the entire country in the wake of fast spreading of the <b>Pandemic COVID-19(Novel Corona virus)</b> . Karnataka State has reported its First positive case of COVID-19 on March 9 <sup>th</sup> 2020 and saw a huge increase in the number of COVID-19 cases in May. The numbers doubled from 589 on May 1 to 1,056 on May 15, before shooting up to 3,221 by end of May.
2.	Nil.	Karnataka State government is providing a free treatment to the patients confirmed with the infection of COVID-19 in its State run-public health care facilities across the State. But during the period of complete country-wide lock-down and aftermath, most of the individual medical Practitioner's/Doctor's who own their private medical clinic/hospitals, except a big nursing homes/hospitals, have either closed their medical clinics/hospitals or refused to treat the patients suffering from ordinary health issues (Fever, Cough, Cold, BP, Sugar etc.), reportedly claiming the reason as spreading of COVID-19 from person to person. <b>Petitioner personally witnessed such situation in his home district head quarter of Tumkur City.</b>

3.	13.05.2020	<b>Looking at the plight of the Non-COVID-19 patients,</b> Petitioner made a Requisition/Representation to the Ministry of Health and Family Welfare, Respondent No.1 herein, to issue proper and appropriate direction to the Respondent No.2 and its registered medical Practitioner's/Doctor's to open their medical clinic/hospital and treat the patients with the ordinary health issues. But no response.
4.	02.07.2020.	As the number of COVID-19 positive cases is rapidly growing everyday ( <b>reportedly 1000+ in a day</b> ) for the past Three days and <b>total number crossed 18,000 mark,</b> State is running out of its state-run health care facilities and negotiating with the big private medical hospitals to join hands in providing timely medical facilities to treat the COVID-19 confirmed patients and to combat against the deadly COVID-19. <b>In such a critical time of health emergency, the plight of even the non-COVI-19 patients, is worsening day by day as the</b> tendency of private individual doctor's closing their small medical clinics/hospitals or refusing to treat even non-COVID patients, were reported across the State which is largely affecting the non-COVID patients, who are suffering from ordinary fever, cough, BP, Sugar etc..
5.	03.07.2020.	Petitioner having not received any response for his Requisition/Representation, but looking at the gravity of the plight of the COVID-19 and non-COVID-19 patients, filing this petition in the nature of Public Interest Litigation.

**BRIEF FACTS OF THE CASE**

Government of India had imposed complete Lock-Down of the entire country in the wake of fast spreading of the **Pandemic COVID-19(Novel Corona virus)**. Karnataka State has reported its First positive case of COVID-19 on March 9<sup>th</sup> 2020 and saw a huge increase in the number of COVID-19 cases in May. The numbers doubled from 589 on May 1st to 1,056 on May 15th, before shooting up to 3,221 by end of May.

Karnataka State government is providing a free treatment to the patients confirmed with the infection of COVID-19 in its State run-public health

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care facilities across the State. But during the period of complete country-wide lock-down and aftermath, most of the individual medical Practitioner's/Doctor's who own their private medical clinic/hospitals, except a big nursing homes/hospitals, have either closed their medical clinics/hospitals or refused to treat the patients suffering from ordinary health issues (Fever, Cough, Cold, BP, Sugar etc.), reportedly claiming the reason as spreading of COVID-19 from person to person. **Petitioner personally witnessed such situation in his home district head quarter of Tumkur City.**

**Looking at the plight of the Non-COVID19 patients,** Petitioner made a Requisition/Representation to the Ministry of Health and Family Welfare, Respondent No.1 herein, to issue proper and appropriate direction to the Respondent No.2 and its registered medical Practitioner's/Doctor's to open their medical clinics/hospitals, and treat the patients with the ordinary health issues. But no response.

