
(2014) 12 AHC CK 0132

In the Allahabad High Court

Case No : Public Interest Litigation (PIL) No. 49262 of 2014

Deeksha Dwivedi and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-12-2014

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2015) 2 ADJ 111 : (2015) 2 UPLBEC 1102

Hon'ble Judges : Dhananjaya Yashwant Chandrachud, C.J; Pradeep Kumar Singh Baghel, J

Bench : Division Bench

Advocate : Rakesh Kumar Singh and Smriti Kartikeya, Advocates for the Appellant

Judgement

1. This petition has been filed in public interest by two students of the Faculty of Law of the University of Allahabad, who are pursuing their undergraduate studies in law. On 28 August 2014, a pregnant woman, Sangita, who was a resident of Village Amreha, Block Jasra, District Allahabad, visited the Community Health Centre, Jasra since she had begun to experience labour pains. Her grievance is that one of the staff nurses demanded an illegal gratification from her and when she was unable to pay the amount, the patient was turned away. The patient was deprived of medical care and gave birth to a child in a hut. The child died. A team of law students under the auspices of the Human Rights Law Network visited the village and conducted a research project which led to the filing of these proceedings in public interest.

2. When the petition came up for hearing on 10 October 2014, this Court directed the Director General, Medical Health of the State to conduct an enquiry and submit a report to the Court. An enquiry was ordered. A report has been submitted by the Director (Stores), who was appointed as Inquiry Officer. The report indicates that there is substance in the grievance which has been brought before the Court. From the report, it emerges that there was negligence on the

part of the staff nurses at the Community Health Centre, consequent upon which, it has been stated, necessary disciplinary action is being initiated. The report did not find any specific material to establish a demand for illegal gratification. However, we may note that in her statement which was made by the victim to the Inquiry Officer, she has specifically stated that an amount of Rs. 1,000/- was demanded from her as illegal gratification and since she was not able to pay the amount, she was turned away from the Community Health Centre.

3. These Community Health Centres have been established under a centrally funded scheme. The Government of India in the Maternal Health Division of the Union Ministry of Health and Family Welfare has implemented the Janani Suraksha Yojna. This was described as a safe motherhood intervention under the National Rural Health Mission. The programme is being implemented with the objective of reducing maternal and neonatal mortality by promoting institutional delivery among poor pregnant women. The Scheme was launched on 12 April 2005 by the Prime Minister and has been implemented in all States and the Union Territories with a special focus on low performing States.

4. The official report which has been placed on the record before the Court, indicates that there has been a serious violation of the fundamental rights conferred by Article 21 both of the mother and the child which died soon after child birth. The object of a Scheme under which institutional delivery" is being promoted amongst poor pregnant women is to reduce, if not eliminate, dangers to maternal and child health. Maternal mortality and infant mortality are caused due to several factors including an absence of proper medical care during and immediately after child birth.

5. Where there has been a violation of a fundamental right under Article 21 of the Constitution, this Court is not powerless to intervene. The report of the fact-finding enquiry is indicative of the fact that there was negligence on the part of the persons at the Community Health Centre, who refused to provide medical treatment to the patient. A departmental enquiry must be held against the erring persons to hold them accountable. The mere holding of a departmental enquiry would not bring succor to a mother who has been deprived of her child. This is a fit and proper case where an award of compensation is warranted. In the facts and circumstances of the present case, we direct that an amount of Rs. 50,000/- by way of compensation be disbursed to the patient, no later than within a period of two months from the receipt of a certified copy of this order.

6. We also direct that the patient shall be medically examined at a referral hospital, for determining as to whether any further rehabilitative care or treatment is required for the mother.

7. The disciplinary proceedings against the errant members of the staff at the Community Health Centre shall be concluded expeditiously and preferably within a period of three months from the receipt of a certified copy of this order. A

report, setting out the action which has been taken, shall be submitted to the Registrar General of this Court which, upon receipt, shall form a part of the record of these proceedings. The petition is, accordingly, disposed of in these terms. There shall be no order as to costs.