(2007) 03 MAD CK 0285

In the Madras High Court

Case No : Writ Petition No. 20904 of 2006 and W.P.M.P. No. 22046 of 2006

P.V.S. Gridhar — APPELLANT

Vs

State of Tamil Nadu and Others — RESPONDENT

Date of Decision : 30-03-2007

Acts Referred:

Citation : (2007) 03 MAD CK 0285

Hon'ble Judges : S.J. Mukhopadhaya, J;R. Sudhakar, J

Bench : Division Bench

Advocate : Party-in-persion, for the Appellant; R. Viduthalai, General and G. Sankaran, AGP, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—This petition in public interest was preferred by the petitioner, a practising advocate of this Court for direction on the respondents to provide suitable trauma care and other medical facilities at the primary health centres, sub-divisional hospitals and district level hospitals and such other amenities and facilities in order to render timely medical treatment to victims of road accidents on the highways and other major roads in the State and to provide ambulance facilities at regular intervals on major highways, possibly at every police checkpost with personnel trained in first aid and para-medicare. Further prayer was made to take suitable action against medical practitioner, who is alleged to have neglected her duties by refusing to attend to the victims of the road accidents, who were in serious condition and to direct respondents 3 to 5 to investigate the case in accordance with law and to pass appropriate order.

2. The case of the petitioner is that he was travelling on the East Coast Road by car from Chennai to Pondicherry on 21.1.01. At around 6.30 p.m., at Paramangeni - Uppallam Bridge, he found a small crowd in the middle of the road. He stopped his car and stepped out and found that a scooter had hit against a haystack at the margin of the road and the two scooterists had fallen. One of the scooterist, Mr.K.Rajmohan, was unconscious and was bleeding profusely from a wound in the temporal region of his head; the other scooterist,

Mr. Ravi, had some injuries on his head, but was conscious and able to walk and speak. Several passers-by gathered and moved the two accident victims to the side of the road.

3. A message was sent through a scooterist to the nearest checkpost situate at the mouth of the road leading to Cheyyur. As no one, including State owned buses were prepared to take the two victims to the hospital, the petitioner had to take the two victime in his car. Mr. Ravi, sat on the rear seat, while Mr. Rajmohan was laid down on the rear side with his head on Mr. Ravi''s lap. Mr. Ravi continued to be in conscious condition, but the condition of Mr. Rajmohan was critical and his breathing was irregular. Mr. Ravi told him that he was an employee of Southern Railway, while Mr. Rajmohan was an employee of the Department of Central Excise as LDC and both were residing and working in Chennai. At the Ellaiamman Koil checkpost, according to the petitioner, he asked the police constable posted there whether there was an ambulance or a jeep to take the victims to the nearest hospital. The constable informed that no such facility was available and told the petitioner that he had already informed the police headquarters at Kancheepuram. He was further informed that the nearest hospital was the Government Hospital at Cheyyur, which is about 5 Kms. away.

4. The petitioner, thereafter, travelled down the road to Cheyyur and reached Cheyyur Government Hospital by about 7.15 p.m. It was a large hospital, but when he went into the hospital and parked his car at the entrance of the main ward, he found a few local villagers there apart from a Nurse and a Aayah and a Watchman. No stretcher was available. So, with the help of the local villagers and his junior, they brought a large bench from inside the hospital and carried Mr. Rajmohan inside the hospital. It is alleged that there was no doctor in the hospital and so no first aid was administered. No attempt was even made to check the pulse of Mr. Rajmohan. The nurse tried to contact the doctor over the phone, but he was not available. The injuries on Mr. Ravi were cleaned and treated. The nurse administered tetanus injection of both the patients. As the condition of Mr. Rajmohan was getting critical, the petitioner asked the local villagers if there was any other doctor available in the vicinity. They informed that one Dr. Hemalatha, posted at Maduranthakam hospital resides in Cheyyur. The petitioner accompanied by a local youth by name Mr. Harimohandoss, went to the residence of Dr.Hemalatha and requested her to go over to Cheyyur Government Hospital. According to the petitioner, though he told the doctor about the accident and condition of Mr. Rajmohan, but she refused to treat on the ground that she was posted at Madurantakam Government Hospital and had no right to treat anybody at Cheyyur. The petitioner explained to her that he cannot claim the matter as a right, but she being a doctor, it was indeed her duty to treat any patient anywhere, who needed urgent medical attention without which the patient might die. Yet, Dr. Hemalatha was reluctant and her husband stated that he was also a doctor (Dr. Gandhi) and asked him to bring the patient to his house. When it was explained that the injury was serious and the patient was not in a condition to move, having suffered multiple fracture, but no action

was taken.

