(2008) 09 KAR CK 0063

In the Karnataka High Court

Case No : Writ Petition No. 18702 of 1998

B. Krishna Bhat — APPELLANT

Vs

State of Karnataka and Others — RESPONDENT

Date of Decision : 25-09-2008

Acts Referred:
Constitution of India, 1950 — Article 21, 47

Citation : (2010) ILR (Kar) 949

Hon'ble Judges : D. Dinakaran, C.J;Mohan Shant Anagoudar, J

Bench : Division Bench

Advocate : Puttige R. Ramesh, R. Lokesh, Imran Pasha, Sharada and Lakshmi S. Holla, for the Appellant; Niloufer Akber, AGA for R1, R3, R4, R6 and R11, B.G. Sridharan, for R5, K.R. Balakrishnan, Srinivas for R5, B.C. Prabhakar, for R9, N.B. Bhat, for R10, V.A. Mohanarangam, for R7, K.M. Basavaraj, for R8, P.S. Rajagopal Advocate for R6, Ashok Haranahalli, for BMTC, V.Y. Kumar, for R5 and R8 and M.V. Sheshachala, for R7, for the Respondent

Judgement

Mohan Shant Anagoudar, J.—Health care is the prime need of society/family/ person. There is a growing pressure on health care providers and professionals to maintain and improve the quality of health care services. The people legitimately expect high quality of medical care. In our Nation, majority of the people, specially the poor and middle class, depend upon Government and autonomous hospitals (having aid of Government) for health care. Health care system requires coordinated efforts of mainly, the State and four health professionals namely, doctors, pharmacists, nurses and diagnostic professionals. Competence of working professionals directly affects the overall quality of health care deliveries to the people. Hospitals are the main surge points of health care service delivery to the people. Patient''s safety is a serious global public health issue. Limited resources for health care facility have a negative impact on the performance of the health care system.

2. This writ petition is filed in the public interest seeking appointment of Court Commissioner to inspect and report on the working of the Government Hospitals

in the City of Bangalore; the sufficiency of infrastructure provided therein and for an order directing the respondents to take remedial measures for the up-keep of the Government Hospitals.

According to the petitioner, he had occasions to visit some of the Government Hospitals for the purpose of offering fruits to the poor and needy; but he was shocked to see the conditions prevalent in the Hospitals; as the conditions prevailing in the Government Hospitals are pathetic, they call for immediate measures to prevent them from deteriorating further. According to the petitioner, general complaint is that sufficient finance is not allotted, as a result of which the second respondent-hospital established in the year 1942, could not even clear the telephone bills, bills of BWSSB and bills of KEB in addition to the bills of private agencies supplying medicines and food. The petitioner submits that the State Government and the local authority which collects Health case owes a duty to ensure that the funds so collected are properly utilized for the upkeep of the hospitals. The dead bodies are not treated with the desired respect, the mortuary in the hospital does not have sufficient power supply to keep the bodies cool. That the third respondent-hospital has become an easy prey for land grabbers who have put up a board and a slum has come up in the hospital land and the slum consists of 168 huts, wherein around 700 people live. No remedial action has been taken either for its removal or for providing basic amenity to the slum dwellers residing in the slum. As a consequence, the entire area is filled with filth and other waste discarded by the slum dwellers. The condition in Victoria Hospital, Bangalore is also commented upon, by contending that the said hospital has become an easy place for the pavement dwellers to settle down and carry on their illegal activities inside the compound. The morgue is located on a busy road and there are no basic facilities for the relatives of the deceased even to have a reasonably comfortable sitting. In view of the same, the petitioner has prayed for appointment of Court Commissioner to inspect the Government Hospitals.

