
(1999) 07 AP CK 0107

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13029 of 1998

P.R. Subbash Chandran

APPELLANT

Vs

Government of Andhra Pradesh and others

RESPONDENT

Date of Decision : 15-07-1999

Acts Referred:

Constitution of India, 1950 — Article 21, 226

Citation : AIR 2000 AP 272 : (2000) 3 ALD 11 : (2000) 1 ALT 58

Hon'ble Judges : T. Ch. Surya Rao, J;P. Venkatarama Reddi, J

Bench : Division Bench

Advocate : Ms. M. Sailaja, for the Appellant; Government Pleader, for H and MA, Mr. Ravi, S., Mr. A. Narasimha Reddy and Mr. C.V. Nagarjuna Reddy, for the Respondent

Judgement

P. Venkatarama Reddi, J.—The petitioner who is said to be a Journalist has filed this writ petition pro bono publico seeking directions to be given to the State Government "to submit a report on the steps taken by the Government so far to prevent the exploitation of the patients undergoing surgery either in Corporate Hospitals or in Government Hospitals of Super Specialities in the matter of incurring extra unexpected expenses for purchasing either imported or otherwise of certain equipment or material to be used in connection with the surgeries without any prior intimation or notice making the patients to incur heavy unexpected expenditure amounting to exploitation of such patients and to submit a report making suggestions to take concrete steps to prevent total exploitation or to regulate such situations in future by way of assuming control over the activities of both the Corporate Hospitals and the Government Hospitals of Super Specialities".

2. Though the prayer is prolix and there is too much of generalisation in the writ petition, the main grievance voiced by the petitioner is that reputed Corporate/ Super Speciality Hospitals are subjecting the patients to heavy and unforeseen expenditure, especially in surgery cases. It is pointed out that a Surgeon just on

the eve of Surgery or after the Surgery suggests to the patients to procure certain imported material or medicine which will not be ordinarily available in market and directs them to approach a particular agent/agents who will be roaming about the surgical theatres. It is also alleged that exorbitant rates are being charged for diagnostic and pathological services and some times unnecessary tests are prescribed. One of the suggestions given in the writ petition is that the Director of Medical and Health Department of the State should prevail on such Hospitals to notify the fees charged for various types of tests, treatments and operations. It is submitted that to check the malpractices and the acts of exploitation of the patients, the State must assume a regulatory control by enacting suitable Legislation and by amending existing Drug control laws.

3. It is true that plethora of complaints of Corporate and Super Speciality Hospitals fleecing the patients and too much of commercialisation at the expense of hapless patients, are pouring in. The improvement of public health being one of the Directive principles and the evolution of proper medicare system under which the people can have the medical treatment free from exploitation will be in furtherance of the fundamental right to life enshrined in Article 21 of the Constitution, there is paramount need for the State to focus its attention to these aspects and find remedial measures. We cannot countenance the argument that the Consumer Protection Act provides sufficient safeguards and remedies against exploitation of patients. That is only one facet of grievance redressal, but that is not the be all and end all. The existing laws are either inadequate or deficient. It is time that the State should take stock of the situation, if not already done, and initiate necessary measures such as setting up a grievance redressal machinery and devising a regulatory mechanism to cover vulnerable areas where unfair and unprofessional practices are rampant. If necessary, the State should not hesitate to enact comprehensive legislation after wide-ranging consultations with the experts in the field, Managements of the Hospitals and the cross-section of public. We cannot direct the State to legislate nor can we give any directions as to modalities of Legislation or the regulatory measures. At the same time, this writ petition has to be viewed as an effort to create awareness and sensitise the Governmental machinery for urgent remedial steps. We do hope that the Governments of the State and Centre will react promptly. Beyond observing this, we are not inclined to issue any positive and definite directions for the time being. We dispose of the writ petition with the above observations.