5. The petitioner submitted that the action of Dr.Hemalatha and her husband, which was totally indifferent, shocked him. Reliance was placed on a decision of the Supreme Court in Paschim Banga Khet Mazdoor Samity and others Vs. State of West Bengal and another, , wherein the Court held that a doctor''s first duty was to save a person whose life is in danger. The petitioner submitted that inspite of reminding her that she would be failing in her professional and moral duties, in that she may be held responsible if Mr. Rajmohan dies, but inspite of his request and the request made by the watchman of the Cheyyur Government Hospital, she refused to treat the patient.

6. Further case of the petitioner is that, thereafter, Mr. Harimohandoss informed him that there was a siddha doctor by name Dr. Raja attached to Cheyyur hospital, who resides nearby. So they went to the house of Dr. Raja, who agreed to come, but said that though he could examine the patient, but would not be able to treat him. When they reached the hospital, it was about 8.00 p.m. and after examining the patient, the doctor declared Mr. Rajmohan dead. In this background, the present writ petition has been preferred by the petitioner in public interest.

7. The petitioner relied on the decision of Supreme court in Pt. Parmanand Katara Vs. Union of India (UOI) and Others, wherein in a public interest litigation, the Supreme Court issued certain guidelines in case of injured citizen brought for medical treatment.

8. Learned Counsel for the State while admitted the necessity and emergent treatment to accident victims, referred to different Government Orders issued by the State of Tamil Nadu since 2002. The details of accident and emergency wards sanctioned by the State Government since 2002 in different districts have been shown and the direction issued in terms of the scheme for upgrading and strengthening of accident and emergency services has also been enclosed with the typed set. A reference to the following documents have been made therein:

S. Subject No. 1 Details of Accident and Emergency Ward 2 Road Safety Action Plan 2002 ? G.O. Ms. No. 339, Home Department, dt. 22.4.02 3 Road Safety Action Plan 2002 ? G.O. Rt. No. 1427, Home Department, dt. 3.7.02 4 Upgradation and Strengthening of Accident and Emergency Services in District Headquarters Hospital, Perambalur ? G.O. Ms. No. 51, Health dt. 26.3.02 5 Upgradation and Strengthening of Accident and Emergency Services in Government Hospital, Omalur, Salem District ? G.O. Ms. No. 252, Health dt. 26.7.04 6 Upgradation and Strengthening of Accident and Emergency Services in District Headquarters Hospital, Villupuram ? G.O. Ms. No. 251, Health dt. 26.7.04 7 Upgradation and Strengthening of Accident and Emergency Services in District Headquarters Hospital, Perambalur ? G.O. Ms. No. 51, Health dt. 26.3.02 8 Upgradation and Strengthening of Accident and Emergency Services in District Headquarters Hospital, Namakkal ? G.O. Ms. No. 145, Health dt. 28.8.06 9

Upgradation and Strengthening of Accident and Emergency Services in District Headquarters Hospital, Wallajah, Vellore District ? G.O. Ms. No. 146, Health dt. 28.8.06 10 Upgradation and Strengthening of Accident and Emergency Services in District Headquarters Hospital, Tenkasi, Tirunelveli District ? G.O. Ms. No. 153, Health dt. 29.8.06 11 Upgradation and Strengthening of Accident and Emergency Services in District Headquarters Hospital, Cuddalore ? G.O. Ms. No. 154, Health dt. 29.8.06 12 Upgradation and Strengthening of Accident and Emergency Services in Government Hospital, Melur, Madurai District - G.O. Ms. No. 165, Health dt. 1.9.06 13 Upgradation and Strengthening of Accident and Emergency Services in Government Hospital, Tambaram, Kancheepuram District ? G.O. Ms. No. 214, Health dt. 19.09.06 14 Upgradation and Strengthening of Accident and Emergency Services in Chengalpattu Medical College Hospital, Chengalpattu ? G.O. Ms. No. 253, Health dt. 26.7.04 15 Upgradation and Strengthening of Accident and Emergency Services in Thanjavur Medical College Hospital, Thanjavur ? G.O. Ms. No. 205, Health dt. 5.9.05