3. By the order dated 13.11.2000, the writ petition was dismissed on the ground that the averments made in the writ petition are too general in nature and that a writ as prayed for cannot be issued on the basis of averments, which are unsubstantiated. The order of this Court dated 13.11.2000 was appealed in Civil appeal No. 550/2002 before the Apex Court. The said appeal is allowed by observing as under:

After going through the response of the respondents, we are of the opinion that the helplessness expressed by the High Court was unwarranted. If the hospitals are not being maintained in the manner they are required to be, then the High Court would be justified in issuing appropriate directions in that regard. We, accordingly, set aside the judgment of the High Court, whereby the public interest, litigation filed by the appellant herein was dismissed and direct the High Court to deal with the writ petition afresh and pass appropriate directions in order to ensure that the hospitals in question function at least up to a minimum

standard of providing health care to the citizens. The High Court would be at liberty to appoint such Commissioners as it may deem proper to give it, report with regard to the state of the hospitals. The appellant will be at liberty to furnish a list of the hospitals to the High Court The High Court will also be at liberty to pass appropriate orders with regard to the clearance of the slums in the hospital premises.

4. After remand, the Karnataka Slum Clearance Board is arrayed in the writ petition. The said Board has filed the statement of objections, wherein it has admitted that there is slum in the premises of the third respondent, viz., S.D.S. Sanatorium and there exists a need for either bringing appropriate improvement in the living conditions of the slum dwellers or for shifting them to some other place as provided under the provisions of the Karnataka Slum Areas (Improvement and Clearance) Act, 1973. The statement of objections is filed by the State Government of Karnataka also. However, being not satisfied with the contents of the statement of objections, this Court directed the learned Government Advocate to file additional statement of objections containing requisite particulars. By the order dated 24.11.2004, this Court directed the Director of Health Services, Karnataka, to file an affidavit disclosing the total number of sanctioned posts existing in the Government Hospitals in the City of Bangalore in various cadres of Doctors, Nurses and other paramedical staff and the vacancies existing. The Government was further directed to point out the steps taken by it in filling up the vacancies. The details with regard to infrastructural facilities needed and those actually available were directed to be stated. Certain other directions also were issued to the Government.

In pursuance of the said order dated 24.11.2004, the Director of Health and Family Welfare Services, Government of Karnataka, has filed affidavit attaching therewith few charts showing the vacancy position in the cadre of doctors, nurses and paramedical staff in the Government run hospitals in the city of Bangalore. The charts also indicate the position regarding different equipments available in different hospitals. The bed-strength of each hospital is mentioned. The affidavit and the charts attached thereto show that there are few vacancies in some of the hospitals. Therefore, this Court by the order dated 12.1.2005, directed the first respondent to fill up all the vacancies in all the Government run hospitals in the City of Bangalore, within three months from 12.1.2005. By the very order, the Director of Health and Family Welfare Services was directed to file an affidavit as to when the bed strength and the staff strength of the hospitals was fixed and how often is it reviewed. While passing the order dated 12.1.2005, this Court has observed that the situation appears to be pathetic; none of the hospitals in the City of Bangalore is possessed with a generator to back up a power failure; most of the hospitals are even without x-ray machines. The Government hospitals do not even have baby incubators. The Director of Health and Family Welfare Services was directed to file additional affidavit specifically pointing out the necessary equipment required in each hospital and the deficiencies therein. The Resident Medical Officer and the Nursing Superintendent in each of the

Government run hospital were directed to file affidavits in regard to the steps taken by them in their respective hospitals to maintain cleanliness. The Medical Superintendents were also directed to file similar affidavits.

5. Having felt that full, effective and final adjudication of the issues that arise in the writ petition can be made by impleading five autonomous hospitals and also the Director of Medical Education, Bangalore, as parties-respondents, this Court directed that the National Institute of Mental Health and Nuero Sciences, Bangalore (Nimhans), Kidwai Memorial Institute of Oncology, Bangalore, Sri Jayadeva Institute of Cardiology, Bangalore, Sanjay Gandhi Accident Hospital and Research Institute, Bangalore, Indira Gandhi Institute of Child Health, Bangalore and the Director of Medical Education, Bangalore be impleaded as respondents 6 to 11.

The Medical Superintendent of NIMHANS filed affidavit before the Court on 13.4.2005 complaining that the movement of heavy vehicular traffic inside the campus of the hospital is causing serious inconvenience, pollution and hardship to the patients and their attendants and also to the hospital authorities. After hearing, this Court directed the Deputy Commissioner of Police (Traffic), Bangalore, and Bangalore Metropolitan Transport Corporation to ensure that the vehicular traffic inside the premises of NIMANS is stopped forthwith.

