
(2016) 08 SC CK 0257

In the Supreme Court Of India

Case No : I.A. 4 of 2015 in Writ Petition(s)(Civil) No(s). 599 of 2015

Anupam Tripathi

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 12-08-2016

Acts Referred:

Citation : (2016) 10 SCC 684

Hon'ble Judges : Dipak Misra and Uday Umesh Lalit, JJ.

Bench : Division Bench

Advocate : Mr. V.K. Biju, Advocate, for the Applicant in I.A. No. 4; Mr. Krishnan Venugopal, Senior Advocate, Mr. Ajit Sharma, Advocate, Mr. Uday, Advocate, Mr. Tanie Fernendis, Advocate, for the Applicant in I.A. No. 7; Mr. Basant R. Sr. Advocate, State Mr. C.K. Sasi, Advocate, Mr. Manu Krishnan, Advocate, for AWB, Ms. Anjali Sharma, Advocate, Ms. Sujeeta Srivastava, Advocate, Mr. G. Prakash, Advocate, Mr. Jishnu M.L., Advocate, Ms. Priyanka Prakash, Advocate, Ms. Beena Prakash, Advocate, Mr. Ramesh Babu M.R., Advocate, for the Respondent; In-Person, for the Petitioner

Final Decision : Dismissed

Judgement

1. This Court on 5th April, 2016, Anupam Tripathi v. Union of India, (2016) 13 SCC 492 : (2016) 13 SCC 504 had appointed a Committee headed by Justice Siri Jagan, former Judge of the High Court of Kerala. The Committee consists of Justice Siri Jagan, Law Secretary of the State of Kerala and the Director of Health Services, Government of Kerala. The Committee has submitted the interim report which has focused mainly on the menace of street dogs itself and how to control it. The Committee has enumerated situations which are affecting the public at large. We think it appropriate to reproduce the relevant observations of the Committee:

"4. In the absence of infra-structural facilities for the Committee such as office, staff, computer, printer, stationery etc., the Committee was unable to proceed further pursuant to the orders of this Court. However, the Committee made

deliberations on the use of drugs for dog bites in Government institutions and came to some inferences on the subject, purely based on the scientific and financial inputs furnished by the Director of Health Services, which are detailed hereunder.

5. India is a nation with substantial fatal rabies cases, mainly due to stray dog bites.

Kerala is estimated to have a stray dog population of 2.5 lakhs, which feed lavishly on the wastes and garbage dumps across cities and towns. Frequent stray dog attacks on children in Kerala have created a dangerous situation. There have been incidents of stray dogs chasing, attacking and biting school children, aged persons, pedestrians, morning walkers and two-wheeler riders. Increase in stray dog population in public places like hospitals, railway stations etc. has created panic among the people. More than one lakh people in the State have been bitten by dogs in 2015-16. Rabies is an acute viral disease which causes fatal encephalomyelitis in all the warm blooded animals including man. The virus is found in wild and some domestic animals and is transmitted to other animals and humans through their saliva (bites, scratches and licks). Rabies is invariably fatal.

But if animal bites are appropriately and timely managed, the disease is preventable. The National Guidelines for Management of Animal Bites were formulated in 2002 by the expert group meeting at the National Institute of Communicable Diseases, New Delhi, to bring out uniformity in post-exposure prophylaxis. In India, where every dog bite is potentially suspected as rabid animal bite, the treatment should start immediately. Because of long incubation period in most cases of human rabies, it is possible to institute prophylactic post-exposure treatment. This must be started at the earliest, on the day of animal bite itself, to ensure that the individual will be immunised before the virus reaches the nervous system.

2. The World Health Organisation recommends classification of animal bites for post exposure prophylaxis as follows, which is followed in our country:

Type 1 : Touching or feeding of animals, licks on intact skin. Type of exposure is none and post exposure prophylaxis is not needed if reliable case history is available.

Type II : Nibbling of uncovered skin resulting in minor scratches or abrasions, without bleeding. The type of exposure is minor. Recommended prophylaxis is wound management and Anti Rabies Vaccine (On 3rd, 7th and 28th Day).

Type III : Single or multiple transdermal bites or scratches, licks on broken skin, contamination of mucous membrane with saliva. This type of exposure is severe. Recommended prophylaxis is by wound management, and treating with Rabies Immunoglobulin and Anti-Rabies Vaccine.

Anti-Rabies Vaccine (ARV) : Active immunisation is achieved by administration of

safe and potent Cell culture vaccines. It is administered intra-dermal.

This vaccine is available in all Public Health Institutions from Primary Health Centres to District Hospitals and Medical Colleges.

