

(2005) 05 RAJ CK 0065

In the Rajasthan High Court

Case No : Civil Writ Petition No. 5240 of 1996

Ram Dutt Sharma

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 04-05-2005

Acts Referred:

Constitution of India, 1950 — Article 12, 19, 21, 47

Citation : (2005) 3 RLW 1626 : (2005) 3 WLC 8

Hon'ble Judges : Shiv Kumar Sharma, J;K.S. Rathore, J

Bench : Division Bench

Advocate : Rajendra Prasad, for the Appellant; Manish Bhandari, for the Respondent

Judgement

Shiv Kumar Sharma, J.—This writ petition has been filed with a prayer to provide for suitable medical facilities at Railway Stations/Platforms and to ensure establishment of stalls/shops of life saving drugs/medicines at Railway Stations. During the pendency of writ petition following news item, published on February 30, 2004 in Daily News Papers, pertaining to one Netrapal Singh, Chief Legal Assistant of Railway (Construction), who sustained severe heart attack while travelling from Jaipur to Kota in 2956 Up Mumbai Super Fast Train, was brought to the notice of this court:-

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jsyos ?fuekZ.k? ds eq[; fof/k lgk;d us=iky flag vkSj muds nks lkFkh jsy deZpkjh lkseokj dks t;iqj ls dksVk ykSV jgs FksA fuokbZ ds vkl ikl mUgsa cspSuh o ? kcjkGV gqbZA bl ij dksp esa ekStwn eqEcbZ dh esfMdy Nk=k :fp tSu us mUgsa laHkkykA :fp tSu us dgk fd flag dks fny dk nkSjk iM+k gSA bUgsa fuokbZ esa mrjk tk,A bl dksp esa ekStwn dksVk ds deZpkjh usrk jktkjk d";e us crk;k fd V? su lqfiazVsMs.V us fuokbZ esa jsy jksdus ds bUdkj dj fn;kA ;kf=;ksa dh ukjktxh

ns[kdj jsy dfeZ;ksa us xkM+h ls lokbZ ek/kksiqj LVs"ku ij lans"k fHktok;k fd os IysVQkeZ ij ,d fpfdRld dks cqyok ysaA xkM+h tc lokbZ ek/kksiqj igqaph rks ogka jsyos iz"kklu us MkDVj dh txg QkekZflLV dks cqyok j[kk Fkka mlus gkyr ns[kdj dgk fd mUgsa fdlh vLirky esa ys tk,aA d";i us crk;k fd bl chp xkM+h ogka ls jokuk gks xbZA bl ij dksVk LVs"ku ij ?kVuk dh lwpuk nh xbZA bl iwjs IQj esa esfMdy Nk=k :fp tSu gh flag dh /kM+duksa dks Fkkeus dk iz;kl djrh jghA b/kj dksVk LVs"ku ij fpfdRld cqyk, x,] ysfdu "kke lk<s ikap cts tc xkM+h dksVk igqaph rc rd flag dh /kM+dus [kkeksl gks pqdh FkhA jsyos iqfyl us bls lafnX/k voLFkk esa e`R;q dk ekeyk ekuk gSA jktkjke d";e us vkjkis yxk;k fd lqijQkLV jsyxkyh esa izkFkfed fpfdRlk fdV rd ugha feykA VkpZ ls Hkh lsy unknj FksA**

2. In order to ascertain as to whether travel in long distance trains was safe for sick and old persons and whether measures to meet out emergent illness were taken or not, show cause notices were issued to the respondents. In reply to the show cause notice additional affidavit has been filed by Divisional Manager Jaipur Division stating therein that the railways have already provided augmented first aid box consist of life saving/emergency drugs in long distance trains. As augmented first aid box is made available in Pantry Car and another first aid box is also available with the guards in all the trains. It is further averred that as per the Railway Board's order Railway Doctors were provided in following long distance trains as a pilot project:-

(i) Rajdhani Express between Delhi-Mumbai 2951 & 2952 Up

(ii) Vaishali Express between Gorakhpur to Delhi 2553 & 2554 Up

Since November 19, 1996 medical service was provided in Rajdhani Express, which was consisting of one medical officer, one male nurse and one attendant. The above team used to Board train at 16.30 hrs from Mumbai Central reaching New Delhi at 9.55 hrs. Again the same team used to travel by train from Delhi to Mumbai Central at 8.30 hrs. Six teams were arranged for this purpose and similar arrangements were made by providing separate teams for Vaishali Express. This arrangement continued for nearly four years and during that period it was found that those teams remained idle except Doctors who attended very minor disease patients for ailment like back ache, headache, vomiting, dyspepsia, Bronchitis, Abdominal colic, Common cold and cough, sore throat, gastritis etc. During this period four serious passengers were also attended on running train by the team but they could not survive because of serious disease/critical condition, despite the best efforts. This resulted in loss of Doctor's hours in the hospital for large number of other patients.

