

(2019) 08 MAN CK 0001

In the Manipur High Court

Case No : Public Interest Litigation No. 21 Of 2018

Community Network For Empowerment

APPELLANT

Vs

State Of Manipur And Others

RESPONDENT

Date of Decision : 29-08-2019

Acts Referred:

Citation : (2019) 08 MAN CK 0001

Hon'ble Judges : Ramalingam Sudhakar, CJ;M.V. Muralidaran, J

Bench : Division Bench

Advocate : Kh.Tarunkumar, A.Bimol, P.Tamphamani, K.Roshan, S.Samarjeet

Final Decision : Disposed Off

Judgement

R.S.,CJ

[1] The prayer in this PIL is as follows:-

"ii) Issue a writ of mandamus by directing the respondents particularly the State respondents to maintain minimum stock of ARV drugs for 3 months at the ART centres of this State to avoid shortage of drugs."

[2] Heard Mr. Kh.Tarunkumar, learned counsel for the petitioner and Mr. P.Tamphamani, learned Government Advocate for the respondent No.1. Also heard Mr. A.Bimol, learned senior counsel for the respondent No.4, JNIMS, Mr. K.Roshan, learned counsel for the respondent No.3, RIMS, Mr.S.Samarjeet, learned CGC for the respondent No.2 and Mr. K.Rabei, learned counsel for the respondent No.5.

[3] The petitioner pleads that as per the Operational Guidelines for the ART services by the NACO under the National AIDS Control Programme, 2012, it is mentioned for keeping minimum stock of ARV drugs for 3 months at the ART centres and also for regular supplying of ARV and OI drugs to the eligible PLHIV, the PLHIVS in the State of Manipur are not getting their due ARV drugs regularly and because of the scarcity of the said drugs and medicines, they were

compelled to buy the said drugs from open market even if the said drugs to be made available to them free of cost as per the NACO guidelines. The said issue which is being faced by the HIV patients in the State of Manipur was widely published in all the leading local dailies including the People's Chronicle and Imphal Free Press.

In the news paper report published in the People's Chronicle, it was reported that one patient who is undergoing ART treatment since 2009 was compelled to buy ARV drugs from the market at the cost of Rs. 2700/- for one month and most of PLHIV, their financial conditions are not sound.

It was also published in the said newspaper that altogether there are 13 ART centres in the State and there are 11,321 HIV patients who are taking First Line of ART treatment, 654 patients are taking First Line Alternative, 473 patients are undergoing Second Line ART treatment and 10 patients are taking Third Line ART treatment.

Another HIV patient also reported in the said newspaper that as the Government is not providing ART drugs on regular basis, he has procured them from market as the medicines are needed to be taken regularly without interruption. Some of the patients have sold out their belongings to buy ART drugs just for their survival. The petitioner further pleads that in the aforesaid NACO Operational Guidelines for ART services, it is clearly mentioned that all ART centres must be provided with ARV drugs by NACO through their respective SACS (State AIDS Control Society). The number of patients for which drugs are supplied must be estimated in consultation with SACS and RC's during the formulation of AAP. The drugs are generally procured annually and supplied in 2-3 installments. The drugs required for all ART centres are supplied to respective SACS which in turn send it to the ART centres and monitor the same. All centres should ensure that they have a minimum stock of 3 months at their centre. In case of expiry ARV/OI drugs stock that may not be consumed the centre should inform SACS well in advance (4 months before expiry) so that necessary arrangement can be done to relocate the same. In case of shortage of drugs, information should be sent to the SACS, RC's and NACO. Despite having this mandatory provision, the said ART centres in Manipur do not maintain 3 months stock of ARV & OI drugs. That is why on several occasions, PLHIVs in this State have been facing shortage of such drugs. Therefore, a direction is required to be given to the respondents to maintain 3 months stock of ARV drugs in all the ART centres. On the basis of which, the PIL is filed.

[4] The State has filed a para-wise comment. In Para Nos.13 and 19, it is pleaded as follows:-

"13. Though Manipur has 13 Anti Retroviral Treatment (ART) centers, only 11 ART centers are under the Manipur State AIDS Control Society (MACS) for providing Care, Support and treatment to the people Living with HIV/AIDS (PLHIV) as two of the ART centres in Manipur are under the Medicines Sans

Frontieres (MSF), an international independent NGO working and providing care & treatment in the field of HIV, TB & Hep C in Manipur. There are also 9 Link ART Centres in the PHC/CHCs of Manipur. In all the ART Centres, the Anti Retro Viral (ARV) drugs for 1st line, 2nd and 3rd line are disbursed free of cost by the National AIDS Control Organisation (NACO) to all the PLHIV who are undergoing treatment at ART Centers. There are 11,756 PLHIV (May 2019 MPR) are taking ARV drugs and 11,432 PLHIV are taking ARV drugs for 3rd line ART.