Rabies Immunoglobulin (RIG) : It provides passive immunity in the form of readymade anti-Rabies antibody to tide over the initial phase of infection. RIG has the property of binding with the rabies virus resulting in the loss of infectivity of the virus. Two Types of RIGs are available:

(i) Equine Rabies Immunoglobulin (ERIG) : This is of heterologous origin raised by hyper immunisation of horses. These should be administered after sensitivity test as it may cause adverse allergic reaction in some individuals. Dose is 40 IU per Kg body weight up to a maximum of 3000 IU. ERIG produced in our country contains 300 IU per ml. This is available in all District Hospitals and Medical Colleges. It is not administered in lower level hospitals for want of resuscitation facilities in case of severe adverse reactions.

However, currently manufactured ERIGs are highly purified and the occurrences of adverse events have been significantly reduced. Still, these should be administered after a sensitivity test and can be safely done only in District Hospitals.

(ii) Human Rabies Immunoglobulin (HRIG) : It is safe and free of side effects encountered in serum of heterogenous origin. The dose of HRIG is 20 Units per Kg body weight to a maximum dose of 1500 units. This does not require sensitivity testing as there is no adverse reaction. HRIG is available in concentration of 150 IU per ml. At present HRIG is not made available in Public Health Institutions because of its high costs."

3. As of now, the Kerala Medical Services Corporation is procuring the Anti rabies Vaccine & Equine Rabies Immunoglobulin (ERIG) 300 IU/ml for the post exposure prophylaxis of Rabies.

4. On 2015-16 the corporation was allotted Rs.7.25 crore allocated in the annual budget for procuring Rabies vaccines. But since the stray dog menace is increasing day by day and the number of cases of dog bites being reported to public health facilities is increasing, the Government also granted an additional Rs.2 crores from the Plan Fund, and another Rs.3 crores were sanctioned at a special Cabinet meeting. The funds were used for procuring and stocking anti-rabies vaccine and serum for this year. The total allocation of Rs.12 crores for anti-rabies vaccine and serum is significantly higher than the amounts allocated for the other essential drugs. In 2014-15, KMSCL procured anti-rabies drugs worth only around Rs.2.75 crores as there was unused stock carried forward from the previous year. On average, the Corporation has been spending around Rs.5-7 crores annually on anti-rabies vaccine and serum for the last few years.

5. Thereafter, the Committee has discussed about the steps taken by the State and various Corporations in that regard. The observations of the Committee on

that score are to the following effect:

"Human Rabies Immunoglobulin 150 IV/ml was earlier included in the essential drug list. The item had consistently no bidder; hence the Corporation could not make the drug available to hospitals from 2012. The expert panel omitted the drug from the essential drug list. The MRP of Human Rabies Immunoglobulin 150 IV/ml drug is Rs.6579/- Apparently the high cost of the drug is the reason for excluding the drug from the essential drug list. But if that drug is made available to all health institutions in the State, management of treatment for dog bites would be much more easy, effective and safe. Committee is of the opinion that in view of the vast increase in animal bites in the State, the cost of the drug should not be a stumbling block for making such an effective and comparatively safer drug available for use of the citizens of the State, to deal with the very serious disease affecting the health of the people."

6. Considering the facts which have been brought on record, the Committee has made certain provisional recommendations that read as follows:-

"(a) To make available Anti-Rabies Vaccine (ARV) and Human Rabies Immunoglobulin (HRIG) in all Public Health Institutions in the State.

(b) To properly train Medical Officers/Staff Nurses on management of Animal bite cases.

(c) Proper Waste Management.

(d) Control, vaccination and sterilisation of stray Dogs.

(e) Licensing of domesticated animals with proper vaccination against Rabies."

7. It is submitted by Mr. V.K. Biju, learned counsel appearing for the applicant that the recommendations of the Committee should be implemented forthwith and the State must take prompt action. Mr. Basant, learned senior counsel appearing for the State would submit that he may be granted two weeks' time to file response to the suggestions given by the Committee. Though we, prima facie, find that the suggestions of the Committee are acceptable, yet as Mr. Basant, learned senior counsel would like to give elaborate suggestions on the same and would like to add some kind of better suggestions, we think it appropriate to grant two weeks' time to the State. The suggestions, if any, be filed by way of an affidavit of the State Government.

8. After saying so, we would have adjourned the matter to another date but the Committee in paragraph 6 of the report has been constrained to observe that:

"6. The Committee is having its next meeting today viz.25-6-2016, and the infra-structural facilities to be provided by the Government to the Committee is still not in place, without which the Committee will not be in a position to proceed further with the task entrusted to it by this Honourable Court."

9. Mr. Basant, learned senior counsel relying on the affidavit submits that the

infra-structural facilities have already been made available to the Committee. If anything is lacking, that should be made good and the work of the Committee shall continue. If for reason of infra-structural provisions, the Committee is not in a position to proceed, the State shall be held responsible for the same.

I.A. No. 7 of 2016

10. Heard Mr. Krishnan Venugopal, learned senior counsel appearing for the applicant in I.A. No.7 of 2016. The Interlocutory Application is allowed. The newly added respondent, Federation of Indian Animal Protection Organisations, may put forth its stand before the Committee.

11. Let the matter be listed on 20th September, 2016.