
(2019) 11 JH CK 0090
In the Jharkhand High Court
Case No : Writ Petition (C) No. 2399 Of 2019

Sanicchar Oraon APPELLANT

Vs

State Of Jharkhand And Ors RESPONDENT

Date of Decision : 05-11-2019

Acts Referred:

Citation : (2019) 11 JH CK 0090

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Vandana singh, Ajit Kumar, Dr. Ashok Kumar Singh, Rajiv Sinha

Judgement

Reference may be made to the orders dated 15.10.2019 and 24.10.2019.

In pursuance thereto, Director RIMS is present to assist the Court as also affidavits have been filed.

Subsequent to the aforesaid affidavits, today another affidavit has been filed by the RIMS in Court by serving the copy of the same upon the learned

counsel for the respective parties which has been taken on record.

Dr. Ashok Kumar Singh, learned counsel for the RIMS by referring to various paragraphs thereof, has made the following submissions:

(i) The new departments/facilities i.e., Neonatology and Pediatric Surgery have started functioning.

(ii) Applications have been sent to the Medical Council of India for granting permission/approval to start DM and MCh courses in these disciplines and

RIMS is waiting for the permission/approval to be extended by the MCI and the moment the MCI would grant such permission/approval, these

courses would be started.

(iii) The proposal for opening Gastroenterology, Surgical Gastroenterology,

Endocrinology, Nuclear Medicine, Clinical Haematology and Physical

Medicine and Rehabilitation Department has been submitted to the State Government way back in the year 2016 and again reminder to that effect has been sent in the year 2019 but as yet no such permission/approval has been granted by the State Government.

(iv) In the 48th meeting of the Governing Body of RIMS vide Agenda item No.19 a decision has been taken to write to the State Government for

creation of need based posts for the Psychiatry, TB and Chest departments of RIMS, request for creation of these posts would be sent to the State

Government within three weeks.

(v) So far as filling up of the sanctioned posts in some of the existing departments in RIMS is concerned, advertisement has been floated and steps

have been taken to fill up these posts and the process would be completed within a period of three months.

(vi) For filling up the posts of nurses, advertisement has been floated on 09.03.2019 and written test has also been conducted but due to the issuance

of Circular dated 01.06.2018 as contained in Circular No.3854 and amended Circular No.8468 dated 20.11.2018 which provides to consider the

appointment in Group-C and Group-D posts on the basis of local residents of the State of Jharkhand and according to the State of Jharkhand while

initiating the process of recruitment for filling up these posts, these Circulars have not been taken into consideration, as such, the matter is before the

competent authority of State Government as also before the Court of Law for its adjudication.

(vii) So far as filling up of other sanctioned posts of non-teaching employees/technicians are concerned, advertisement has been floated for the same

and some of the posts have been filled up, however, further steps have been taken up to fill up the remaining vacancies in administrative/non-teaching

cadre as would appear from Annexure-I series. The candidates in the teaching cadre of RIMS have also been appointed as would appear from

Annexure-J series.

(viii) So far as medicine and other items essential for surgery and other clinical services are concerned, the management of RIMS has come out with

the advertisement for calling upon the applications from concerned suppliers to supply such medicine/other gadgets which is required for the treatment

of the medical ailment and the said process would be completed within a period of ten weeks.

(ix) So far as dealing with the issue of private practice is concerned, since the Director RIMS has expressed his inability to deal with the situation

effectively and therefore, there is requirement to create the services of Special Vigilance Unit as has been created to deal with the private practice by

doctors of Kind George Medical College, Lucknow, as such, appropriate direction is required to be issued upon the State Government to take effective

steps in this regard.

Learned Advocate General appearing for the State of Jharkhand has advanced his arguments by submitting more particularly upon the issues of

curbing with the private practice of the doctors even if the doctors are getting non-practicing allowances and has fairly submitted that since the

Director RIMS is showing his practical difficulties in dealing with the issues, as such, Special Vigilance Unit is required to be created by the State

Government by taking positive decision in this regard so that the doctors who are to render their services for RIMS for the patients either of the

outdoor or indoor is required to extend his services as a full timer to the RIMS to provide medical services to the ailing persons and further because of

the reason that when the Government is extending benefit of non-practicing allowances making it part of the service condition which admittedly

amounts to misconduct which is the concern of the State Government to deal with such situation.

