

Sandesh Bansal

Vs.

Union of India and others

High Court of Madhya Pradesh (Jabalpur)

(Writ Petition No.9061/2008)

Decided on: 06/02/2012

Citation:

Coram: A. Singh, J and S. Yadav, J

Counsel for Petitioner	Jayshree Satpute, Adv Shri Anubhav Jain, Adv.
Counsel for respondent No.1	Shri Mohan Sausarkar, Adv.
Counsel for respondent/State	Shri Rahul Jain, Dy. A.G.

ORDER

The following order of the Court was delivered by

Sanjay Yadav J: In respect of health care time is the essence, because if the timely care is not taken any amount of care later on will not compensate the loss which may occasion due to lack of timely medical assistance. If this is true in case of critical disease, equally true it is in respect of an expecting mother. Who though go through a natural process in delivering a child, but because of lack of pre- assistance suffers causality accounting 40 per 1,00,000 live births, which is on the higher side in Rural than Urban, areas.

2. Alarming mother mortality ratio (MMR) paved the way for launching of National Rural Health Mission (in short Mission) by the Central Government, which was in furtherance of its primary duty to improve public health being one of the Directive Principles of the State Policy as enunciated under Article 47 of the Constitution of India, in the year 2005 to meet out peoples' health needs in rural areas.

3. The Mission seeks to provide accessible, affordable and quality health care to the rural population. It also seeks to reduce the Maternal Mortality Ratio (hereafter shall be referred to MMR) in the country from 407 to 100 per 1,00,000 live births by focusing on following measures:

- (i) strengthening the health care infrastructure construction / upgradation of Primary Health Centre (PHC)/Community Health Centre (CHC)/District Hospitals etc. to enable early detection of higher risk pregnancies and provide iron and folic acid to correct anemia and tetanus toxoid immunization and emergency obstetric care, and to provide these institutions with united funds to improve their services.
- (ii) promoting institutional deliveries through the Janani Suraksha Yojna (hereafter shall be referred to as JSY), whereby women who have three antenatal check-ups and deliver in health institutions are paid Rs.1400 and their motivators Rs.600/- in rural areas and Rs.1200 and Rs.400 respectively in urban areas. JSY is a safe motherhood intervention under the Mission launched on 12th April 2005. It is 100% centrally sponsored scheme and it integrates cash assistance with delivery and post-delivery care.
- (iii) Arranging private public partnerships (hereafter shall be referred as PPPs) with private health care institutions and doctors to provide such care against a fixed sum money in areas where public health services are lacking.
- (iv) provision of transport to the woman through either public or private transport and recompensating expenses to enable the woman to reach the hospital in time for adequate care.
- (v) allowing the Rogi Kalyan Samiti (hereafter shall be referred to as RKS) to charge user fees to raise funds in addition to the funds given by the government for maintaining the health institution and improving its services. R.K.S are the registered societies constituted in the hospitals as an innovative mechanism to involve the peoples representatives in the management of the hospital with a view to improve its functioning through levying user charges.

4. The Mission has been implemented in 18 high focus states, one of it being the State of Madhya Pradesh.

5. In Madhya Pradesh, the Mission as set out by the Ministry of Health and Family Welfare, Government of India has been adopted and a Programme Implementation Plan 2006-2012 has been mooted out by the State Health Mission, Department of Health and

Family Welfare, Government of Madhya Pradesh with an object that all people living in the State of Madhya Pradesh will have the knowledge and skills required to keep themselves healthy, and have equity in access to effective and affordable health care, as close to the family as possible, that enhances their quality of life, and enables them to lead a health productive life.

6. The Programme Implementation Plan aims at equipping people with knowledge and skills required to keep themselves healthy, provide effective health care to rural population throughout the State with special focus on worst performing districts, which have weak public health indicators and/or weak infrastructure. These districts are Dindori, Damoh, Sidhi, Badwani, Anuppur, Chhindwara, Rewa, Betul, Raisen, Seoni, Chhatarpur, Morena and Sheopur.

7. While implementing the mission it was noted that (i) Districts Chhatarpur, Guna, Satna and Sidhi have more than 40% pregnant women with no ANC (Ante Natal Care) check-ups and 32 districts have less than 40% pregnant woman with .3 ANC check-ups; (ii) T.T. Coverage is less -than 50% in districts Dindori, West Nimar, Sidhi, Sheopur, Shahdol, Panna and Jhabua; and (iii) Institutional deliveries less than 20% in Chhatarpur, Dindori, Katni, Shahdol, Sidhi and West Nimar.

