



Case AI 773049/RS

AI 773049/RS, Supremo Tribunal Federal [Federal Supreme Court] (2010).

Country: Brazil

Region: Americas

Year: 2010

Court: Federal Supreme Court

Health Topics: Medicines, Poverty

Human Rights: Right to health, Right to life

Facts

The Superior Court of Justice found that the State of Rio Grande do Sul had the obligation of providing the plaintiff in the case with medication free of charge because the plaintiff could not afford it. The court founded its decision on the constitutional rights to life, health, and human dignity. The state refused to comply with the court's decision. The Superior Court then ordered the blocking of public funds to the state as a punitive measure. The State of Rio Grande do Sul brought an interlocutory appeal against the decision of the Superior Court of Justice, refusing to admit an extraordinary appeal.

Decision and Reasoning

The Court affirmed the decision of the lower court (Superior Court of Justice), finding that in order to effectuate the constitutionally guaranteed rights to life and health, the State of Rio Grande do Sul was responsible for providing essential medicines free of charge to those in need of the medications but who are unable to afford it. The Court emphasized the protection of human dignity as the "founding principle of the Republic" and the fundamental nature of the rights to life and health and their "primacy" in the "Democratic Rule of Law" that works to protect human dignity and will overcome whatever legal restriction imposed. The Court also highlighted that the State's law also required the State to provide "essential medicines" to those who were unable to afford them, where "essential drugs" are understood as those used on a regular basis and "indispensable to the life of the patient."

The Court also held that the lower court's decision preventing the distribution of public funds to the state was legitimate, especially in the context of an imminent threat to the life and health of the complainant. The Court also found that the state had abused its right to appeal and ordered it to pay a fine.

Decision Excerpts

"4. Os direitos fundamentais à vida e à saúde são direitos subjetivos inalienáveis, constitucionalmente consagrados, cujo primado, em um Estado Democrático de Direito como o nosso, que reserva especial proteção à dignidade da pessoa humana, há de superar quaisquer espécies de restrições legais."

"5. A Constituição não é ornamental, não se resume a um museu de princípios, não é meramente um ideário; reclama efetividade real de suas normas. Destarte, na aplicação das normas constitucionais, a exegese deve partir dos princípios fundamentais, para os princípios setoriais. E, sob esse ângulo, merece destaque o princípio fundante da República que destina especial proteção a dignidade da pessoa humana."

