

(2014) 04 DEL CK 0146

In the Delhi High Court

Case No : W.P. (C) 1507/2014 and C.M. Appl. 3144 of 2014

Amit Ahuja

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Citation : (2014) 209 DLT 226

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : Gurmit Singh Hans and Mr. Ajay Pal Singh, Advocate for the Appellant; Anand Grover, Sr. Advocate, Mr. Lorraine Misquith, Mr. Rohit Kumar, Ms. Geetanjali Sharma, Mr. Apurba Kundu, Mr. Joginder Sukhija, C.G.S.C. for the U.O.I., Ms. Zubeda Begum, Standing Counsel, Ms. Sana Ansari, Advocate for the G.N.C.T.D., Ms. Shyel Trehan, Amicus Curiae, Ms. Tejaswi Shetty and Mr. Nishant Gokhale, Advocate for the Respondent

Judgement

Manmohan, J.—The present writ petition has been filed seeking a direction to the respondents to treat the petitioner with utmost sincerity and care as well as to provide him treatment for haemophilia on regular basis. In the petition, it is stated that though the petitioner is suffering from haemophilia for which treatment is available and known, yet as it is very expensive, petitioner's family is not in a position to afford the same.

2. When the petition had been filed, learned Counsel for the petitioner had handed over a medical certificate issued by Dr. N. Gupta, MD, Head, Haemophilia Centre, M.A.M.C. and L.N. Hospital, New Delhi. The said certificate reads as under:

This is regarding patient Amit Ahuja 36 years/male S/o Mr. V.K. Ahuja admitted in Ward 32 under Dr. N. Gupta CR No. 203956 since 23rd Jan., 2014. Patient is suffering from Haemophilia A with inhibitor positive. Patient is having right thigh pseudo-tumor with busted wound. Patient requires Activated Recombinant Factor Vila (Novo-Seven) to control bleeding at the time of dressing. We have tried this

medicine for five days from our hospital and the patient did not show some improvement. The patient now requires this palliative treatment for minimum of 6 week, i.e. Novo-Seven 3 mg/day, and approximate cost being Rs. 1,40,000/day x 42 days. Now our hospital is not able to provide this treatment any further. Any help extended to the patients or the family will be beneficial to his recovery.

3. On the first date of hearing itself, at the instance of this Court, the Department of Health, Government of N.C.T. of Delhi had agreed to release Rupees five lacs to the petitioner under Delhi Arogya Nidhi Scheme.

4. With the aforesaid grant, the petitioner was administered Factor Vila for a few days.

5. On 26th March, 2014, this Court directed Government of N.C.T. of Delhi to place on record the Scheme under which Haemophilia patients were being given free treatment. The Delhi Government was also directed to explain as to why petitioner's case did not fall within the parameters of the aforesaid Haemophilia Scheme. The Doctor treating the petitioner was also directed to file the latest status report indicating the condition of the petitioner.

6. Ms. Zubeda Begum, learned Standing Counsel for respondent-G.N.C.T. of Delhi handed over a copy of the letter dated 1st October, 2007 written by the Principal Secretary, Health and Family Welfare, Government of N.C.T. of Delhi. The relevant portion of said letter reads as under:

In pursuance of directions of the Hon''ble High Court and meetings held by the Committee, the following course of action has been decided upon insofar as Govt. of N.C.T. of Delhi is concerned--

1. Facility to provide A.H.F. for haemophilia patients shall be provided in three hospitals of this Government namely, Lok Nayak, D.D.U. and G.T.B. hospital. Dr. Naresh Gupta, Professor of Medicine & Head, Clinical Haematology, M.A.M.C. will be the Coordinator/Nodal Officer who would work out the necessary logistics and monitor the services being provided to haemophilia patients. Medical Superintendents of Lok Nayak, D.D.U. Hospitals will also designate a nodal officer for this purpose.

Treatment in these three hospitals would be given along the following lines--

(i) All B.P.L. families will be supplied A.H.F. free of cost.

(ii) Free treatment will be given to all Hemophilia patients who came to designated hospitals i.e. L.N.H., G.T.B. and D.D.U. in an emergency.

(iii) In respect of APL patients with minimum three years domicile in Delhi, the following graded payment system will be adopted--

(a) Family income upto Rs. 2 lac per annum-20% of cost of A.H.F. (concerned MS would be competent to relax 20% charge in exceptional cases for reasons to be recorded in writing).

(b) Family income between Rs. 2-5 lac per annum-50% of cost of A.H.F..

(c) Family income above Rs. 5 lac per annum-full cost of A.H.F.

Patients would be required to provide documentary evidence regarding family income (B.P.L. card, pay slip, income certificate from Executive Magistrate, income tax statement etc.), patients would have to produce vote I-card, extract of electoral roll, passport, etc.

Medical Superintendents of L.N.H., D.D.U. and G.T.B. Hospitals are advised to take immediate steps for implementation of these decisions in their hospitals in consultation with Dr. Naresh Gupta, Professor, M.A.M.C. A status report in the matter maybe sent to the undersigned by 30th October, 2007.

7. In view of the aforesaid letter, this Court is of the view that all haemophilia patients irrespective of the medication that they require have to be given treatment in accordance with paragraph 1 of the said letter.

8. On 28th March, 2014, Dr. Naresh Gupta, Director-Professor & Treating Doctor, Department of Medicine, Lok Nayak Hospital as well as Dr. S. Ramji, Medical Superintendent, Lok Nayak Hospital, Govt. of N.C.T. of Delhi were personally present in Court. They stated that the petitioner was in a stable condition without Factor Vila treatment and was maintaining satisfactory progress. They clarified that the initial certificate relied upon by learned Counsel for petitioner at the time of filing of the present petition was issued when petitioner's condition was precarious. According to them, the petitioner's condition at the present was stable and he did not need Factor Vila treatment. They also assured this Court that in future if the petitioner requires Factor Vila, the hospital would provide the same free of cost.

9. Dr. Naresh Gupta and Dr. S. Ramji had handed over the following certificate:

The patient, Amit Ahuja, a case of hemophilia presently admitted in Lok Nayak Hospital is now in a stable condition without factor Vila treatment and is maintaining satisfactory progress.

If at a later date, the patient would need factor Vila, the hospital would provide the same.

10. The aforesaid certificate is taken on record and the undertaking given by the Lok Nayak Hospital is accepted by this Court and Lok Nayak Hospital is held bound by the same.

11. Mr. Singh, learned Counsel for the petitioner is satisfied with the aforesaid undertaking and does not wish to proceed ahead with the present case. Consequently, the present writ petition and application are disposed of in accordance with the aforesaid undertaking given by Dr. Naresh Gupta and Dr. S. Ramji.

12. It is made clear that the decision to administer medication would be the

decision of the treating doctors alone. Before parting with the order, this Court would like to place on record its appreciation for the assistance rendered by all the Counsel in the present case, in particular, Ms. Shyel Trehan, Amicus Curiae and Mr. Anand Grover, Senior Advocate for their valuable suggestions.

Order dasti under signature of Court Master.