6. Learned Government Advocate submitted on 11.2.2005 that in pursuance to the direction issued by this Court on 12.1.2005, the State Government has initiated the process to fill up the vacant posts of the doctors and other paramedical staff in the Government Hospitals in the city of Bangalore and that the vacancies are likely to be filled within the time allowed by the Court On the very day, this Court directed the State Government to undertake a review of the bed strength in all the Government Hospitals within eight weeks. Similarly, respondents 6 to 10, were also directed to undertake similar exercise within eight weeks. Pursuant to the said order, respondents have filed necessary affidavits. In the meanwhile, the State Government constituted the Committee called Bangalore City Hospitals Review Committee, which in its meeting held on 3.3.2005 has made certain recommendations and suggestions regarding the hospitals, existence of the doctors and also in regard to staff pattern.

This Court while appreciating the laudable action taken by the Government directed the State on 13.4.2005 that a Committee of experts having eminent doctors should be set up, which could go into and examine different aspects of the working of 16 hospitals in the City of Bangalore, most of which Government run hospitals, while some are being run by autonomous bodies, so that the Committee could submit to the Court its comprehensive report in regard to proper working and functioning of these hospitals. This Court concluded that the Committee should suggest ways and means for further improving infrastructure facilities in the hospitals.

7. In continuation of the order dated 13.4.2005, and after hearing the learned

advocates, the Court constituted the following Committee with the consent of the parties:

1. Dr.Shalini, Joint Director of Health

& Family Welfare Services,

Government of Kamataka, Bangalore;

2. Dr. Devi Prasad Shetty, Narayana Hrudayalaya, Bangalore;

3. Dr A.S. Hegde,

Sri Satya Sai Hospital, Bangalore;

4. Dr. M. Munireddy,

Mallya Hospital, Bangalore;

5. Dr. C.S. Hanumanthappa,

Superintendent (Retd.),

No. 186, 14th Cross, III Main,

Girinagar, Bangalore; and

6. Dr. M. Maiya,

Maiya Multi Speciality Hospital,

Jayanagar, Bangalore.

Dr. Shalini, Joint Director of Health and Family Welfare Services, is nominated as Chairperson of the Committee. This Court directed the Committee to visit 16 hospitals that are being run by the State Government and other autonomous bodies in the City of Bangalore to find out the shortcomings in their functioning, both in the matter of staff as well as infrastructural facilities. The Committee was directed to submit comprehensive report. Accordingly, the Committee consisting of six members, including the Chairperson, who are the senior and reputed doctors, gave detailed and comprehensive report on 30.9.2005. The Committee has visited five hospitals coming under the control of Directorate of Medical Education, Bangalore, (Teaching Hospitals), six hospitals coming under the control of Directorate of Health and Family Welfare Services, and five autonomous hospitals situated at Bangalore. The Committee has given report based on the information provided by the respective hospital authorities and personal observation made by the Committee. The Committee confined itself to the issues like

1) Infrastructure including water/electricity supply.

2) Staff position/pattern in the hospital and work load.

3) Facilities available and equipment position.

4) Drugs and its delivery.

5) Budget allotment/utilization.

6) Administrative/financial powers.

7) Waste management

8. In our considered opinion, the report of the Committee deals extensively though not exhaustively in respect of the aforementioned seven issues. However, many aspects would still need consideration. This Court by the order dated 25.11.2005 directed respondent No. 1 to file its response to the report So also, the statements were directed to be filed by the other respondents. Consequently, all the respondents, including the first respondent have filed their responses separately.

9. The first respondent-State Government is largely in agreement with the report filed by the Committee and has submitted that it will take necessary steps from time to time and that it has already initiated remedial measures and will be taking action from time to time in respect of the suggestions made in the report So is the reply of other respondents.

