

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3427 OF 2000
(C.H. Sharma and others vs. State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri A.J. Gilda, Advocate - Amicus Curiae.
Shri F.T. Mirza, Special Counsel with Shri D.P.
Thakare, Additional Government Pleader for
respondent nos.1 to 3, 7, 10 and 11.
Shri S.M. Puranik, Advocate for respondent no.4.
Smt. Mugdha Chandurkar, Advocate for respondent
no.6.
Shri K.S. Narwade, Advocate for respondent no.12.
Shri Bharadwaj, Advocate with Shri H.S. Chitaley,
Advocate for interveners.
Shri N.B. Kalwaghe, Advocate for interveners.

CORAM : SUNIL B. SHUKRE AND
M.W. CHANDWANI, JJ.

DATED : DECEMBER 14, 2022

Heard learned Counsel for the parties.

2) On earlier occasions, this Court had repeatedly directed the State Government to decentralize the purchase of medicines and medical equipments so that reasonable financial autonomy is achieved in that regard, which would ultimately serve the interest of the patients. Those orders were passed repeatedly by this Court also for the reason that while the other Departments of the Government

enjoy reasonable financial autonomy in the sense that they are permitted to utilise fully their financial powers by purchasing the essentials that they require for their official needs, same kind of financial autonomy is not reserved for the Government Hospitals and the Government Hospitals are compelled to make purchases of their medicines and medical equipments through Haffkine Institute. Such centralised purchase policy may have been formulated with a laudable objective of making available quality medicines and medical equipments well in time to the Government Hospitals, but today the situation has changed. There are grievances of the patients, who happen to take treatment at the Government Medical College and Hospital, Nagpur and some Doctors, who are treating them, about non availability of several essential medicines and medical equipments.

3) Health service is a sector where the Doctors are required to treat the patients many a times on emergency basis and many of cases are of such nature that they brook no delay and in such contingencies, if the treating Doctors are required to face shortage of medicines or medical equipments or both, one can imagine the fate of patients in need of emergency treatment. Of course, by the Government Resolution dated 7/5/2021 the level of financial

autonomy has been increased, the increase is only marginal. The financial independence which was upto the extent of Rs.3 lakhs of purchase, now has been raised to the level of Rs.10 lakhs. Considering today's market conditions relating to medical field, such marginal increase of financial independence is not going to serve in any manner the health sector. Something more is required to be done by the State Government and we would urge the Authorities in power to have a relook at the whole issue so that the interest of patients can be served in a better way. After all having a healthy society is one of the essential dimensions of the concept of "Welfare State" under Article 39-A of the Constitution of India relating to Directive Principles of the State Policy.

4) Meanwhile, we would direct both the Deans of Government Medical Colleges at Nagpur to furnish data to this Court for the period of last five years about the dates of the requisitions sent by them calling for supply of medicines/medical equipments every month and the dates on which those monthly requisitions were fulfilled by the respondent no.12 Haffkine Institute.

5) We also direct the Public Works Department (Electrical Department) to file on record status report regarding compliance with the

directions given by this Court for putting in place fire safety equipments and measures without any delay. The Public Works Department (Electrical Department) appears to have not taken the directions issued by this Court several times in the past seriously. Even the last direction issued by this Court directing it to submit status report has not been complied with. We do not intend to initiate any coercive steps against any of the Authorities, but we would also make it clear that the Authorities must not take directions issued by this Court from time to time casually and if that kind of attitude continues, this Court would be constrained to take recourse to coercive measures.

6) The Government Resolution dated 7th May 2021 produced before this Court by Shri Mirza, learned Special Counsel for the respondent State, is taken on record and marked as “D-1” for identification.

7) Stand over to 04/01/2023.

JUDGE

JUDGE

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