

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 648/2020

VETERANS FORUM FOR TRANSPARENCY IN PUBLIC LIFE
THROUGH ITS GENERAL SECRETARY WING COMMONDER (RETD)
BISHWANATH PRASAD SINGH Petitioner(s)

VERSUS

UNION OF INDIA Respondent(s)

(IA No. 60249/2020 - EXEMPTION FROM FILING AFFIDAVIT)

Date : 27-02-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Kaushal Kumar Sharma, Adv.
Mr. Akshit Saxena, Adv.
Mr. Vibhor Sangeet Victor, Adv.
Mr. Danish Zubair Khan, AOR

For Respondent(s) Mr. Shailesh Madiyal, Sr.Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. Sharath Nambiar, Adv.
Mr. Vinayak Sharma, Adv.
Mr. Aayush Saklani, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The petitioner has prayed for a writ of mandamus directing the respondent to determine the rate of fee chargeable from the patients in terms of Rule 9 of the Clinical Establishment (Central Government) Rules, 2012 (for short, 'the Rules of 2012').

2. Learned counsel for the petitioner submits that the Union of India itself has notified the rates which are applicable to the CGHS empaneled hospitals. He submits that till a solution is found the Central Government can always notify the said rates as an interim measure.

3. Shri Shailesh Madiyal, learned Senior Counsel appearing for the respondent, submits that the rates are to be determined under

the Clinical Establishments (Registration and Regulation) Act, 2010 (for short, the Act of 2010') and the Rules framed thereunder. He submits that the said Act of 2010 has been adopted by 12 State Governments and 7 Union Territories. Shri Madiyal further submits that in view of the provisions of Rule 9 of the Rules, of 2012, the rates cannot be determined by the Central Government unless there is a response from the State Governments/Union Territories. He further submits that though various communications have been addressed to the State Governments/Union Territories, there is no response and as such the rates could not be notified.

4. This Court in the matter of Paschim Bangal Khet Mazdoor Samity v. State of West Bengal, AIR 1996 SC 2426 and in the matter of Pt. Parmanand Katara, Advocate v. Union of India and Another, (1995) 3 SCC 248, has held that it is the duty of the State to provide medical assistance to the citizens. The Act of 2010 has been enacted with an avowed object of providing medical facilities to the citizens at an affordable prices. The Union of India cannot shirk away from its responsibility by merely stating that communication have been addressed to the State Governments/Union Territories and they are not responding.

5. The Secretary, Department of Health, Union of India, can always hold a meeting with his counterparts of the State Governments/Union Territories to do the needful. Nowadays, physical meetings are also not necessary, it can be arranged through virtual mode.

6. We, therefore, direct the Secretary, Department of Health, Union of India to hold a meeting with his counterparts in the State Governments/Union Territories and come with a concrete proposal by the next date of hearing.

7. Learned counsel for the petitioner submits that the Union of India itself has notified the rates which are applicable to the CGHS empaneled hospitals. He submits that till a solution is found the Central Government can always notify the said rates as an interim measure.

8. Insofar as the suggestion of the learned counsel for the

petitioner with regard to adoption of CGHS rates, as an interim measure, is concerned, in the event the Central Government does not come out with a concrete proposal by the next date of hearing, we will consider issuing appropriate directions in this regard.

9. Put up after six weeks.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)