3. For under utilisation of the medical team and their lack of effectiveness was mainly for the reasons, incorporated in the affidavit, this:-

(i) In the running train it is difficult to record blood pressure, ECG, arrange cardio pulmonary resuscitation, giving intra-venus injection/infusion, difficulty in auscultation heart and lungs because the noise of the trains, which is magnified by the stethoscope.

(ii) Apart from above difficulties it was also felt that for treatment of different disease, a specialist is required. At a time specialist of all the fields can not be provided in running train, more so when it is found that medical team remains largely unutilised.

(iii) Apart from above difficulties following difficulties were also experienced by the medical team:-

(a) Passengers demanded medicine of their own choice;

(b) Interpretation of ECG, even if it is somehow recorded in absence of specialist of the field is difficult;

(c) In case of surgical emergency, same can not be properly attended in running train;

(d) Critical passengers require specialist attention;

(e) Doctors have very limited diagnostic facilities in running train. There are possibilities of error of judgment. This may not only make them vulnerable to Consumer Protection Act, but also be against the interest of patients.

Since the experiment of sending medical team was not found to be of much use and the facility was proved not to be of great help to serious and critical patients. The facility was discontinued.

4. It is further averred that no railway system throughout the world is providing such on board medical team. The network of Indian Railways is quite large and generally health unit/hospitals are existing along the route of the train at a distance of nearly 100 kilometers, in critical situation the patients are attended by the Doctors at these locations and may be transferred to higher centers if required. In most of the case where patient was found to be critical, Health Units/Hospitals are being utilised for giving them treatment. Railways always try to give best possible facilities by providing medical assistance and in emergency situation, incidence of tragic death does take place despite adequate medical assistance provided by the railways through their own staff and with the help of Doctors on Board.

5. Mr. R.K. Singh, Chairman Railway Board also filed affidavit giving details of the medical arrangements made in running trains as under:-

(a) As announced by the Minister of Railway in Loksabha on December 2, 2002 Railways decided to grant 10% concession to doctors in Railway fare in all classes in reserved coaches, if he is ready to provide medical services en-route. The name of Doctor is shown in the reservation chart with proper indication so that in case of any passenger falling ill he can seek assistance of the Doctor, directly or through the Travelling Ticket Examiner/Train Superintendent.

(b) A passenger who falls sick during a railway journey can also seek the assistance of the Train Superintendent or the guard to ensure medical assistance.

For this purpose the train Superintendent/Travelling Ticket Examiner is to advise the next Station Master through an express message and control to arrange for a doctor on arrival of the train at a station, if a doctor is not travelling in the train.

(c) Railway Hospital/Health Units are located at an approximate distance of 100 kms. along with the Railway Line, from where a Railway doctor can be called to attend passengers falling ill during a journey. In case of emergencies Station Masters/Station Managers are empowered to summon the Railway Medical Officer "On Call" to attend passengers falling ill during the journey, or the earliest available non-Railway Doctor to attend to a passenger requiring emergency medical aid.

(d) All the front line staff of passenger carrying trains are provided with First Aid Training so as to render first aid in case of any medical emergency occurring to passengers travelling in train. First Aid Boxes are provided with the guards of all passenger carrying trains.

(e) Augmented First Aid Boxes are provided in long distance trains. Total 162 trains have been identified and are provided with such boxes. These augmented First Aid Boxes contain 58 different types of medicines/first and materials and are to be prescribed by the Registered Allopathic doctors only. It is expected that in long distance train there will be medical practitioners travelling as passengers whose services can be utilised to help the passengers.

(f) Instructions were given to Zonal Railway to provide Chemist stalls/Chemist facilities in station premises, keeping in mind the quantum of passenger traffic. There are 31 exclusive chemist stalls, 19 chemist's corners in Books stalls, 275 chemist corners in miscellaneous stalls available at 157 stations of Indian Railway. A pilot project for providing a Chemist stall with an attendant doctor at 9 nominated stations was examined. However the project was found to be unsuccessful and only chemist stall at Chennai Railway Station is provided with the facility of a Doctor.

6. It is further stated in the affidavit that the Railway will further make efforts to give due publicity to all the arrangements existing to help passengers in running trains. The Railways is already providing a First Aid Box containing Life Saving Drugs in long distance trains and it is invariably ensured that with the help of the doctor travelling in the train, proper First Aid is provided.