8. While setting the goal of reducing the State MMR from 498 to 200 by the year 2010. the PIP identified following key elements:

- (a) Access to emergency obstetric care
- (b) Skilled attendant at birth
- (c) Effective referral system

The strategy included:

- (i) To operationalize minimum of 2 Comprehensive Emergency Obstetric Care and Neonatal Care (hereinafter referred as, "CEmONC") facilities & minimum 4 Basic Emergency Obstetric and Neonatal Care (hereinafter referred "BEmONC") facilities in a district.
- (ii) To provide incentives to doctors and other health & providers to ensure their presence in facilities for 24 hrs delivery service in all BEmONCs and other PHCs where facilities for essential obstetric care is existing.
- (iii) To improve access to skilled delivery care and emergency obstetric care

- (iv) To reduce maternal morbidity and mortality due to post partum haemorrhage by active management of third stage of labour.
- (v) To improve coverage and quality of antenatal care by ensuring effective and quality ANC services through fixed day (Friday) clinic approach with focus on women of BPL/SC/ST, primigravidas and adolescent mothers.
- (vi) Providing mobility support to ANM and cash incentive to ASHA/Dai for mobilizing women for Antenatal & Postnatal check-up.
- (vii) Introducing uniform Obstetric record card in all health institutions where Antenatal & Postnatal check-up are being done by doctors.
- (viii) Ensuring availability of skilled birth attendants by training of medical officers, staff nurses and ANMs in quality antenatal care.
- (ix) Posting of one additional ANM on contractual basis in all sub-health centers.
- (x) Ensure adequate availability of Urstickts & SAHLIS charts at each sub-health centers to identify high risk pregnancies.
- (xi) Provide pregnant women with double fortified salt to prevent anemia, as well as with folic acid and multivitamins and supplementing calcium.
- (xii) To improve coverage and quality of postnatal care by incorporating postnatal visits 6-12 hours, 3-6 days, 6 weeks and 6 months after delivery.
- (xiii) Postnatal care will be provided through ANM, Anganwadi workers and ASHA in cases of domiciliary deliveries within first two days delivery.
- (xiv) Fixed day approach for postnatal Clinic on Friday to be linked with Antenatal clinic.
- (xv) Ensuring three days stay in institution post delivery.
- (xvi) To increase number of quality of institutional deliveries.
- (xvii) To improve the access of safe abortion service.

- (xviii) To mobilize community for availing referral transport services and delivery in institution.
- (xix) To ensure Medical Termination of Pregnancy by MVA technique for abortion in all BEmONC facilities.
- (xx) To provide essential equipments & drugs for providing Comprehensive Abortion Care to the identified centers.

9. Besides above, the Programme Implementation Plan aims at-

(a) Strengthening infrastructure by undertaking minor repair/renovation of operation theaters, labour-room and Maternity Wards in Comprehensive Emergency Obstetric Neonatal Care (CEmONC) and Basic Emergency Obstetric Neonatal Care (BemONC) facilities.

(b) Undertake human resources interventions and as taking specialists and other persons as required or contract providing special training in Emergency Obstetric Care and Life saving Anesthetic skill as required to fill gaps, training for blood transfusion and storage facilities.

(c) Ensure that CEmONC's have adequate facilities to provide all services including blood.

10. Alleging failure of effective implementation of the modalities set by PIP 2006-2012 and achieving the goal as set by it to reduce the MMR, the petitioner, a social activist and a Member/State Coordinator of Madhya Pradesh Jan Adhikar Manch - a network of civil society organisations/NGOs in Madhya Pradesh working on raising concern over the high maternal mortality in they8%te of Madhya Pradesh, as a part of their 'Save our Mothers' campaign has filed this petition alleging that about 75,000 to 1,50,000 women die every year in India after giving birth to their child. It is said that this is about 20 % of the global burden. It is further contended that Madhya Pradesh has the third highest maternal mortality rate in the country, i.e., 498 deaths per 1,00,000 live births. It is contended that there is imbalance within the State itself as though the average MMR is 498 per 1,00,000; however, in Chambal region the MMR is as high as over 800 deaths per 1,00,000 live births. It is urged that anemia is the underlying cause in over 50% of these deaths. Other major causes include haemorrhage (both ante and post partum), toxemia (Hypertension during pregnancy), obstructed labour, puerperal sepsis (infections after delivery) and unsafe abortion.

