

IN THE HIGH COURT OF DELHI AT NEW DELHI  
(EXTRAORDINARY WRIT JURISDICTION)  
WRIT PETITION (CIVIL) NO. OF 2020

**IN THE MATTER OF:**

GUFRANA KHATOON

PETITIONER

VERSUS

GOVT OF NCT OF DELHI & ORS.

RESPONDENT(S)

**WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF  
INDIA FOR ISSUING A WRIT OF MANDAMUS OR ANY OTHER  
WRIT / ORDER OR DIRECTION TO RESPONDENTS TO 1 TO 6**

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

THE HUMBLE PETITION OF  
THE PETITIONER ABOVE NAMED

**MOST RESPECTFULLY SHOWETH:**

1. This writ petition is being filed by the petitioner to direct the Respondents to take appropriate action against Respondent No.6, HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR). The Petitioner herein was working as Staff nurse on temporary basis with HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR).

2. That the petitioners herein were appointed as Staff Nurse on Contractual basis in HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR), Delhi and she has been working in her said capacity since then. A true copy of the appointment letter bearing D. No. HIMSR/Admn./2017-77 dated 17.06.2017 issued by the Hamdard Institute of Medical Sciences & Research Jamia Hamdard, Hamdard Nagar, New Delhi is annexed herewith and marked as **ANNEXURE P-1**
3. That the Ministry of Labour and Employment, Govt. of India vide office order No. M-11011/08/2020 dated March 20, 2020 categorically directed all employers association to not terminate employees, particularly casual or contractual workers from job or reduce their wages during the pandemic period. A true copy of Government Order bearing D. O. No. M-11011/08/2020-Media dated 20.03.2020 issued by the Ministry of Labour and Employment, Shram Shakti Bhavan, New Delhi is annexed herewith and marked as **ANNEXURE P-2**.
4. That the Delhi Health and Family Welfare Department on March 12, 2020, has published the Delhi Epidemic Diseases, COVID – 19 Regulations, 2020 vide Gazette Notification No.F.51/DGHS/PH-IV/COVID-19/202-2015 of Govt. of NCT of Delhi dated 12.03.2020.
5. That the Dean of HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR) vide Office Order Diary No. 212

dated 02.07.2020 in view of the implemented Disaster Act (Ref: Gazette Notification No.F.51/DGHS/PH-IV/COVID-19/202-2015 of Govt. of NCT of Delhi dated 12.03.2020 and Govt. Of India, Ministry of Home Affairs Office Order No. 40-3/2020-DM-I(A) dated 29.06.2020 issued a direction that, HAHC Hospital being declared as a COVID-19 hospital, all concerned health care workers including doctors and nurses are directed to refrain from sending applications for resignation / resignation notices or requesting leave without pay, citing personal reasons. Despite the said Office Order, the HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR) terminated a large group of health care professionals only for raising legitimate concerns in the context of Covid-19. A true copy of Office Order bearing Diary No. 212 dated 02.07.2020 issued by Dean of Hamdard Institute of Medical Sciences & Research and Associated HAH Centenary Hospital, Guru Ravidas Marg, Hamdard Nagar, New Delhi is annexed herewith and marked as **ANNEXURE P-3**.

6. That during duty in Covid-19 ward, the Petitioner herein infected and tested positive for COVID-19 on 03.07.2020. The Petitioner was not provided free testing despite showing symptoms of COVID-19. A true copy of medical report of Petitioner issued by the Dr. Dangs Lab, New

Delhi dated 03.07.2020 is annexed herewith and marked as **ANNEXURE P-4.**

7. That in the first week of July, the Health care workers of HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR) demanded access to basic facilities like N-95 masks, sufficient numbers of Personal Protective Equipment (PPEs), better working hours, drinking water, free COVID-19 tests, adequate quarantine facilities for health care staffers during COVID-19 duty.
8. That vide Office Order No. HIMSR/HR/N/EXT./2020-21/19 the Head & Administration of HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR) terminated the service of 84 staff nurses including the Petitioner herein in arbitrary manner in the unprecedented pandemic time. It is pertinent to mention that the decision to terminate the aforementioned 84 nurses is clearly a retaliatory move against the health care staffers for having raised legitimate concerns in the context of Covid-19. A true copy of Office Order bearing No. HIMSR/HR/N/EXT./2020-21/19 dated 11.07.2020 issued by the Head Finance & Administration of Hamdard Institute of Medical Sciences & Research and Associated HAH Centenary Hospital, Hamdard Nagar, New Delhi is annexed herewith and marked as **ANNEXURE P-5.**

9. That thereafter, United Nurses Association, a registered trade union of professional nurses made representations to Chief Minister, Govt. of NCT of Delhi and State Labour Minister, Govt. of NCT of Delhi requesting their immediate intervention in this matter. Unfortunately, no action has been taken yet and being aggrieved by inaction of Respondents herein the Petitioner filing the instant Petition urging kind indulgence of this Hon'ble Court to direct the Respondents to take appropriate action against Respondent No.6, HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR) which is an accredited institution under the official Respondents herein, in accordance with law.

#### **GROUND**

- A. THAT the impugned action of Respondent No.6 is not only violative of Article 14 & 21 but also impair and impinges all other fundamental rights of the Petitioner and other terminated staff nurses of HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR).
- B. THAT the inaction on the part of the Respondent No. 1 to 5 is illegal, and arbitrary, thus violating the fundamental rights of the Petitioner guaranteed under the Constitution of India.
- C. THAT the Ministry of Labour and Employment, Government of India, vide Office Order dated 20.03.2020, categorically directed all employers'

associations not to terminate employees, particularly casual or contractual workers from job or reduce their wages during the pandemic time.