As the number of COVID-19 positive cases is rapidly growing everyday, **reportedly 1000+ in a day** for the past Three days (June 30<sup>th</sup>, 2020 – July 2<sup>nd</sup>, 2020) and **total number crossed 18,000 mark**, State is running out of its state-run health care facilities and negotiating with the big private medical hospitals to join hands in providing timely medical facilities to treat the COVID-19 confirmed patients and to combat against the deadly COVID-19. **In such a critical time of health emergency, the plight of even the non-COVI-19 patients, is worsening day by day as the** tendency of private individual doctor's closing their small medical clinics/hospitals or refusing to treat even non-COVID patients, were reported across the State which is largely affecting the non-COVID patients, who are suffering from ordinary health issues of fever, cold, cough, BP, Sugar etc..

Petitioner having not received any response for his Requisition/Representation dated 13.05.2020 to the concerned authorities, but looking at the gravity of the plight of the COVID-19 and non-COVID-19 patients, filing this petition in the nature of Public Interest Litigation.

Bengaluru,

Date : 03/07/2020

Advocate for Petitioner/Petitioner-In-Person  
[RAMESH NAIK.L]

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**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**(Original Jurisdiction)**

**W.P. No. \_\_\_\_\_/2020 (PIL)**

**In the matter of Public Interest Litigation:**

**Between:**

**Ramesh Naik. L S/o Late Lakshman Naik. R**

... Petitioner

**And:**

**1. State of Karnataka**

Represented by its Principal Secretary,  
Department of Health and Family Welfare,  
#101, First Floor, Vikas Soudha,  
Bangalore-560001

**2. Karnataka Medical Council,**

Represented by its President,  
#16/6, 2nd Floor, Miller Tank Bed Area,  
Vasanthnagar, Bangalore- 560 052.

... Respondents

**Memorandum of Writ petition under Article 226 of the  
Constitution of India in the matter of Public Interest Litigation**

- 1) That the petitioner is filing the instant writ petition in public interest. The petitioner has no personal interest, individual gain, private motive or oblique reasons in filing this PIL. It 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 writ petition.
- 2) That the petitioner is a public spirited person and an Advocate by profession, is associated with the couple of non-profit organization based in Tumkur, Karnataka which are in forefront for the education of rural children, Environmental protection and also fighting for the cause of human dignity, civil liberty and social justice. **Petitioner seeks the**



leave of this Hon'ble Court to appear and argue as Petitioner-In-Person in this petition.

- 3) There is no civil, criminal or revenue litigation, involving Petitioner, which has or could have legal nexus with the issue involved in this petition. It is totally bona-fide.

#### Facts of the case

- 4) It is submitted that the Government of India had imposed a complete Lock-Down of the entire country starting from 25th May 2020 and extended time-to-time till 17th May 2020, in the wake of fast spreading of the **Pandemic COVID-19(Novel Corona virus)**. Karnataka State has reported its First positive case of COVID-19 on March 9th 2020 and saw a huge increase in the number of COVID-19 cases in May. The numbers doubled from 589 on May 1 to 1,056 on May 15, before shooting up to 3,221 by end of May.
- 5) It is further submitted that, since from the date of its first reported case of COVID-19, Karnataka State government, is providing a free treatment to the patients confirmed with the infection of COVID-19 in its State run-public health care facilities across the State.
- 6) Petitioner submits that, as the number of COVID-19 positive cases is rapidly growing everyday in the State, **reportedly 1000+ in a day** for the past Three days (June 30th, 2020 – July 2nd, 2020) and **total number crossed 18,000 mark**, State is running out of its state-run health care facilities and negotiating with the big private medical hospitals to join hands in providing timely medical facilities to treat the COVID-19 confirmed patients and to combat against the deadly COVID-19.
- 7) It is submitted that during the period of complete country-wide lock-down and aftermath, most of the individual medical Practitioner's/Doctor's who own their private medical clinic/hospitals, except a big nursing homes/hospitals, have either closed their medical clinics/hospitals or refused to treat the patients suffering from ordinary health issues (Fever, Cough, Cold, BP, Sugar etc.), reportedly claiming the reason as spreading of COVID-19 from person to person. This situation has resulted in most of the non-COVID-19 patients suffering from ordinary health issues are left without being treated. **Petitioner personally witnessed such situation in his home district head quarter of Tumkur City.**