11. It is contended that women are dying because of the high cost of health care and failure of public health system, lack of qualified medical staff in rural areas, lack of appropriate transport, cultural and social reasons that come in way of women for effective and adequate access to health care. By way of example, it is stated that a mother from the richest 20 % of the population is 3.6 times more likely to receive antenatal care from a medically trained person, compared to a mother from the poorest 20%. The delivery of richer mother is over six times more likely to be attended by a medically trained person than the delivery of the poor mother.

12. Placing reliance on the appraisal report of Common Review Mission (The CRM was set up as part of Mission Steering Groups mandate of review and concurrent evaluation) of November 2007, it is contended that there are inadequate institutional deliveries in the State of Madhya Pradesh because of lack of quality services, indifference of Rogi Kalyan Samiti towards patient welfare, early discharge patient care, misuse of Janani Suraksha Yojna (JSY). It is alleged that in respect of Antenatal Care, Intra-Natal Care (24 hours delivery services both normal and assisted) and Postnatal Care, the State of Madhya Pradesh has failed to adhere the norms set by Indian, Public Health Standards for Primary Health Centres (PHC's).

13. It is contended that the mission being centrally sponsored, the funds are made available by the Central Government [This fact is substantiated by the Central Government through the return filed by them that being centrally sponsored scheme funds are regularly released (four years figures are given that in 2005-06 Rs.28.29 crores, in 2006-07 Rs.258.22 crores, in 2007-08 Rs.880.17 crores and in 2008-09 Rs.1241.35 crores were released)]. It is alleged that the mission has failed to achieve the goal because ineffective implementation of the plan.

14. It is stated that no District Health Mission has been constituted in the State of Madhya Pradesh under the Mission which has resulted in non survey of household and the facility to measure the progress which in turn has resulted in non-formulation of perspective plans for Districts (though there exists perspective plan for the State). Non formulation of District and Block level Community Monitoring Committees,. Non-holding of Jan Sunvayi at Block and PHC level. It is contended that only 31.43% of villages in state have Village Health and Sanitation Committee. That 279 out of 870 Rogi Kalyan Samitis are not set up at PHC level. Non contribution in State budget for the PIP during 2007 - 08 (as against the 11th 5 year plan's mandate for Contribution of 15% of their budget to the mission). Non utilization of the fund. Over expenditure on management then prescribed by the mission at 10.29%. Diverting the fund (it is alleged

that Rs.52.07 crore of Mission Flexipool has been diverted to RCH Flexipool). Non utilization of Rs.6357.31 lakhs at District level. Other shortcomings pointed out are:

“In MP, state bank accounts were not opened for VHSC funds.

There was a wide difference between the funds released by the Ministry and the funds received by the SHS's. in 2005 - 06 the difference was- 126.85 crores and 90.72 in 2006-07.

In MP, some CHC's and PHC's cash books and ledgers for the year 2006-07 were not maintained.

Also, Original Vouchers worth 413.125.15 lakh (out of Rs.340.41 lakh) for the year 2006 -07 by the DHS Bhopal and vouchers for Rs. 59.70 Lakhs and Rs.439.27 lakh for the year 2005-06 and 2006-07 respectively by the DHS Morena were not produced to the chartered accountants for audit.

In MP, cases of delay in Civil works were found. Only four works of Rs. 46.71 lakh had been completed and handed over out of the 94 works for which advances were given to the government agencies.

Also, cases of irregularities were found in execution of the Civil works. In 90 works advances were not adjusted/ recovered from the government agencies, viz. PWD and RES.

State Governments were to contribute 25% of the cost of creation and upgradation of the infrastructure for the Sub Centres. During 2005-08, MP was one of the defaulters of the same among 9 others.

The required number of health centers at each level as was required per population did not exist.

The Mission targeted creation of 30percent of the proposed new infrastructure by 2007, however, during 2005 -08 M.P. did not take up the work of setting up new infrastructure. There were cases of irregularities in execution of Civil work as well. In Madhya Pradesh, in 90 work advances were not adjusted/recovered from the government agencies, viz. PWD and RES.