The ARV drugs which are supplied by NACO, Ministry of Health & Family Welfare, Govt. of India are - 1) TLE (Tenofovir + Lamivudine + Efavirenz), 2) ZLN (Zidovudine + Lamivudine + Nevirapine) 3). ZL (Zidovudine + Lamivudine), 4). TL (Tenofovir + Lamivudine), 5). EFV (Efavirenz 600mg), 6). NVP (Nevirapine 200mg), 7) AL (ABC 600mg + 3TC 300mg), 8) ATV/r (Atazanavir 300mg+ Ritonavir 100mg) 9). LPV/r (Lopinavir/ Ritonavir 125), 10). ZLN paed (Zidovudine + Lamivudine + Nevirapine(paed)), 11). ZL-paed (Zidovudine + Lamivudine(paed)), 12). AL-paed(Abacavir + Lamivudine (paed)), 13). EFV-paed (Efavirenz 200mg), 14). NVP-paed -paed (Nevirapine 50 mg), 15). LPV/r Tab-paed (Lopinavir/Ritonavir 125), 16). LPV/r syrup-paed (Lopinavir/ Ritonavir syrup), RAL (Raltegravir), 18), Ritonavir and 19). DRV(Darunavir) for treatment of first line, second line, third line and paediatric ART.

As per the weekly stock report Consolidation Tolls of ART dated 17th July, 2019 most of the ARV drugs are available at the ART centers and store and store of MACS has sufficient stock for more than 3 months except for Adult ATV/r and LPV/r which has stock for a little bit less than 2 months. But if the stocks are in critical, level i.e. about to be stocked out, the matter is intimated to NACO's Supply chain Management and either relocation form other state is arranged for immediate refill or the ARV drugs may be made available from the drug supplier directly from the warehouse Central Medicine Services Society (CMSS) at Guwahati for further supply to the State.

In addition to the above mentioned ARV drugs, the MACS procure the single molecule drugs namely, 1). Tab, Abacavir 300mg, 2). Tab lamivudine 150 mg 3). Tab lamivudine 100mg according to the need of the centre. At present there are 78 patients on Abacavir either taking once or twice daily and 45 patients on lamivudine 150 mg tab and 15 patients on lamivudine 100 mg tab. MACS spends around 1.5 lakhs per month for procurement of ARV single molecule drugs. But in the approved Annual Plan (AAP) 2018-19, amount sanctioned for ARV single molecule drugs exceptional cases was only 5 lakhs. So in order to meet the need of the PLHIV for uninterrupted supply of Abacavir 300mg, Lamivudine 150 mg and lamivudine 100 mg, Project Directo, MACS wrote a letter to Deputy Director General CST NACO on 28th June, 2018 for additional funds in anticipation of acute shortage or requirement of ARV drugs for the months ahead . Moreover, there was another issue of non availability of the single molecule ARV drugs in the local market as and when required by the MACS.

During this stock out crisis period for management of the single molecule ARV

drugs, NACO served a letter to all the SACS on January 2019 to procure Tab Abacavir Lamivudine, Adult (AL(A) 2nd line ARV drug combination sufficient for 3 months till March, 2019. The consumption of this ARV drugs per month was 11,000 tabs. The stock of AL(A) tab was nil since January, 2019 due to abrupt stoppage of supply from NACO to MACS due to supplier issue. Temporary arrangement of the supply of the AL(A) tab was done through 1). Procurement by MACS, 2) Relocation from Rajasthan and 3) Donation from Shri Jayanta Kumar, Hon'ble Health & Family Welfare, Minister. Knowing the delay in the interstate transport system when the ARV drugs are available at warehouse CMSS, Guwahati, this office deputed our MACS store staff at Guwahati on 22/04/2019 to collect at least one month drug requirement of AL(A) for immediate distribution to the 2nd line PLHIV."

**** *

**** *

19. Since taking ARV drugs regularly and in time without missing a dose is required of all PLHIV to improve the quality of life and to reduce morbidity & mortality. During the stock out of such drugs, the patients can procure the ARV drugs from the local market to avoid missing the drug consumption and the same amount spent can be reimbursed from the MACS, through the Care Support & Treatment (CST) division by submitting the following documents. They are i) Certificate of SMO/MO i/c for stock out of particular ARV drugs for the particular period, ii) Cash Memo to be countersigned by SMO/MO i/c of ART centre, iii) ART card of the patient (photo copy) and iv) Bank details of the patient to which amount to be credited."

[5] In view of the stand taken by the State respondent, Mr. A.Bimol, learned senior counsel for the respondent No.4, JNIMS states that in whatsoever possible manner, the hospital will provide all assistance to patients who come in the category of ART HIV (PL). We record his statement.

[6] In this view of the matter, we direct the State Government and Central Government to ensure that various schemes of providing medicines and treatment to HIV AIDS(PL HIV) patients in the most affordable and efficient manner as undertaken by the State Government. Accordingly, the PIL stands disposed of.