- 8) Petitioner submits that in this critical time of COVID-19 turning the life of the infected patients into a disaster, the panic among the ordinary healthy people also increased, looking at the pathetic condition of the COVID-19 patients who were reportedly denied admissions into Private medical hospitals in Bangalore, Bellary and many other districts in the State.
- 9) It is submitted that in such a critical time of health emergency, the plight of, even the non-COVI-19 patients, is worsening day by day as the tendency of private individual doctor's closing their small medical clinics/hospitals or refusing to treat even non-COVID patients, were reported across the State which is largely affecting the non-COVID patients, who are suffering from ordinary fever, cough, cold, BP, Sugar etc. and they were reportedly asked to undergo COVID-19 test without being treated at the first instance.
- 10) Petitioner further submits that, looking at the plight of the Non-COVID19 patients, Petitioner made a E-mail Requisition/Representation dated 13.05.2020 to the State Ministry of Health and Family Welfare, Respondent No.1 herein, to issue proper and appropriate direction to the Respondent No.2 and its registered medical Practitioner's/Doctor's to open their medical centre and treat the patients with the ordinary health issues, but not received any response. A copy of the same is enclosed herewith as Annexure-A for the kind perusal of this Hon'ble Court.
- 11) It is submitted that, providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The Government discharges this obligation by running hospitals and health centers which provide medical care to the person seeking to avail those facilities.
- 12) It is further submitted that the Hon'ble Supreme Court in number of cases has reminded that, "Every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way".



- 13) Petitioner submits that any Doctors whether appointed by the government or practicing privately cannot deny medical treatment to any patients by closing their individual medical clinics/hospitals or by refusing to treat even non-COVID patients, during this time of extraordinary health emergency and any such act would result in the **deprival of Fundamental Right to Health of the Patients and hence offend the "Life and Personal Liberty" enshrined in Article 21 of the Constitution of India.**
- 14) Petitioner having not received any response for his Requisition/Representation dated 13.05.202 to the concerned authorities, **but looking at the gravity of the plight of the COVID-19 and non-COVID-19 patients,** filing this petition in the nature of Public Interest Litigation with the following, in addition to the above, grounds.

#### **Grounds**

- 15) **Article 21 in part III of the Constitution of India** provides that "No person shall be deprived of the Life and Personal Liberty except according to procedure established by law". Refusal by any Medical Practitioner/Doctor to provide medical treatment to any person in need, would result in the deprival of patient's **Fundamental Right to Health and hence violates the Article 21 of the Constitution of India.**
- 16) **Hon'ble Supreme Court in the Paschim Banga Khet Mazdoor Samity vs State of West Bengal & Anr on 6 May, 1996,** case had held that in a welfare state the primary duty of the government was to secure people's welfare. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The Government discharges this obligation by running hospitals and health centers which provide medical care to the person seeking to avail those facilities.
- 17) In several of its judgments delivered over the years, **Hon'ble Supreme Court** had said that the failure to provide medical assistance did tantamount to violation of fundamental right to life guaranteed under Article 21 of the Constitution. **The Court had also held that even private doctors could not deny medical treatment to anyone.**
- 18) Having no other alternative and efficacious remedy, the Petitioner has filed this writ petition before this Hon'ble Court. The Petitioner has not

filed any other petition, claim, suit or proceeding in any court or tribunal throughout the territory of India regarding this matter.

**PRAYER**

1. Issue a writ of mandamus to the Respondent No.1 to take necessary and appropriate action available in law to give direction to Respondent No.2 and all its registered Medical Practitioner's/Doctor's to provide medical facilities to non-COVID-19 patients suffering from routine health issues along with their effort to provide medical facilities to COVID-19 patients and join hands in government's effort to combat Pandemic COVID-19.
2. Pass such other order or orders as this Hon'ble Court deems fit to grant in the facts and circumstances of the case, so as to meet the ends of justice and equity.

Bengaluru,

Date : 03/07/2020

Advocate for Petitioner/Petitioner-In-Person

[RAMESH NAIK.L]

**Address for service**

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