According to NRHM guidelines, all States were required to create a target number of health centres. In MP, there is a short fall of 1309 SC's, 487 PHC's and 66 CHCs' also

the infrastructure which was required to be created by 2007 included 393 SC's 146 PHC's and 20 CHC's, none of which have been created by the State.

With respect to the condition of buildings, MP has 46 Sub Center which operate without a building, 24 Sub Centres and 8 PHCs' which run without a government building, and 36 SC's and 10 PHC's operating in dilapidated buildings.

The auditors report on hygiene and sanitation shows that 30 SC's, 5 PHC's and 1 CHC's operate as Health Centre with bad milieu/surroundings. Further 10 SC's, 6 PHC's and 4 CHC's have poor cleanliness. There also exist 70 SC's, 25 PHC's and 6 CHC's that have no separate utilities for men and women. Absence of sewage have also been observed in 35 SC's and 12 PHC's.

Inadequate infrastructural support to health center has adversely affected the quality of health care to the rural population. In MP, 70 SC's, 28 PHC's and 1 CHC run without a telephone. There are 22 SC's which operate without electricity. Also, 26 PHC's and 4 CHC's do not have a vehicle and 35 PHC's do not have a computer.

TB diagnosis facilities were also found not available into 2 CHC's and 98 PHC's of a few State of which M.P. was apart. In MP, it was observed that none of the health centers had adequate supply of Kit A and Kit B and only 6 CHC's had facilities for cesarean section.

With respect to the status of cold chain equipments in CHC's , out of 18 audited CHC's, only 15 had ice lined freezers and 13 had refrigerators. None of the PHC's had such equipment.

Each Sub Centre under the NRHM was to be run by two Auxiliary Nursing Midwives (ANM, female). Most of the Sub Centres in MP did not have these ANMs.

100% SC's with Two ANM's, 16% SC's with one ANM and 66% SC's with MPW's operated without the prescribed staff.

In MP, none of the test checked centres had an AYUSH doctor.

Also, none of the sampled PHC's had three staff nurses.

In MP, 89% CHC's were without general Physicians, Paediatrician and General Surgeons, 83 % CHC's were without Obstetrician Gynaecologists and 100% CHC's were without an Anaesthetist.

All the test checked CHC's had less than 9 Staff Nurses in MP.

With respect to CHC's without prescribed staff, in MP 100% were 9 staff nurses, 89% were 5 staff nurses , 6 % were 1 staff nurses, 33% radiologists , 28% pharmacists, 6 percent Lab Technicians .

A shortfall was notified in the appointment of contractual staff vis-a-vis targets set under the PIPS'

Among other states in MP, 29-57%, of the contractual staff left before the completion of their contract period.

MP did not set up state PMSU's. At the District level, three essential management personnel viz. Programme Manager, Accounts Manager and Data Manager were yet to be appointed at the DPMSU in MP.

Similar was the case at the block level where PMSU's were partially set up.

MP did not have all the five modules of induction training which is given to all the selected ASHA's for eg. In MP, only 24% had training upto the 4th module.

In MP there was a difference of 260 between the SHS and DHS data with respect to the number of ASHA's engaged in audited districts.

Similar was the discrepancy between the SHS and DHS datas with respect to the training of ASHA's the difference was -697, -1217, -1077 and -1301 relating to modules 1,2,3 and 4 respectively.

All organizations were required to prepare codified purchase manuals, containing detailed procedures. However, in MP, the SHS's had no documented written procedures and practices and procurement.

In MP., with respect to cases of excessive and infructuous purchases AS HA kits were procured in excess of requirement resulted in excessive expenditure worth Rs.73.49 lakh. With respect to utilization of funds "released for procurement at SHS's in MP during 2005-08, the percentage of unspent amount equalled 17.94%.

During 2006-07, SHS released Rs.889 lakh to the IEC Bureau. The IEC Bureau however, had shown the receipt of 697.08 lakh and the remaining could not be reconciled. Irregularities amounted to 1.92 crores. The SHS of MP, however, did not furnish information on VHND's and/or school health check ups.

The district is the basic unit for all interventions under the NRHM. However, the district wise long term targets for impact indicators and annual targets for performance indicators were also not prescribed in MP.

