

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 24 of 2022**

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NIKUNJ JAYANTILAL MEVADA

Versus

THE STATE OF GUJARAT & 5 other(s)

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Appearance:

MR. RAJAN J PATEL(6775) for the Applicant(s) No. 1
for the Opponent(s) No. 1

AISHVARYA(8018) for the Opponent(s) No. 5

GOVERNMENT PLEADER for the Opponent(s) No. 1,2,3

MR DG SHUKLA(1998) for the Opponent(s) No. 4

MR HARSHEEL D SHUKLA(6158) for the Opponent(s) No. 4

MR SP HASURKAR(345) for the Opponent(s) No. 6

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**CORAM: HONOURABLE THE CHIEF JUSTICE MR. JUSTICE
ARAVIND KUMAR**

and

HONOURABLE MR. JUSTICE ASHUTOSH SHASTRI

Date : 31/01/2023

ORAL ORDER

**(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND
KUMAR)**

1. In this Public Interest Litigation, petitioner is seeking for appropriate writ being issued to respondents that Doctors, Hospitals and/or Maternity Home Care including private health care providers to provide medical aid and primary treatment to any pregnant woman in extreme labour pain or in medical emergency to any human being, more particularly, poor and uneducated pregnant

women having less resources and who are incapable to pay the charges. Petitioner has also prayed that respondent authorities should be directed to formulate scheme, policy, rules and regulations as non-providing of medical care to the needy would be infringement of women rights in general and human rights of pregnant women and rights in childbirth according to Article 1 of the Universal Declaration of Human Rights and violation thereof should result in penal consequences and/or compensatory and/or disciplinary action against wrong doer.

2. In order to buttress grounds urged, pleas advanced and averments made in the petition, learned counsel Mr.Rajan Patel has drawn attention of the Court to two incidents which were reported in print and electronic media reporting that on 11.1.2022 at 10.00 am at Tarapur village, District Anand, Gujarat a shocking incident occurred at a private hospital where allegedly and purportedly the Doctor treated a pregnant lady inhumanly and demanded money prior to commencement of treatment.

It is further contended that the Doctor did not treat the patient as she did not possess sufficient money as demanded. It is also stated that pregnant lady who hailed from labour class family was brought to Mirani Maternity and Nursing Home at Tarapur, Anand with extreme labour pain and on account of hospital authorities refusing to admit her, she had given birth to a child outside the hospital entrance i.e. at the staircase in open freezing and cold environment. The news as published in print and electronic media has been annexed with the petition collectively as Annexure-A at compilation of writ papers at page 37G onwards.

3. It is also stated that on 10.2.2022, Gujarati News Channel aired video reflecting incident which occurred at the LG Hospital. It is contended that there was death of a unborn baby due to alleged medical negligence of the staff of Gynecology Department of LG Hospital. It is contended that lady, who was in labour pain, was rushed to LG Hospital on 10.2.2022 and after being turned down from admission at

the hospital, she had given birth to a baby in a public space at the hospital premises and new born baby had died.

4. On notice being served, affidavit-in-reply has been filed on behalf of 5th respondent refuting allegations made in the petition. It is stated that an enquiry committee was constituted to inquire into alleged incidents and first meeting was held on 1.4.2022 and alleged lady who gave birth to baby though offered her explanation in writing, she failed to do so initially and subsequently, written submission was forwarded by her on 22.4.2022 and has admitted that on 10.2.2022 she was advised to go home and while she was going home in the morning, she suffered miscarriage. It is also stated that inquiry committee had obtained explanation from the duty Doctors on 27.4.2022 whereunder they have stated that after the patient came back from sonography around at 6.30 am on 10.2.2022, she was in labour room as she was suffering from abdominal pain and as such she was also given pain relieving medication. Affidavit-in-reply filed by 5th respondent also

states that duty doctors went to the room to re-examine patient, but she was not found in her cot. This is not only disturbing but also surprising, as to how a pregnant lady, who was undergoing labour pain, could have suddenly vanished from the labour room that too who is under medication as claimed by 5th respondent itself.

5. Today, affidavit-in-reply has been filed by 4th respondent denying the averments made in the petition whereunder after pleading about ill-health of the Doctor, it is stated that on 9.1.2022 at around 10.45 pm one patient was brought to the hospital having minor labour pain by her relatives in Maruti Ecco Van. It is further stated that hospital staff had informed the relatives of the patient to take her to another hospital. Except this bald and vague denial, nothing has been stated.

6. In order to ensure that such incidents do no re-occur and as to how incidents reported in the print and electronic media as narrated by petitioner in the petition

had occurred, we deem it proper to constitute a Committee headed by a former Judge of this Court and assisted by two lady officers so as to unearth actual truth as this would enable the Court to pass further orders and for suggesting remedial measures being taken by the State and its instrumentalities. Hence, we hereby constitute the following Committee consisting of following Members :

- (1) Hon'ble Mrs. Justice Harsha Devani,
Former Judge
High Court of Gujarat.
- (2) Mrs. Ramiya Mohan, IAS,
Managing Director,
National Health Mission,
Gujarat
- (3) Ms. Lavina Sinha, IPS
Deputy Commissioner of Police,
Zone-1,
Ahmedabad.

The said committee shall be assisted by the Member Secretary, Gujarat State Legal Services Authority. Said committee shall file its report with reference to the incidents that has been narrated at paragraphs 2 and 3 of the writ application and it would be at liberty to suggest such remedial measures as may be necessary to prevent

occurrence of such incidents in future. It is needless to state that Government of Gujarat through Ministry of Women and Child Department (WCD), Gujarat would be extending all logistic support to the said Committee and shall provide all necessary secretarial and other incidental services if sought for including transportation. The Committee shall submit its report in a sealed cover to this Court within 8 weeks from the date of receipt of copy of this order. Copy of the writ application along with annexures including reply affidavits filed by respective parties and copy of this order shall be delivered to the Members of the Committee with such requisite number of copies as may be directed by the Committee. Said exercise shall be carried out by the Registrar (Judicial) under due acknowledgment.

7. Case history details of the patient named "X" submitted by 5th respondent's counsel to this Court in sealed cover which is in the custody of the Registrar (Judicial) shall be forwarded to the said Committee for examining the contents thereof for preparing its report.

8. This Court request Mr.Asim Pandya, learned senior counsel and a practising member of this bar to assist the Court as Amicus Curiae. Registry is directed to furnish full set of papers along with orders passed from time to time to learned Amicus Curiae. Registry to print name of Mr.Asim Pandya, learned senior counsel as Amicus Curiae in the board.

Re-list this matter on 5.4.2023.

(ARAVIND KUMAR,CJ)

H.M. PATHAN

(ASHUTOSH SHASTRI, J)

THE HIGH COURT
OF GUJARAT

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