

(2008) 03 AHC CK 0098

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 32844 of 1997

Satish Chaturvedi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 15-03-2008

Acts Referred:

Citation : (2008) 03 AHC CK 0098

Hon'ble Judges : Sunil Ambwani, J and Dilip Gupta, J

Final Decision : Disposed Of

Judgement

1. Heard Sri Rakesh Pandey, learned Counsel appearing for the petitioner. Sri J.K. Tiwari, learned Standing Counsel for the State of U.P., Sri P.S. Baghel, learned Counsel appearing for the Allahabad University and Sri Kapil Rathore for the Principal, Moti Lal Nehru Medical College, Allahabad.

2. The petitioner has filed this application with a prayer to issue necessary directions to the State Government as well as the University including the Central Government to provide necessary funds for smooth and proper running of the Medical College and Hospital so that medicines may be made available to the poor persons, new equipments may be purchased as well as to make appointments on the posts of Doctors, Para Medical Staff, Technicians and Class HI & IV posts lying vacant since long.

3. This Public Interest Litigation seeking improvement in the conditions of SRN Hospital associated with MLN Medical College, is pending since 1997. The Hospital was found to be functioning in a bad shape. There was severe lack of funds and resources. A large number of posts were lying vacant and the existing capacity was underutilised with the teachers engaged in private practice and all sorts of unauthorised activities and private interests operating in the Campus. The Court issued various directions from time to time to the State Government to provide infrastructure, equipments and medicines for better functioning of the Hospitals. The earlier report submitted by the amicus curiae and other persons concerned with the Hospital demonstrated improvement in the Hospital which

was possible with the help and cooperation of the Principal, teaching and nonteaching staff. The out patient department had shown improvement from 450 patients per day to about 1200 patients per day and that the indoor admissions had increased from 250300 to 400450. The number of surgical operations and other procedures also increased considerably.

4. The University of Allahabad, earlier a State University under the provisions of U.P. State Universities Act, 1973, became the Central University under the provisions of University of Allahabad Act, 2005. The First Statutes set out in the Schedule of the Act provides that MLN Medical College and SRN Hospital shall be the University Colleges. The State Government, filed applications in this writ petition raising an issue that Statute 30(4) of the First Statute of the University should be amended by the Executive Council of the University so as to exclude the MLN Medical College and SRN Hospital as University Colleges.

5. We had by our order dated 30.11.2006, after hearing learned Advocate General of State of U.P. and the learned Counsel for the Allahabad University, held that it was for the legislation in its wisdom to determine whether a particular college/institute should be a University College or not and that under Statute 30 of the First Statutes of the University, the MLN Medical College and SRN Hospital were declared as University Colleges and accordingly rejected all the applications. The State Government challenged the order in Special Leave Petition in the Supreme Court. Upon hearing the matter, Hon''ble Supreme Court in its order dated 30.3.2007 observed as follows:

"The issue as to whether the College and the associated Hospital should continue merely as a constituent State Government College affiliated to the University, or should be a University College belonging to the University, as also question relating to its administrative control, financing and other related issues shall be settled by the University, the State and the Union of India at the earliest having regard to the relevant statutory provisions. Till then, status quo, as on today, shall continue."

6. The application filed today is supported by the affidavit of the petitioner. In paragraphs 4 to 14 of the affidavit supporting the application, the petitioner submits:

"4. That the status quo order passed aforesaid has been taken as a tool by the State Government and under the garb of the said "status quo" order the State Government started avoiding discharging its duties which it owes for maintaining the Medical College which is supposed to be catering the need of large population in and around Allahabad.

5. That in fact, after passing the order dated 30.3.2007 the State Government was supposed to settle various issues with the University. However, the State Government continued to avoid participating the meeting so fixed for the purposes till in this Hon''ble Court vide its order dated 23.11.2007 issued necessary directions to the State Government to ensure its participation in the

meeting as was directed by the Hon''ble Apex Court vide judgment dated 30.3.2007.

6. That it is pertinent to state here that since November, 2006, the date when the S.R.N. Hospital and M.L.N. Medical College have been made part of the University, the State Government stopped providing funds for the purpose of running of the medical college both in terms of salary of staff and daily running of the hospital totally. In fact, this action of the State Government itself was contrary to the stand taken by the State Government before the Apex Court where the State Government had made a statement about having actual administrative control over the medical college.

7. That so far as the Central Government is concerned it is submitted that the Central Government is also providing bare minimum funding for running and maintenance of the medical college. It is submitted that except for providing funds for life saving and some other medicines, consumable items and intravenous fluids which are required for day to day running of the hospital, funds so provided are not enough to meet other exigencies which are required to run the Medical College in true sense. So far as equipment are concerned only some amount has been released. Meager funds are being provided by the Central Government for purchasing equipments for upgrading the services of various departments for optimum functioning because of the continuing stalemate between the State Government, Central Government and the University.

8. That thus, because of lack of funds the S.R.N. Hospital and M.L.N. Medical College are suffering badly. It appears that the Central Government is not releasing foundation grant to the Medical College as the University is unable to break the deadlock created in the matter as a result of status quo order passed by the Hon''ble Apex Court.