In this context, the petitioner has filed rejoinder by contending that though the State Government has agreed to comply with the suggestions made in the report, time limit is not fixed and that only assurance is made by the State Government; but no positive action is taken. In other words, according to the petitioner, the respondents are not serious in their approach for implementing the recommendations made by the Committee. Hence, this Court, directed the first respondent to file affidavit furnishing the details of works actually carried out pursuant to the report. Accordingly, the Director of Medical Education, Government of Karnataka, viz., Dr. Ramananda Shetty has filed the affidavit dated 5.3.2007 before this Court on 12.3.2007. It is stated that in view of the ever increasing demand for beds in various combined hospitals attached to Bangalore Medical College and Research Institute, Bangalore, the bed strength of Victoria Hospital is increased from 764 to 964, bed strength of Vani Vilas Hospital is increased from 536 to 560 and in Bowring and Lady Curzan Hospital, it is increased from 686 to 741. In the matter of collection of tariff by BESCOM and BWSSB in commercial rates instead of domestic slab, the Government has taken the policy decision and has approached BESCOM and BWSSB authorities. It is further stated that the proposals of the Government have been refused by BESCOM and BWSSB. However, further efforts have been made to reconsider the request. In the matter of supply of the drugs to the hospitals, the Medical Superintendent of the Hospitals are empowered to purchase from the rate contract such of those that are not supplied by the Karnataka State Drugs Logistic and Warehousing Society by floating tenders directly or by getting supply from the companies listed in the rate contracts. Some other facts relating to actual compliance are also mentioned in the said affidavit.

10. The Under Secretary of Health and Family Welfare Department, on behalf of the State Government has also filed the affidavit elated 16.3.2007. The first respondent-State Government has narrated some of the steps taken, in the said affidavit as under.-

a) B.M.T.C. authorities have been requested to shift the B.T.S. Bus Stand situated by the side of the main gate. Follow up action has been taken in this regard.

b) A Police Constable has been deployed at the entrance of the Hospitals to prevent the autorickshaws from blocking the main gate.

c) Rajiv Gandhi University of Health Sciences (RGUHS) have assured to shift the existing University Administration Building to the proposed new campus at Ramanagaram.

d) Even though the proposal to charge at domestic rates has been turned-down by the BESCOM and BWSSB, fresh steps have been taken to persuade the authorities to reconsider the decision and the matter is before the Government for consideration.

e) A proposal dated 22.2.2007 has been placed before the Government for creation of additional posts in all the major hospitals under the Directorate of Health Services which also includes K.C. General Hospital, Jayanagar General Hospital, H.S.I.S. Ghosia Hospital.

f) Annual Drug Budget has been enhanced by Rs. 20,60,000/- in respect of K.C. General Hospital, Rs. 23,00,000/- in respect of Jayanagar General Hospital and Rs. 6,00,000/- for H.S.I.S. Ghosia Hospital.

Similarly, several steps are stated to have been taken for remodeling of the existing Leprosy, T.B. & CD. and Epidemic Diseases Hospitals and they are as follows:

a) In the meeting held on 23.11.2006 under the Chairmanship of the Commissioner, Health & Family Welfare Department, a decision has been taken to demolish the existing 3 hospitals as they are several decade old and in dilapidated condition. A Master Plan for construction of the new Hospital Building is being prepared and necessary directions have been issued in this regard to the Superintendent Engineer Karnataka Health Systems Development and Reforms Project.

b) In the said meeting, a request made by the Metro/Slum Clearance Board for allocation of 2 acres of land for relocation of the Slum has been rejected as the said land is required for the further development of the Leprosy Hospital.

c) In the said meeting, directions have also been issued to the concerned to take appropriate steps to prevent encroachment: of the lands belonging to the hospitals.

d) Pursuant to the decision taken in the meeting held on 23.11.2006, further

action has been taken regarding the financial implications and the proposals in respect of the proposed developmental activities in the hospital by the Superintendent Engineer, Karoataka Health Systems Development & Reforms Project.

In their affidavit it is clarified that the recommendations made by the Committee, as accepted by the State Government will be implemented, which in turn depends on budgetary allocation.

From the above, it is clear that respondents have assured that they will be implementing the suggestions made by the Committee in a phased manner depending on budgetary allocation. This Court is of the opinion that some effort is being made by the respondents to improve the situation in the hospitals.