7. In regard to the incidence of the death of Shri Netrapal Singh it is stated that it was quite unfortunate and an enquiry was conducted to find out as to whether there was any default on the part of Railway staff to provide him proper medical assistance and it was found that a Doctor was travelling in AC III Tier and was called to assist the passenger. Netrapal Singh was put on Oxygen in the train and was administered medicines, but due to a severe heart attack Netra Pal Singh unfortunately died in the train.

8. We have pondered over the rival submissions.

9. The right to live in peace, to sleep in peace and the right to repose and health, are part of the right to live. It is the duty of the State under Article 47 to provide the citizens a proper health care. The state could not deny a citizen of the medical treatment while he is travelling in a train. Life is a strange combination and it is not known that what disease may fatal at what stage. After all the State is a welfare state and it is a solemn duty of the state to look for the welfare of its citizens. This is benign duty of the state and the state can not shirk from this obligation. Article 47 of the Constitution comprehends the right to maintenance of health. It is the fundamental right of everyone in this country to live with dignity. By the term "life" something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limits and facilities by which life is enjoyed. Right to live includes all those aspects of life which go to make a man's life meaningful, complete and worth living. Right of an Indian citizen to travel inside and outside India is part of his "personal liberty" under Article 19 and human dignity is not to be ignored even in the trains. Indian Railways being public undertaking, is a State as defined under Article 12 of the Constitution. It holds monopoly upon the Rails Transport which is the cheapest mode of travel available to the people of India. Entire population of India depends on the services rendered by it. It is therefore under obligation to perform all duties and obligation concerning a welfare state.

10. Medicines and life saving drugs have become necessity of life now a days. Indian Railways not only provide facilities to travel but mostly it connects places requiring long distanced journeys involving continuous journey for days together. The respondents in the counter affidavits stated that the Railways have already provided augmented first aid boxes consisting life saving emergency drugs in long distance trains. The first aid boxes are made available in Pantry Car and with the guards, it is also averred that as a pilot project Railway Doctors were provided in Rajdhani Express between Delhi-Mumbai and Vaishali Express between Gorakhpur-Delhi. The arrangements continued for nearly four years but the six teams of doctors in Rajdhani Express and similar arrangements in Vaishali Express resulted in loss of Doctor's hours in the hospitals for large number of other patients. The teams of doctors remained idle and only four serious passengers were attended during that period. The respondents have given the reasons for under utilisation of the medical teams and their lack of effectiveness in the affidavits and because of the reason that the facility was not proved to be of great help to serious and critical patients, it was discontinued.

11. The respondents have incorporated in the counter affidavit the details of medical facilities provided to the passengers in the running trains and on the platforms. Learned Counsel for the respondents vigorously pleaded the case of the respondents and made attempt of justify the arrangements so made and requested to dismiss the petition.

12. Having closely scanned the material on record we notice that although arrangements were made for the medial assistance of the passengers by the

respondents but no effort was made to make the passengers aware about the said arrangements. Unless the passengers know that team of doctors is travelling in the train for rendering medical assistance, how could they approach the doctors for their ailments. The arrangements to provide to Railway Doctors in Rajdhani Express and Vaishali Express were proved futile because of the fact that the passengers were not made aware about the said arrangements.

13. Articles 19 and 21 read with Article 47 of the Constitution have positive aspects in a form of duty upon the Union of India and the Railway Board to provide for effective medical facilities during the course of journey through rail transport for convenient and safe movement of people from one place to the other as a measure ensuring improvement in public health, standard of living and also for protection of life and liberties of people.

14. We therefore issue following directions in the public interest:-

(i) Instructions shall be issued by Railway Board to Zonal Railway to keep reserve a Coupe" of four births in long distance train that shall carry sign board "MEDICAL FACILITIES" with symbol of Red Cross. Visible symbol of Red-cross shall also be displayed out side the compartment. Team of one Medical Officer, one made nurse and one attendant shall board train and travel in it After a distance of 500 Kms. or as directed by the Railway Board the team already travelled shall be replaced by another team. The Coupe" shall be equipped with Oxygen Cylinder, life saving drugs and injections.

(ii) In every compartment of train, it shall be prominently notified that Medical Compartment is attached with the train to provide medical assistance to the passengers free of cost by a competent doctor and complaint book is available with the Train- GUARD.

(iii) Due publicity that Medical facilities are available to the passengers in all the long distance trains, shall be given on all the Platforms. This information shall also be displayed on national Television and broadcast on All India Radio. People of Country shall also be made aware through the news papers.

(iv) Chemist facilities shall be provided on the station premises keeping in mind the quantum of passengers traffic.

(v) The Union of India and Railway Board shall ensure compliance of this order within sixty days from today.

15. The writ petition stands dispose of without any order as to costs.