With respect to the Status of registration and ante natal check ups of pregnant women, in MP during 2005-08, 55% of the women were not registered within 12 weeks of pregnancy. Also the percentage of women who received four Ante Natal Checkups (ANC) was only 45%. Also, the percentage of women who did not receive any ANC at all was 21.71%.

A majority of the pregnant women were registered but did not use the health centres for institutional deliveries.

In MP, the payment to cash beneficiaries was delayed for periods ranging from 8-730 days. In MP, payment of Rs.0.58 lakhs in Lakhanadaon CHC of Seoni district made in 35 cases under the JSY were doubtful as the names of the patients were different in the payment register and IPD register against the same IPD nos. also, the expenditure on cash incentives under the JSY increased from Rs.49.60 crore in 2006-07 to Rs.194.31 crore in 2007-08 and beneficiaries increased from 3.97 lakh to 11.06 lakh for institutional deliveries while as per IPD figures provided by the SHS, number of in-patients were 2.60 lakhs in 37 out of 48 districts in 2007-08.

In 34 districts sampled, out of which MP was a part, it was found that amounts equalling 57% released for referral service remained unutilized.

With respect o maternal deaths, in MP, there was no proper mechanism to get regular information about maternal and neo natal * deaths from post partum centres.

In MP, there was a shortfall of 32% from the target set under the sterilization during 2005-08”.

15. With these surmounting shortcomings the petitioner alleges ineffective implementation of plan and alleges lack of will in the functionaries of the State to meet out the goal of reducing the MMR. It is urged that the State Government be therefore directed to take effective steps to reach the goal of reducing the MMR within the targeted period.

16. The respondent State of Madhya Pradesh while admitting the fact that facilities in the Government Hospital , were not proper, and not disputing the applicability of Indian Public Health Standard Guidelines and the Operational Guidelines on Maternal and Newborn Health prepared under the National Rural Health Mission (paragra ph 3 of Lie

return), have to submit that with the available economic resourced and the skilled man-power efforts are made to meet out the objective and the goal set out by the Mission. It is further contended that because of the concrete efforts the MMR in the State of Madhya Pradesh has come down to 310 per 1,00,000 live in the year 2010 as against 448 per 1,00,000 in the year 1997(this aspect however has been disputed by the petitioner stating the less figure has been shown by accounting the deaths because of loss of blood and haemorrhage). It is urged that the circulars have been issued for making all the health centres operational by the year 2012 and phase wise programme has been made to implement it in whole of Madhya Pradesh. Regarding transport facility, it is contended that the State Govt, brought into existence Janani Express Yojna in the year 2006 where under 2 to 3 Janani Express Vehicle has been made available in every block and instructions have been issued to make it available within one hour of receiving the call. It is contended that Auxiliary Nurse Midwife (ANM) has been appointed for every Sub-Health Centres and is being trained to cater the medical need of pregnant lady of the area wherein she is posted. It is contended that every care is being taken of the pregnant lady of rural area and immediately after registration of pregnancy the check up is being done by the ANM and in case of any complication she is required to get her checked from a qualified doctor and during the entire pregnancy they are checked four times of which once is by a doctor, (thus, there appears to be no regular check up by the qualified lady doctor).

17. At this stage we take note of the facts in respect of the fund allocation by the Central Govt. and the number of PHC/CHC and District Hospitals in the State of Madhya Pradesh.

18. In an affidavit dated 22-2-2011 filed by the Director, Public Health and Family Welfare, Govt. of M.P., Bhopal, it is stated that the State Govt. has received amount from the Central Govt. in RCH (Reproductive Child Health) and NRHM (National Rural Health Mission) Schemes. Under NRHM amount of Rs.944.44 lacs was received in the year 2005-06 out of which Rs. 3860.17 lakhs were spent. In the year 2007-07 against the amount Rs. 22/832.95'receiyed, Rs. 17153.52 lakhs were spent. In the year 2007-08 amount of Rs. 44064.08 against Rs. 47279.50 was spent. For the year 2008-09 against the amount of Rs. 47894.77 lakh Rs. 47330.35 has been spent. It is stated that at the end of 2008-09 Rs. 17127.01 lakh remains unutilized. Regarding Health Centres the affidavit dated 6/9/2010 spells out that in the State there are 1115 PHCs, 333 CHCs and 50 District Hospitals. In respect of man-power and the infrastructure, neither the return nor the affidavit speaks much about the same. No definite figures have been given as how these PHCs/CHCs and District Hospitals are armed with skilled personnel and whether these Medical Centres are well equipped to meet out their exigencies for which they are established. Though through an affidavit filed on 15-12-2008 it is stated that in the State