11. As has been observed by this Court in WP. No. 20392/2005 (disposed of on 17.9.2008), if the health of the people unfortunately deteriorates, that too, untimely, they will have to seek help by way of treatment, from the hospitals. In our nation, treatment is being taken generally in Government or Public hospitals, as majority of the people cannot afford to take treatment in expensive private hospitals. General perception of the people is that the Government hospitals or public hospitals (run by local authorities) are ill-equipped as they lack infrastructure both in terms of buildings, medical equipments, adequate drugs etc., and able, humane manpower. Hence, every citizen of this Nation hopes that Hospital of the future should be a place that is both pleasant and functional, in keeping with the principle that the patient occupies a central position. The patient''s needs and desires are to be the central focus of the system.

In a welfare State it is the obligation of the State to ensure the creation and sustaining of conditions congenial to good health. Maintenance and improvement of public health have to rank high as these are indispensable to the very physical existence of the community and on the betterment of these depends the building of the society, which the Constitution-makers envisaged. Attending to public health, therefore, is of high priority - perhaps the one at the top. A healthy body is the very foundation of all human activities. At this stage, it is beneficial to refer to Article 47 in Part IV of the Constitution of India, which reads thus:-

Article 47: - Duty of the State to raise the level of nutrition and the standard of living and to improve public health:

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

In a series of pronouncements, the Apex Court from time to time has culled out from the provisions of the Part IV of the Constitution several obligations of the State and called upon it to effectuate them in order to see that the intention of

the Constitution-makers becomes a reality. Article 47 has laid stress on improvement of public health and prohibition of drugs injurious to health as one of the primary duties of the State. The Fundamental Rights are intended to foster the ideal of a political democracy and to prevent the establishment of authoritarian rule. It is by now well settled that the Directive Principles are no less important than the fundamental rights. It is relevant to note the observations of the Apex Court in the case of

Akhil Bharatiya Soshit Karamchari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association Vs. Union of India (UOI) and Others, , which read thus:-

The Fundamental Rights are intended to foster the ideal of a political democracy and to prevent the establishment of authoritarian rule but they are of no value unless they can be enforced by resort to courts. So they are made justifiable. But, it is also evident that notwithstanding their great importance, the Directive Principles cannot in the very nature of things be enforced in a court of law... It does not mean that Directive Principles are less important than Fundamental Rights or that they are not binding on the various organs of the State.

From the aforesaid observations, it is clear that the directive principles are equally important as fundamental rights and are binding on various organs of the State. It is constitutional obligation of the State to provide adequate medical services to the people to preserve human life. Whatever is necessary for this purpose has to be done. The State cannot avoid its constitutional obligation in that regard on account of financial constraints. The Constitution envisages the establishment of a welfare State at the federal level as well as at the State level. Thus it is the joint obligation of the Central as well as the State to provide medical services. In this context, the observations of the Apex Court in the case of Paschim Banga Khet Mazdoor Samity and others Vs. State of West Bengal and another, reported in Paschim Banga Khet Mazdoor Samity and others Vs. State of West Bengal and another, , may be referred. In paragraph-9 of the said judgment the Apex Court observes thus:-

The Constitution envisages the establishment of a welfare State at the federal level as well as at the State level. In a welfare State the primary duty of the Government is to secure the Welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare State. The Government discharges this obligation by running hospitals and health centres which provide medical care to the person seeking to avail of those facilities. Article 21 imposes an obligation on the State to safeguard the right to the of every person. Preservation of human life is thus of paramount importance. The government hospitals run by the State and the medical officers employed therein are duty-bound to extend medical assistance for preserving human life. Failure on the part of a government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Artkle.2l.

The report of the experts reveals that unauthorized huts have come up around the Pump house within the premises of SDS Tuberculosis and Rajiv Gandhi Chest Diseases Hospital, Bangalore; that the Deputy Commissioner, Bangalore based on the objection filed by the hospital authorities, has declared an area of 2 acres 34 guntas as slum in Sy. Nos. 23/1, and 25/1, under notification dated 7.4.2004; that it is also stated in the notification that slums are rehabilitated in 15 acres of Government land in Sy. No. 148 of Kudur Village, Surjapur Hobli, Anekal Taluk, Bangalore. The Committee has suggested that Survey Department should be directed to survey the area and report, so that any further encroachment is to be prevented; that once the survey is over, the hospital area should be compounded to prevent further encroachment, as early as possible by giving directions to Karnataka Slum Clearance Board.

