

(2020) 09 DEL CK 0025

In the Delhi High Court

Case No : Civil Writ Petition No. 5959 Of 2020, Civil Miscellaneous Application
No. 21527, 21529 Of 2020

Dr. Satendra Singh

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 03-09-2020

Acts Referred:

Citation : (2020) 09 DEL CK 0025

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Prateek Jalan, J

Bench : Division Bench

Advocate : Rajshekhar Rao, Vrinda Bhandari, Devdutta Mukhopadhyay, Sanjana Srikumar, Vinayak Mehrotra, Manish Mohan, Sameer Sinha, Manisha Saroha, Shlok Chandra

Final Decision : Disposed Of

Judgement

D.N. Patel, CJ

Proceedings in the matter have been conducted through video conferencing.

CM APPLs.21528/2020 & 21529/2020 (both exemption applications)

Allowed, subject to just exceptions.

Both the applications stand disposed of.

W.P.(C) 5959/2020 & CM APPL.21527/2020 (stay)

1. This Public Interest Litigation has been preferred with the following prayers:-

"A. Issue a Declaration that providing fifteen days for a national consultation for the National Digital Health Mission: Health Data Management Policy is illegal, arbitrary, and negates the very object sought to be achieved by the Respondents;

B. Issue a Declaration that the Notice inviting Consultation dated 26.08.2020 issued by Respondent Nos. 1 and 2 at the URL

<https://ndhm.gov.in/stakeholder_consultations/ndhm_policies

> is unreasonably short, illegal, null and void;

C. Issue a Declaration that undertaking any online public consultation process for draft policies or legislation during a public health emergency/crisis, such as COVID-19, without providing alternative arrangements for those excluded on account of language or disability or internet access is illegal and unconstitutional;

D. Issue a writ in the nature of Mandamus or any other appropriate writ, order, or direction to the Respondent Nos. 1 and 2 to extend the notice period of the consultation of the "National Digital Health Mission: Health Data Management Policy" till the restrictions /lockdowns in place under the Disaster Management Act for COVID-19 pandemic subsist; or for a minimum period of 60 days;

E. Issue a writ in the nature of Mandamus or any other appropriate writ, order, or direction to Respondents No. 1 and 2 to provide widespread publicity to "National Digital Health Mission: Health Data Management Policy", including but not limited through means other than the internet;

F. Issue a Writ in the nature of Mandamus or any other appropriate writ, order, or direction to the Respondent to make translated copies of the draft "National Digital Health Mission: Health Data Management Policy" available across the country in the official vernacular languages mentioned in the Eighth Schedule to the Constitution, and upload the same on all its websites, including that of Respondent No. 1 and the National Digital Health Mission;

G. Issue a writ in the nature of Mandamus or any other appropriate writ, order, or direction to conduct the consultations for the "National Digital Health Mission: Health Data Management Policy" in a format that is accessible for persons with visual impairment and in compliance with the accessibility requirements under the Rights of Persons with Disabilities Act, 2016, including but not limited to, by removing the CAPTCHA requirement and providing an alternative to submit comments by email;

H. Issue a Writ in the nature of Mandamus or any other appropriate writ, order or direction to the Respondent to conduct consultations and hearings with various stakeholders and concerned persons across the country, as a precondition to considering the Draft Policy;"

2. Learned counsel for the petitioner submitted that the draft 'National Digital Health Mission: Health Data Management Policy' has been put in public domain for consultation process. The petitioner seeks extension of the notice period of the consultation of the aforesaid policy. The time of consultation process was initially fixed upto 03.09.2020 and later on extended upto 10.09.2020.

3. Learned counsel for the petitioner further submitted that on various other grounds also, there is inadequacy in the consultation process.

4. However, it is submitted by counsel for the petitioner that it would suffice if

the representation of the petitioner at 'Annexure P-18', pending before the concerned respondent authorities, is decided in accordance with law and the grounds agitated in this petition may be allowed to be raised when the final policy, if at all, is challenged by the petitioner.

5. In view of these limited submissions, we hereby direct the concerned respondent authorities to decide the representation of the petitioner, which is at Annexure P-18 to the memo of this petition, in accordance with law, rules, regulations and Government policies applicable to the facts of the case. The respondents will keep in mind the various grounds raised in this petition while deciding the said representation. The issue of inadequacy of the consultation process on various grounds is permitted to be raised as and when such policy is challenged. This Court is not deciding the aforesaid grounds at this stage, but the same are kept open. As and when the issue will arise, the same will be decided in accordance with law by this Court.

6. With these observations, this writ petition is hereby disposed of. The pending application also stands disposed of accordingly.