of Madhya Pradesh the system is evolved that District Hospitals are made to function at district level, community Centres at Block _ levels, Primary Health Centres through Sub-Centres to serve 5 to 7 villages. It is further contended that in District Hospitals there exist definite strength of Doctors (31-35), Compounders (8 to 10), Staff Nurse (20 to 30), ANM (10 to 15), LHB (2 to 3), Ayah (8 to 10), Ward Boy (20 to 30), Driver (8 to 10), Other staff (15 to 20). At Block level : Doctors (5), Compounders (2), Dresser (1 to 2), Driver (1 to 2), ANM (2 to 3), Lady Health Visitor (1 to 2), Staff Nurse (1 to 2), Ward Boy (3 to 4), Accountant (1), Compounder (1), Radiographer (1), Lab. Technician (1 to 2). At PHC and Sub-Centre level MPs(1), Clerk (1), Sweeper (2). At Primary Health Centres : Doctor (1 to 2), compounder (1), Dresser (1), ANM(1), LHV (1), Ward Boy (1), Sweeper (1), Multipurpose Worker male (1). Ast Sub Centres multi purpose (M) Worker (1), multi purpose worker (F) (1).

19. Though these figures are given, but the District /CHC/ PHC/Sub Centre wise Break up has not been given to meet out the allegations that these Health Centres are not taken care of.

20. In order to test the correctness of what has been said by respondent State of M.P and its functionaries as to availability of the staff and facilities in health centres we randomly selected the two PHCs and one sub centre in the Gwalior Region, viz, Primary Health Centre Bijora and Surpura and Sub-Health Centre Kishupura and got the same inspected through Registrar Gwalior to have first hand information. The report furnished on 28.1.09 reflects dismal conditions far from what is pointed in the return and the affidavit.

21. We consider it proper to reproduce the entire report as we are informed that the conditions of other centres in the State is none the less better. The object of reproducing the report is to enable the State Government to address to the short comings.

"PRIMARY HEALTH CENTRE SURPURA
STAFF POSTED AND FOUND AVAILABLE

S. N	DESIGNATION	CLASS	NO. OF SANCTIONED POSTS (as informed by CMO)	NAME	REMARK
1.	Medical Officer	Second		Two posted Both (a)Dr. R.K. Mishra, M.O.	Both found

				(b) Dr. Hansraj Baghel, M.O. And R.C.H.	present
2	Compounder	Third	1	Not available	
3	Dresser	Third	1	Two posted (a) Ramdhun Tripathi (b) Ramprakash Soni	Both present
4	A.N.M.	Third	1	Two posted (a) Annapurna Dixit (A. N. M., R.C.H.) (b) Mithlesh Kushwaha, A.N.M.	Both present
5	Wardboy Contingency	Fourth	1	One posted Sanjeev Tripathi	Found present
6	Sweeper Contingency	Fourth	1	One posted Dilip	Found present

Apart from the aforesaid employees Smt. Usha Sharma (L.H.V.), S. S. Yadav (Eye Assistant), Ranvir Goyal (Lab. Technician) are also posted there and found present.

DISTANCE FROM MAIN ROAD

The Distance of Primary Health Centre Surpura is only 4.5 kms away from the Surpura Village.

INFRASTRUCTURE

The PHC of Surpura is BEMOC-PHC and in this health centre there are about 9 rooms. There are 4 beds for the patients in the ward and one bed is in the duty room. One dark room, one labour room, one vaccination room, and a pathology lab is there in this health centre. The building is also secured by a boundary wall. Two 'H' Type staff quarters are there adjoining the health centre, but are in dilapidated condition and since the quarters are not secured by a boundary wall, the same are not safe for living. Child weighing machine, mother weighing machine and other essential equipments are available in the Surpura health centre. There is adequate stock of medicine etc. This centre has the facility of normal delivery & prenatal and post natal Clinic facilities. It has proper facility of let-bath for the patients. In this centre 24 hours staff is available which is evident from the duty chart available, although doctors are not available at night hours.