The Committee has reported that a slum colony is proposed to be housed in the hospital premises of Leprosy Hospital, Magadi Road, Bangalore.

It is irrational, unjustifiable, unethical, unhygienic and antisocial to plan a slum colony inside the hospital. The State Government should keep the hospital premises clean by clearing the slums. It is unthinkable that the Government is planning to have slum colony inside the hospital premises. It is unethical to have slum colony inside the hospital by any Government.

The Committee has also recommended that it has noticed corruption in the hospital. If the corruption is allowed to continue in the Government hospitals, where generally, the persons who are unable to take treatment in the private hospital will approach, the object for which the Government Hospitals are established would be frustrated. Thus, the respondents should make all efforts to curb corruption in hospitals. In other words, the respondents should adopt anti-corruption measures for protecting the public.

12. As aforementioned, the respondents are duty bound to implement the suggestions made in the report submitted on 30.9.2005, by the team of experts appointed by this Court. Though the said report is not exhaustive, in our considered opinion, if the respondents comply with the suggestions made in the said report, the same would amount to compliance with the basic requirement in the matter of service relating to health. The State Government shall make endeavour to upkeep the Government and Autonomous Hospitals time to time so as to cater to the needs of the public at large. It is needless to mention that the present standards of the Government hospitals is far from satisfaction.

In our considered opinion, few of the general facilities required to be provided by the hospitals are as under:-

? The list of doctors on duly, the name of Resident Medical Officer, medical Superintendent, Heads of Different Departments, along with their location and telephone numbers etc. be displayed at the Reception.

? Wheel chairs and stretchers shall be available on request at the gate/reception

for the facility for patients who are not in a position to walk. Walkways/lifts shall also be available for access to higher floors.

? A location map shall be on display at the Reception for easy access to various Departments by the patients.

? ?very staff in this hospital can be identified by their uniform and name badge.

? Information regarding the fees and other payments, if any, to be made for use of the various facilities/diagnosis and for specialist fees medicines etc., be displayed at the Reception. For every payment, a properly authenticated official receipt will be given.

? Adequate drinking water and toilet facilities for the convenience of the public.

? Adequate display boards at different locations for guidance of visitors and outpatient

? Availability of ambulances/Mortuary Vans for use on payment throughout, 24 hours.

? Laboratory to be available in the hospital premises for various tests.

? Stand by generator to cater to Emergency services in case of general break down of electricity.

? Public telephone booths at various locations in the hospital.

? A canteen for catering to visitors are outpatients during normal working hours.

? A chemist shop is to be located in the hospital patients which is open 24 hours, on all days.

13. Standard in services and adequate degree of patient care can be provided, in case if the proper and workable ratio between doctors to patients; nurses to patients and beds to patients is maintained. For the said purpose, the necessary resources shall have to be provided by the State. Every possible effort shall be made by the hospital:

? To provide access to hospital and professional medical care to all patients who visit the hospital.

? To prescribe a workable maximum waiting time for out-patients before they are

attended to by a qualified doctor and of specialist.

? To ensure that all equipments in the hospital are maintained efficiently in working condition.

? To ensure availability of beds and operation theatres facilities as early as possible.

? To ensure treatment of emergency cases with almost promptitude and

attention.

14. No patient shall be used for any research or expenditure without the written consent and without being informed of the potential hazards or discomforts involved.

All patients and visitors to the hospital will receive courteous and prompt attention from the staff and officials of the hospital in the use of its various services.

Qualified pharmacists shall handle drugs and ensure proper potency and quality of the drug. Every effort will be made to ensure adequate availability of drugs especially those which are life saving. The pharmacy will display information regarding non availability of any drug and how long they are likely to remain non-available. Reliability and promptness of laboratory results will be ensured and whenever possible such reports will be made available within three hours.

Operation theatres shall be maintained properly on a regular basis to ensure that they are serviceable at all the times and every effort will be made to keep the hospital and its surrounding, clean, infection free and hygienic.