9. In the additional counter affidavit, the following statement has been made by the respondents:

2. It is submitted that the Government Medical Institutions are functioning under the administrative control as detailed below:

(i) All Government Primary Health Centres are functioning under the administrative control of the Director of Public Health and Preventive Medicine, Chennai-6.

(ii) All Government Dispensaries, Taluk and Non Taluk Government Hospitals and District Headquarters Hospitals are functioning under the administrative control of the Director of medical and Rural Health Services, Chennai - 6.

(iii) All Government Medical College Hospitals are functioning under the administrative control of the Director of Medical Education, Chennai - 10.

3. It is submitted that all the District Headquarters Hospitals functioning under the administrative control of the Director of medical and Rural Health Services, have already been provided with Ambulance van and Accident Emergency Ward with sufficient first-aid materials, medicine, etc., within 24 hours service. Regarding Non Taluk and Taluk Hospitals, almost all the medical Institutions situated on National Highways/State Highways/important towns are provided with 24 hours Ambulance service besides 24 hours emergency services.

4. It is submitted that further Road Safety Action Plan 2002 implemented in the Tamil Nadu with the assistance from the Tamil Nadu Road Safety Fund a sum of Rs. 338 Lakhs have been sanctioned for the upgradation of accident and emergency facilities in the following Government Hospital situated on the National Highways - 4, 7, 45 and 26:

(1) Government Hospital, Krishnagiri

(2) Government Hospital, ambur

(3) Government Hospital, Kovilpatti

(4) Government Hospital, Sriperumbudur

(5) Government Hospital, Tindivanam and they are all functioning.

(G.O. Ms. No. 339, Home (Transport) Department dated 22.4.02 and G.O. (Rt) No. 1427, Home (Transport Department, dated 3.7.2002 (copy enclosed).

5. Moreover, the Government of India has provided a Grants-in-aid under Upgradation and Strengthening of Accident and Emergency Facilities to Government Hospitals, situated on National Highways to the following Medical Institutions and the present stage is indicated against each:

S. Name of the Amount Sanctioned G.O. Ms. No. Present Stage No. Government Rupees in Lakhs and Date Hospital

1 Government 105 51, Health, Functioning Headquarters Hospital, dt. 26.3.02 Perambalur (NH45) 2 Government Hospital, 150 252, Health Civil work Omalur, Salem Dist. (NH 7) dt. 26.7.04 completed 3 Government Headquarters 143 251, Health Civil work Hospital, Villupuram (NH45) dt. 26.7.04 under process 4 Government Headquarters 150 143, Health Civil work Hospital, Padmanabapuram, dt. 23.8.06 under process K.K. District (NH) 5 Government Headquarters 150 145, Health Civil work Hospital Namakkal (NH7), dt. 28.8.06 under process Namakkal District 6 Government Headquarters 150 146, Health Civil work Hospital, Wallajah, Vellore dt. 28.8.06 under process District (NH7) 7 Government Headquarters 150 153, Health Civil work Hospital, Tenkasi, Tirunelveli dt. 29.8.06 under process District 8 Government Headquarters 150 154, Health Civil work Hospital, Cuddalore dt. 29.8.06 under process 9 Government Hospital, 150 165, Health Civil work Melur, Madurai District dt. 1.9.06 under process 10 Government Hospital, 150 214, Health Civil work Tambaram, Kancheepuram dt. 19.9.06 under process District 11 Chengalpattu Medical 150 253, Health Civil work College, Chengalpattu dt. 26.7.04 under process 12 Thanjavur Medical College, 150 205, Health Civil work Thanjavur dt. 5.9.05 under process

6. It is submitted that the above said twelve medical institutions are having Trauma Care Centres in order to provide emergency treatment to the Accident Victims with the "Golden Hours" of the occurrence of the accident. Further there is a proposal under consideration to avail the Central assistance of Rs. 150 Lakhs from the Government of India under Upgradation and Strengthening of Accident and emergency Services in order to provide accident and emergency services to the accident victims in the following Medical Institutions.