AVAILABILITY OF ELECTRICITY

PHC at Surpura has electric connections in all its rooms but it has been informed that since the last two years there has been no electric supply in this village, therefore, this

centre runs without light. Although all the electric fittings like tube light, bulbs, fans, etc. have been made in the centre but due to non- supply of electricity they cannot be made functional. For serving the purpose of light gas patromax is available but no facility of generator is there. However, it is added that on being inquired by Chief Medical Officer, Bhind, the Executive Engineer M.P. M.K.V.V. Company Ltd. Division Bhind has informed that a transformer of 100 KVA installed at village Surpura has gone out of order on 23-4-08 and a sum of Rs.22,22,224/- being outstanding against the consumers on this transformer, the electric company cannot change the transformer. Therefore, supply of electricity is disrupted. A campus was organized on 17.1.09 in which none of the consumers deposited any amount outstanding against them. Therefore, it is not feasible to continue electric supply. Copy received from Executive Engineer, M.P.M.K.V.V. Co. Ltd., Division Bhind is enclosed for ready reference.

AVAILABILITY OF WATER

In the premises and building of Primary Health Centre, Surpura even though the water connection fittings have been made but water could not be made available as the first boring which was got done failed and the work of second boring was in progress when we inspected the centre. The arrangement of water is done from outside the health centre by engaging labours.

MEDICAL FACILITIES AVAILABLE

In the PHC of Surpura lab facility with essential equipments and a Lab technician who performs essential pathological tests are available here. In this centre delivery facility is told to be available 24 hours and in the absence of electric supply gas petromax is used. In this centre although various machines & instruments have been made available but are lying useless for non-availability of power. For eye examination there is an Eye Assistant as well as one dark room is also available. In perspective of the “Janani Suraksha Yojana” help of Rs. 1400/- is given to the Beneficiaries and under “Aasha Prerak Yojna” who motivates the beneficiary is given help of Rs. 350/- in two installments, the proper record/accounts of which is maintained in the hospital. The ambulance meant for Janani Suraksha is also available at the mobile phone call from Atter PHC, which was got examined by making a call at the mobile phone, displayed in the campus. Vaccination facilities for pregnant women and infants are also available at the centre. All the records have been properly maintained. In the display board at the Centre the names of the doctors, duty hours, Janani Suraksha Ambulance Number etc. are displayed.

At this centre proper facility of prenatal and postnatal check up and vaccination etc. are available and proper record is being maintained.

The villagers gathered at the time of inspection has demanded the duty of doctors at night also.

SUB HEALTH CENTRE KISHUPURA
STAFF POSED AND FOUND AVAILABLE

s. No.	DESIGNATION	CLASS	NO. OF SANCTIONED POSTS (as informed by CMO)	NAME	REMARK
1.	MPW Male	Third	1	No one is posted	Vacant
2.	MPW Female	Third	1	Dev Kumari Bhadoriya	Found present

DISTANCE FROM MAIN ROAD

The Distance of Primary Health Centre Kishupura is only 5 kms away from the Surpura PHC.

INFRASTRUCTURE & FACILITIES
AVAILABLE

The Sub-Health Centre of Kishupura is situated within two rooms. Over here the pregnant women and new born child can avail the facility of medicines like vitamins, iron, folic acid, ORS and some essential medicines for vomiting and diarrhea are also available. Facility of vaccination, weighing machine of child and mother is made available at centre. In this centre even though Blood Pressure Instrument is available but when the MPW Female was directed to measure the BP, she was unable to check BP properly. In this Centre there is only facility of hemoglobin tests on the hemoglobin test paper. This centre is not functional on all days of the week, it opens only once a week i.e. Every Thursday and on the rest week days the Female MPW (Multipurpose worker) has to make visit of the nearby villages allotted to her. It has been informed that since no adequate arrangement of stay is available at this health centre, she lives in the nearby village and as per the scheduled programme she takes round and provides various services eg. Educating the pregnant women, vaccination and distribution of iron and folic acid tablets & vaccination of infants etc., to all the seven villages allotted to her. But it has been informed by the villagers that most of the facilities of medicines and other instruments which were available at the health centre has been made available in the last two days only. The mobile number of Janani Suraksha Vehicle is displayed in the campus of this centre. Facility of let-bath is not available at this centre.

