

S.K. Garg, Advocate

vs

State Of U.P. And Others

Allahabad High Court

21 December 1998

Citations: 1999 (1) AWC 847

Bench: M Katju, M Agarwal

JUDGMENT

M. Katju and M.C. Agarwal, JJ.

1. This petition relates to the appalling conditions prevailing in the Government Hospitals in district Allahabad.

2. The petitioner is an Advocate practicing in this Court and this petition has been filed as a Public Interest Litigation, He has referred to the conditions prevailing in Swaroop Rani Hospital, Allahabad; Dufferin Hospital, Allahabad; Colvin Hospital; T. B. Sapru Hospital (Beli Hospital) etc., which he claims to have visited.

3. In paragraphs 7 and 8 of the petition, it has been alleged that needy and poor patients have been refused necessary medicines and proper medical treatment. In paragraph 9 of the petition, it is alleged that the operation theatres are in unhygienic conditions. In paragraph 12 of the petition, it is alleged that pitiable conditions are prevailing in these hospitals particularly for T. B. patients, maternity cases, and patients with other diseases. In paragraph 13 of the petition, it is alleged that the Swaroop Rani Hospital which is affiliated to the Moti Lal Nehru Medical College is in worse condition than other Government Hospitals. In paragraph 14, it is alleged that in Swaroop Rani Hospital, there is shortage of day-to-day medicines and blood in the blood bank, and there is an unsatisfactory x-ray department because of which emergency cases cannot be properly attended to. It is alleged that there is a lot of garbage and filth in these hospitals. In paragraph 16 of the petition, it is alleged that the toilets are dirty and in the wards, there is an unhealthy and unhygienic atmosphere. In paragraph 17, it is alleged that the road conditions near the Hospitals and inside them are very bad and there is storage of dirty water with mosquitoes, etc. It is also alleged that electric supply is not properly maintained for these hospitals.

4. The petitioner has referred to Article 47 of the Constitution which provides that it is a duty of the State to raise the level of nutrition and the standard of living of the people and to improve public health.

5. In our opinion, the allegations in the petition are serious.. The Supreme Court in Consumer Education and Research Centre and others v. Union of India and others. 1995 (3) SCC 42 and in State of Punjab and others v. Mohinder Singh Chawla and others. 1997 (2) SCC 83. has held that the right to health is a part of the right to life guaranteed by Article 21 of the

Constitution. It is indeed true that most of the Government Hospitals in Allahabad are in a very bad shape and need drastic improvement so that the Public is given proper medical treatment. Anyone who goes to the Government Hospitals in Allahabad will find distressing sanitary and hygienic conditions. The poor people, particularly, are not properly looked after and not given proper medical treatment. Consequently, most people who can afford it go to private nursing homes or private clinics. There are many complaints that the staff of the Government Hospitals are often in collusion with the Doctors who run private nursing homes. and deliberately do not look after the patients who come to Government Hospitals so that they may be driven to go to private nursing homes, and they often advise patients to go to a particular nursing home. All this needs to be thoroughly investigated. This is a welfare State, and the people have a right to get proper medical treatment. In this connection, it may be mentioned that in U.S.A. and Canada there is a law that no hospital can refuse medical treatment of a person on the ground of his poverty or inability to pay. In our opinion. Article 21 of the Constitution, as interpreted in a series of judgments of the Supreme Court, has the same legal effect.

6. On the facts and circumstances of the case, we direct that a Committee be set up immediately for investigating the affairs of the Government Hospitals at Allahabad. The Chairman of the Committee will be Sri Vibhav Bhusan Upadhya, Sr. Advocate of this Court and former Advocate General of U. P. and the members of the Committee will be the Addl. Director, Medical Health, Allahabad, the Chief Medical Officer, Allahabad, the District Magistrate, Allahabad and such other persons or officials to be nominated by the Chairman of the Committee. This Committee will make a thorough investigation into these affairs of the Government Hospitals at Allahabad and submit a detailed report by the next date fixed in this case.

List on 11.4.99.

Copy of this order will be given to Sri V. B. Upadhya learned counsel and to learned counsel for the petitioner free of cost. The petitioner will give a photocopy of this order to the Addl. Director, Medical Health. Allahabad. C.M.O.. Allahabad and D. M. Allahabad who will file their personal counter-affidavits by the date fixed in this case. Learned standing counsel will also inform these officers that they have to file their personal counter-affidavits.