The regular system of obtaining feed back from the users through, periodic survey for improving the quality of service standards constantly.

15. The equipment and facilities/services shall be made available are as under:

? X-ray machine, Testing Laboratory, Ultra sound, CET scan, ECL, EEG and oxygen pipe in every room in intensive Care Unit, Centralized Air conditioned in 1CU, 24 hour duty nurses for ICU, Physiotherapy equipment, etc.

? The hospital shall have its own electrical and mechanical units for ensuring proper maintenance and working of the various equipments.

? If any equipment is out of order, information regarding the same shall be displayed suitably indicating the alternate arrangement, if any, as also the likely date of decommissioning the equipment after repairs and replacements.

16. The rights of the patients should be respected. Some of the rights of the patients may be regarded as under:-

? To access all medical records, and to have photocopies of his record.

? To be fully informed of his health condition.

? To refuse treatment.

? To have uniform, considerate and respectful care.

? To refuse to participate in experimental treatment or research.

? To be examined and treated in surroundings designed to give visual and auditory privacy.

? To be free from mental and physical abuse, and to be free from chemical and (except in emergencies) physical restraints except when necessary to protect the patient from injury to himself or others.

17. Special directions should be given to medical as well as non-medical staff to deal with the patients and public courteously. Any breach in that regard, when brought to the notice of the hospital authorities shall be dealt with appropriately. The suggestion/complaint boxes should be provided at the Reception, Canteen and such other common places. Periodical review meetings will have to be held of all of the heads of the Departments to look into the performance reports/non functioning of equipment, delay in repair, maintenance/replacement of equipments, identification of deficiencies, etc and time bound action to be taken for improving performance.

18. It is not that only the authorities of the hospital who are responsible for up-keeping standards of the hospital. The users also, have responsibility. Some of the responsibilities of the users may be noted as under:-

? Users should appreciate the various constraints under which the hospital is functioning without inconveniencing other patients and visitors.

? They should help the hospital authorities in keeping the hospital and its surrounding clean and in proper sanitary condition.

? Provide useful feed back and constructive suggestion regarding the quality and extent of service available at the hospital.

? Refrain from misusing the facilities available and demanding undue favour from the staff and officials.

As aforementioned, the State Government is duty bound to perform its constitutional obligation of providing medical care and health facilities. The State will have to do its best in catering to the needs of the general public particularly, those who are unable to approach the private hospitals, by providing necessary and adequate budget.

Having regard to the totality of the facts and circumstances of the case, we deem it proper to appoint the Secretary of Kamataka State Legal Services Authority, Bangalore, as coordinator, to oversee and supervise periodically the functioning of Government Hospitals and autonomous hospitals in Bangalore and to initiate action in accordance with law, including guiding the hospitals and concerned authorities in the matter whenever the functioning of such hospitals not found satisfactory.

Accordingly, the following order is made:

i) The contents of the report submitted on 30.9.2005 by the Committee doctors constituted by the Court are recorded.

ii) The respondents shall implement all the suggestions made in the said report

in all earnestness and upgrade and upkeep the hospitals for better utilization of the beneficiaries. The recommendations of the Committee found in the report, shall be treated as the minimum standards needed for health care.

iii) The respondents shall provide the facilities and follow suggestions as mentioned in this judgment.

iv) The necessary and adequate provision for budget shall be made by respondent-State.

v) Secretary of the Karnataka State Legal Services Authority is appointed as Coordinator to monitor periodically the functioning of the Government hospitals and autonomous hospitals at Bangalore and to initiate action in accordance with law, if the Secretary finds that the hospitals in question are not catering to the needs of the beneficiaries appropriately. He may also give necessary guidance and instructions to the respondents, their officials and all other concerned, whenever needed.

vi) State Government should clear the slums, wherever the slums have come up, as early as possible by shifting and rehabilitating the slum dwellers to any other place. The State Government shall not contemplate to have slum colony inside the hospital premises. The State Government is directed to restrain itself from establishing the slum colony inside the hospital premises.

Writ petition is disposed of with the aforesaid observations.