AVAILABILITY OF ELECTRICITY

There is no electric facility in this sub- centre. They work only in the light of candles, though it has been reported that this sub- centre is not functional at night.

AVAILABILITY OF WATER

For meeting out the water facility of this Sub-Centre one hand pump is available in the premises.

AVAILABILITY OF DOCTORS AND STAFF

In the Sub-Centre of Kishupura the post of MPW (Male) is lying vacant and only MPW (Female) /A.N.M. Smt. Devkumari Bhadoriya is posted.

MEDICAL FACILITIES

The Villagers gathered at the Sub-Centre Kishupura have demanded that the sub-centre should remain functional on all days with sufficient medicine and atleast availability once a week the facility of doctors should also be made available at this sub-centre.

In the light of aforesaid discussion narrated above, enquiry report in connection with affidavit filed by Dr. N.C. Gupta is submitted for kind perusal of Hon'ble Court.

22. We don't wish to burden our order with further facts. But we observe from the material on record that there is shortage not only of the infrastructure but of the manpower also which has adversely affected the effective implementation of the Mission which in turn is costing the life of mothers in the course of mothering. It be remembered that the inability of women to survive pregnancy and child birth violates her fundamental right to live as guaranteed under Article 21 of the Constitution of India. And it is the primary duty of the government to ensure that every woman survives pregnancy and child birth, for that, the State of Madhya Pradesh is under obligation to secure their life.

23. We therefore, recommend following measure to be taken up in the earnest: At Sub-Centres and PHC Level and CHC/District Level-

1. At Panchayat the 24 hours availability of trained woman as ASHA/Community Health Worker.
2. Two Auxiliary Nurse Mid-Wives at each Sub-Health Centre.
3. Three Staff-Nurses at the Primary Health Centre to ensure round the clock service therein.

4. Strengthen the Outpatient Services through posting/appointment of AYUSH doctors besides regular Medical Officers.
5. Uninterrupted Electricity supply and the water supply to the Sub-Centres and Public Health Centres.
6. Ensure proper modern sanitation.
7. Ensure that, in all 227 Community Health Centres In the State of Madhya Pradesh the availability of 24 hours delivery services including normal and assisted deliveries. It has 30-50 beds. To be equipped with man and machine at par with Indian Public Health Standards, which would include Essential and Emergency Obstetric Care Unit, so that round the clock hospital like services are available.
8. Ensure availability of vehicle round the clock under Janani Express Yojna.
9. Ensure that every pregnant women and new born is vaccinated with Tetanus, BCG, Polio, DPT etc.
10. Form Village Health and Sanction Committee in all villages.
11. Ensure that at Block Level Regular Camps are held for Jan Sunwai which would include the Sarpanch, Doctors posted within the Block.
12. To set up all 87 Rogi Kalyan Samitis.
13. Constitute Monitoring Committee at District and Block Level and ensure complete documentation of each and every patient.
14. Fix the time bound Schedule of respective Sub-Centres, PHC, CHCs, and the District Hospital.

These measures though not exhaustive are in addition to the stipulations in PIP 2006-2012.

24. Besides above the State is to ensure strict and timely implementation of the goal of NRHM as per the Implementation Plan 2006 - 2012, so that there can be an effective Control of the MMR.

25. Respondents are reminded of the fact that the State of Madhya Pradesh having spread over 308.000 sq. kms. with a population of 60.4 million 73% whereof (15.4% of Schedule Caste and 19.9% of Schedule Tribe) living in rural areas and despite of progress on the socio economic front, the State continues to be afflicted with worst indicators in India which include low literacy rate (specially female literacy), high level of morbidity and mortality and approximately 37% of population lying below poverty line as indicated in PIP 2006-2012. It is the duty of the State to see that the MMR which was 498/lakh live birth should be brought down to the level as indicated by the National Rural Health Mission. To achieve the same, the State will have to strive hard by implementing the Mission Plan in letter and spirit which requires some drastic efforts to be made by the State Government and its functionaries. We expect the State Government to rise to the occasion and will do its best to achieve the goals.

26. We have not set a separate time period for implementing the recommendation which we have made hereinabove as the period is already set through Programme Implementation Plan 2006-2012.

27. The petition is thus, disposed of finally in above terms.

(AJIT SINGH)
JUDGE

(SANJAY YADAV)
JUDGE