- D. THAT the Petitioner herein and other terminated staff nurses demanded access to basic facilities like N-95 masks, sufficient numbers of Personal Protective Equipment (PPEs), better working hours, drinking water, free COVID-19 tests, adequate quarantine facilities for health care staffers during COVID-19 duty. It is pertinent to mention that while performing duty in Covid-19 ward, the Petitioner herein infected and tested positive for COVID-19 on 03.07.2020. The Petitioner was not provided free testing despite showing symptoms of COVID-19. the decision to terminate the aforementioned 84 nurses is clearly a retaliatory move against the health care staffers for having raised legitimate concerns in the context of Covid-19.
- E. That in the termination order dated July 11, HAHC hospital administration stated that these nurses were being relieved because of 'absence from office without sanctioned leave and absent without intimation'. However, several of them were on duty till July 11 and the others were in quarantine.
- F. THAT the arbitrary action on the part of Respondent No.6 Hospital to terminate 84 Staff nurses without prior notice and proper reason is in clear violation of the Government directives. It is also pertinent to note that the action of Respondent No.6 Hospital in terminating 84 Staff

nurses without one month notice is again a flagrant violation of the contract on the basis of which these dismissed nurses were appointed by Respondent No.6 Hospital management.

- G. THAT health care workers are at the front line of the COVID-19 outbreak response and as such are exposed to hazards that put them at risk of infection. Hazards include pathogen exposure, long working hours, psychological distress, fatigue, occupational burnout, stigma, and physical and psychological violence etc.
- H. THAT current evidence suggests that the virus that causes COVID-19 is transmitted between people through close contact and droplets. People most at risk of acquiring the disease are those who are in contact with or care for patients with COVID-19. This inevitably places health care workers at high risk of infection. Protecting health care workers should be paramount importance to the Respondents herein.
- I. THAT the health and safety of health care workers are of utmost importance because further shortage of health care workers would result in thousands of unattended COVID-19 patients, which would have serious repercussions with respect to economy, medical facilities, potential deaths and loss of human resource.
- J. THAT in this particular circumstance, a unanimously accepted belief is that the service of the health care workers are indispensable. It is the duty of the Respondents to give them every possible help and assistance they

direly need at this moment. Unfortunately, amid Covid-19 the following most common hardships being regularly faced by the health care workers in Delhi.

- (1) Non-availability of sufficient personal protective equipment(PPE) in numerous hospitals;
- (2) Non-availability of sufficient number of COVID-19 testing kits;
- (3) Sub-standard Personal Protection Equipments (PPE);
- (4) Lack of training on infection prevention and control (IPC)
- (5) Lack of basic facilities in isolation wards; Isolation precautions are not being followed by WHO norms;
- (6) Hourly disinfection is not being done in the wards;
- (7) Mental harassment in the nature of forced over-time followed by negligible transport facilities and deduction of salary on account of leaves;
- (8) Health care workers who are pregnant, lactating or immune compromised are being forced to work;
- (9) Lack of accommodation, food, transportation etc.
- (10) Lack of free medical support for the health care workers and their families.
- (11) Continuous breach of Government guidelines by private hospitals;



12. That the Petitioner has not filed any other similar petition before any other Court and the Hon'ble Supreme Court of India.

**PRAYER**

Thus, in the present facts and premise, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- i. Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondents to take appropriate action against Respondent No.6, HAH Centenary Hospital of Hamdard Institute of Medical Sciences & Research (HIMSR) which is an accredited institution under the official Respondents herein, in accordance with law and/or;
- ii. Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondent No.1 to 3 to formulate a COVID19 Management Protocol for addressing the serious concerns relating to imminent and extreme risks posed to the health and safety of health care workers in the State of NCT of Delhi and/or;
- iii. Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondent No.1 to 3 to ensure that Covid-19 protection kits are made available to every single health care professional working in the corona isolation wards, or who work in close proximity of patients suspected to be infected with the virus; and/or;

- iv. Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondents to ensure the full and timely payment of salaries to the health care workers in the Private Hospitals and/or;
- v. Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondents to ensure that Private Hospitals are not charging or deducting salaries from Health care workers if they get infected Covid-19 while they are on duty and/or;
- vi. Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondents to ensure that all health care workers are trained on infection prevention and control (IPC), proper use and disposal of Personal Protection Equipment (PPE) etc; and/or;
- vii. Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondents to ensure that adequate and standard nutritious meals, drinking water are provided to the health care workers working in the corona isolation wards;
- viii. Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondent No. 4 & 5 to expand the scope of personal accident cover provided under the 'Pradhan Mantri Garib Kalyan Package Health Workers Fighting COVID-19' to include

all health care workers across sectors, including those recruited on ad-hoc basis; and

- ix. Pass any other order as this Hon'ble Court may deem fit and proper in the interest of justice.

**AND FOR WHICH ACT OF KINDNESS THE PETITIONER SHALL DUTY BOUND EVER PRAY.**

Petitioner

Through

**SUBHASH CHANDRAN K.R.**  
**ADVOCATE FOR THE PETITIONER**  
435, NEW LAWYERS CHAMBERS  
SUPREME COURT OF INDIA  
NEW DELHI – 110001  
Mob. No. 8882375011

Place: New Delhi  
Dated: 23.07.2020