



Municipality of Caxias do Sul v. Martha Rath Bohrer

Municipality of Caxias do Sul v. Martha Rath Bohrer, AI 559055/RS, Supremo Tribunal Federal [Federal Supreme Court] (2007).

Country: Brazil

Region: Americas

Year: 2007

Court: Supremo Tribunal Federal [Federal Supreme Court]

Health Topics: Health care and health services, Medicines, Poverty

Human Rights: Right to health, Right to life

Facts

The Municipality of Caxias do Sul brought an interlocutory appeal against the Court of Justice of Rio Grande do Sul's decision, refusing to admit an extraordinary appeal. The Court of Justice found that the federal, state and municipal governments possessed joint liability, stemming from their duty to provide free pharmaceuticals for the treatment of serious diseases to needy people, in order to ensure constitutional rights to life and health.

The Municipality of Caxias do Sul argued that the judgment violated articles 196, 197, 198, 199, and 200 of the Constitution. It stated that the constitutional articles clearly divided the responsibility of providing public health services between the federal, state and municipal governments, and that the right to health is a programmatic norm, contingent upon the actual application of the law.

Decision and Reasoning

The Court affirmed the Court of Justice's decision, finding that effectuating the constitutional right to health was the responsibility of the federal, state and municipal governments, and that the state was obligated to provide free health care and medicines to those in need. The Court further found that the State's appeal constituted an act of malicious litigation, and ordered the Municipality of Caxias do Sul to pay a fine.

Decision Excerpts

"O reconhecimento judicial da validade jurídica de programas de distribuição gratuita de medicamentos a pessoas carentes é efetividade a preceitos fundamentais da Constituição da República (arts. 5º, "caput", e 196) e representa, na concretização do seu alcance, um gesto reverente e solidário de apreço à vida e à saúde das pessoas, especialmente daquelas que nada têm e nada possuem, a não ser a consciência de sua própria humanidade e de sua essencial dignidade."

"Judicially recognizing the legal validity of programs that distribute free medication to people in need validates the fundamental principles of the Constitution of the Republic (article 5, header, and 196). It also represents, to its maximum extent, an action taken in reverence and in solidarity with the people's right to life and to health, especially of people that possess little more than a consciousness of their own humanity and of their essential dignity."