(1) Government Headquarters Hospital, Pudukottai, Pudukottai District.

(2) Government Headquarters Hospital, Kancheepuram, Kancheepuram District.

(3) Government Hospital, Sankarapuram, Villupuram District.

(4) Government Hospital, Keeranur, Pudukottai District.

(5) Government Hospital, Sankagiri, Salem District.

(6) Government Hospital, Athur, Salem District.

(7) Government Hospital, Pollachi, Coimbatore District.

(8) Government Hospital, Pattukottai, Thanjavur District.

10. Apart from the abovesaid fact, from the Government Orders issued from time to time including G.O. Ms. No. 339, Home Department dated 22.4.02, we find that as per schemes for "aid for emergency medical facilities" the Government, while sanctioned a sum of Rs. 78 lakhs per annum for the first scheme, directed to establish 13 road safety clinics on the stretches of National Highways 4, 7, 45 and 46 at a distance of every 50 Kms., and Rs. 3.38 Crores have been sanctioned for the third scheme, viz., Upgradation of the Accident and Emergency Facilities in the five hospitals as referred to therein.

11. Learned Advocate General, on receipt of instructions from the Deputy Secretary to Government, Health and Family Welfare Department, who is also present in the Court, while submitted that the scheme will be applicable to all medical centres adjoining or nearer to the National Highways including NH-45A, informed that the process will be completed within a further period of six months approximately. Learned Advocate General further submitted that in the absence of Dr.Hemalatha, no opinion could be given nor any undertaking could be made whether any proceeding is called for or not.

12. A suggestion was made by Mr. G. Rajagopalan, learned senior counsel of this Court that the drivers and conductors of the State Transport Corporations, who regularly ply buses on these National Highways should be instructed to take care of the injured road accident victims and to take them to the nearest hospital.

13. In the present case, as we find that after the filing of the writ petition, the State Government itself has taken up the issue; sanctioned fund for taking care of road accident victims and emergency wards and upgrading and strengthening of accident and emergency services in different District Headquarters and other hospitals, while we appreciate such step, we feel that no further direction is required to be issued. They are only expected to implement the scheme in its letter and spirit so that the road accident victims may get the benefit on an early date, preferably within six months as undertaken by them. In any case, such scheme should be implemented in its letter and spirit within a year (i.e.) by 31.3.08 so that no grievance is expressed by anyone or other person including a citizen like the petitioner, who took up the cause of society on humanitarian grounds in public interest.

14. We also appreciate the petitioner, an advocate of this Court, who tried his level best to save a human life and having failed, has taken up the issue with the

Court to ensure treatment to all the road accident victims (i.e.) public in general.

15. Taking into consideration the allegation made against one of the doctor, while this Court is not expressing any opinion in one or other way, allow the petitioner to bring the matter to the notice of the Secretary of Health Department with a copy to the Director of Medical and Rural Health Services, Chennai, who in their turn are expected to enquire into the matter and proceed in accordance with law. If so necessary, they may enquire the matter from the petitioner and through any independent source.

16. So far as the suggestion to direct the officers of the State Transport Corporations is concerned, we are not inclined to give any such direction to the various State Transport Corporations at the present, but it will be desirable if the respective State Transport Corporations formulate a scheme, in public interest, to grant aid to the road accident victims, if comes to the notice of one or other driver or conductor and in appropriate cases it may reward its employee, who may save the life of serious road accident victims.

17. The writ petition stands disposed of with the aforesaid observations. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

18. Let a copy of this order be handed over to the counsel for the parties. Learned Counsel for the State may forward a copy of this order to the concerned Managing Directors of the various State Transport Corporations.