So far as the issue of appointment of nurses is concerned, it has been submitted by the learned Advocate General that for settling the issue, some time

is required.

Having heard the learned counsel for the parties and after appreciating the averment made in the affidavit filed by the Director RIMS, this Court is

hereby passing the following directions:

(i) The competent authority of the State of Jharkhand is directed to take final decision upon the proposal sent by the RIMS for opening of

Gastroenterology, Surgical Gastroenterology, Endocrinology, Nuclear Medicine, Clinical Haematology and Physical Medicine and Rehabilitation

Department keeping the fact into consideration that proposal has been sent way back in the year 2016 and reminder to that effect has been sent in the

year 2019 but it is very surprising that as yet the State of Jharkhand has not taken any final decision upon the proposal sent by the RIMS.

Without making any further comment upon the State Government, this Court, hereby directs the State Government to take final decision upon the

pending proposal by taking decision in this regard within a period of four weeks from the date of receipt of copy of this order.

(ii) So far as the decision for creation of new posts in Psychiatry, TB and Chest departments of the RIMS, it has been stated by the RIMS at

paragraph-8 that request for creation of these posts would be send to the State Government within a period of three weeks, in view thereof, the

Director, RIMS is directed to send the said proposal to the State Government within a period of three weeks, the State Government in turn thereof, is

directed to take final decision upon the said proposal within a period of four weeks from the date of receipt of such proposal.

(iii) So far as filling up of the posts in some of the existing departments of RIMS is concerned, the Director RIMS has stated on oath that the

remaining vacant posts would be filled up within a period of three months, in view of such stand taken in this regard, this Court directs to complete the

process within the said period.

(iv) So far as the appointment of nurses are concerned, it is in the midway in pursuance to the advertisement notified on 09.03.2019, this Court is not

passing any order in this regard due to some dispute about non-consideration of Circular dated 01.06.2018 as contained in Circular No.3854 and

amended Circular No.8468 dated 20.11.2018 leaving it open upon the State Government to make its alternative arrangement so that people at large of

the State of Jharkhand will not be made to suffer.

(v) The Director RIMS has averred at paragraph 13 with respect to the allotment of supply of medicine and other instrument which is required in the

treatment of ailing persons and the process to that effect has been averred to be completed within a period of ten weeks, in view thereof, with the

expectation that it would be completed within a period of ten weeks, no order is now being passed in that respect.

(vi) So far as the creation of services of Special Vigilance Unit is concerned, since the learned Advocate General has also agreed to the practical

difficulties which is being faced by the Director RIMS and as he has submitted

that he will deliberate upon this issue with the competent authority of State Government to make out an effective measure to deal with the private practice, as such waiting for the positive decision in this regard, no order is being passed as on today, however, with a direction upon the State Government to come out with a positive suggestion in this regard so that the doctors, with the service condition to get non-practicing allowances, cannot be allowed to indulge in private practice.

(vii) But as has been submitted by Dr. Ashok Kumar Singh, learned counsel for the RIMS that after the duty hours i.e., from 9:00 a.m. to 5:00 p.m. if

the doctors are indulged in private practice, the Director RIMS cannot deal with the situation due to the practical difficulties of having no means in this

regard to conduct surprise raid and for that, Special Vigilance Unit has been suggested to be created which has also not been disputed by the learned

Advocate General but so far as the issue pertaining to duty hours, it is the duty of the Director RIMS to deal with the situation being the head of the

Institution and if the plea is being taken that even during the duty period it cannot be dealt with that cannot be appreciated, in view thereof, Director

RIMS is directed to look into the situation so that at least in the duty hours no doctor be absent from duty and if any of the doctors is found not

available/found to be not present in the duty hours, it is up to the Director RIMS to deal with such situation by taking appropriate action in accordance

with law and as per the rule applicable to the employees/the officers working under the RIMS.

Let the matter be posted on 10.12.2019 under the same heading.

Let a copy of this order be handed over to the learned counsel for the parties.

Personal appearance of Director RIMS is dispensed with for the present.