9. That regarding the posts belonging to various categories including Doctors, Para Medical Staff, Class III & IV employees it is submitted that alarming situation is existing since long. Initially there were 500 beds and the staff was also sanctioned accordingly. However, now it has become a 900 bedded hospital which requires a staff strength more than double as sanctioned earlier. However, situation has moved in negative direction and the staff strength has gone down badly showing its effect upon the quality of the medical care which it would have intended to achieve at the time the medical college was set up. Instead of there being an increase in strength of the paramedical staff it has gone down more than half of the existing cadre strength. So is the position with para medical technicians and Class III & IV staff. No fresh appointments have been made since last many years on the post of Nursing Staff, Technical Staff, Clerical or Class IV staff. Even the posts which have fallen vacant because of death and retirements have not been filled up. Thus, the fact that the medical college is not fulfilling staffing pattern as per the Medical Council's Guidelines, prevents the College from undergoing an M.C.I. Inspection. The deponent is bringing on record the two documents which reflect the correct strength of the Doctors, Group "C" "D"

posts and the Technicians in the Medical College as Annexures 1 and 2 respectively to this affidavit which are lying vacant and not being filled up under the garb of "status quo" order passed by the Hon"ble Apex Court severely hampering the working in the hospital.

10. That so far as essential services like blood bank, pathology, Xray etc. are concerned it is submitted that almost all the departments are suffering badly because of a very meager strength of Technicians. Shortage of Technicians is contributing a lot to emergency services and has adversely affected the proper running of the Medical College and its providing emergency care. There are barely three nurses catering to 50 critically ill patients in the surgery, orthopedics and burn units. No recruitments are being made on the vacant posts, nor are staff nurses being recruited because of the existing deadlock between the Central Government, University and the State Government hampering patient are tremendously.

11. That thus, it is submitted that because of the ongoing deadlock between the State Government, Central Government and the University for the last eleven months when the Hon"ble Apex Court directed the parties to resolve the issue by discussions, no consensus has still been achieved and so the medical college is badly suffering and consequently public at large. All these are happening because of the lethargic attitude at the end of the State Government to resolve the deadlock.

12. That it is also submitted that several courses in the medical college are not recognized still the State Government has shown no concern. This situation has existed since last many years. The University initially looked forward to get such courses recognized by the Medical Council of India but subsequently the action of the University has also slowed down because of the deadlock created because of the inaction of the State Government.

13. That apart from the aforesaid, the petitioner wishes to draw the attention of the Hon"ble Court towards the report submitted by the Amicus Query wherein pathetic condition of the Medical College had been described in detail and there has been minimal improvement as pointed out in the said reports.

14. That in view of the facts and circumstances stated hereinabove, it is expedient in the interest of justice that this Hon"ble Court may kindly be pleased to issue necessary directions to the State Government as well as the University including the Central Government to provide necessary funds for smooth and proper running of the Medical College, so that medicines may be made available to the poor persons, new equipments may be purchased as well as to make appointment to the posts of Doctor, Paramedical Staff, Technicians and Class III & IV posts on the posts which are lying vacant since long and also ensure timely promotions to teaching faculty and/or may pass such other and further orders which this Hon"ble Court may deem fit and proper in the circumstances of the case."

7. The University of Allahabad is meeting all the expenses including the salary and cost of medicines and maintenance of the College and the Hospital since November, 2006. The teachers and staff are being paid their salaries by the Allahabad University. From the documents on record, we are of the confirmed opinion that the State Government has completely withdrawn its support and is not providing any financial help to the College and the Hospital since November, 2006. It was with great difficulty that the State Government released some of the funds which were earlier allocated for building and equipments. The fund kept in reserve in PLA Account, was however withdrawn by the State Government.

8. On our insistence, the State Government ultimately agreed and had attended the meeting with the Vice-Chancellor and the Chief Medical Advisor of the Allahabad University and the officers of UGC. The minutes of the meeting would show that the University informed the members present in the meeting that the matter was considered by the Executive Council and that by a resolution passed by the Executive Council, the request of the State Government was not accepted and that it is not possible for the Executive Council to review its decision. The State Government assured that a reply will be given to the letter of the Hon'ble Minister, Human Resource Development and that the State Government has not changed its decision and has taken a stand that the Medical College and the Hospital are the properties of the State Government, which they do not desire to hand over to the University. The Central Government on its part, took a stand that they had no role to play in the matter relating to the provisions of the Allahabad University Act and that in case the Executive Council takes a decision and requests for making any amendment in the Statutes, the Central Government will initiate the matter with Hon'ble the President, who is the Visitor of the University.

9. Sri J.K. Tiwari, learned Standing Counsel has produced a letter dated 18th December, 2007 sent by Sri Lal Ji Verma, Minister, Parliamentary Affairs, Medical Education and Welfare of Disabled, Government of India, to the Hon'ble Minister, Human Resource Development, Government of India, reiterating the stand of the State Government and requesting to review the decision regarding MLN Medical College and SRN Hospital as University College, in this letter the Minister has shown concern with regard to the seats/fate seats on which the admissions are still being made by the State Government. The Minister has also raised concern regarding the land, building and other properties of the State Government which were never transferred to the Allahabad University and the interest of the students of reserved category. He has also stated that the teachers and other employees of the College and the Hospital were appointed by the State Government and they could not have given their options to join the University without the approval of the State Government.

10. The Allahabad University is meeting all the expenses of the College and the Hospital since November, 2006. The University of Allahabad has provided

financial help running into crores of rupees for purchasing equipment and medicine and has drawn an ambitious plan for its revival. The University, however, wants full control to continue with the financial support. Sri P.S. Baghel, learned Counsel appearing for the Allahabad University states that the noncooperation of the State Government in the meetings and the unreasonable stand taken by it, has made the University apprehensive about the future of the Medical College and the Hospital. The University is keen to take over the entire responsibility of the Medical College and the Hospital provided it gets a clear direction with regard to the control of the Medical College and the Hospital.

11. At present there are 73 vacant posts of teachers and technicians in the Medical College which is causing great anxiety to the University. The vacancies and the lack of resources may be taken into consideration by the Medical Council of India for not extending the recognition to various courses offered to the College. The Allahabad University has expressed its anxiety to end the deadlock.

12. We are unable to give any positive direction on the application. We are conscious of the limitations placed by the order directing the parties to maintain status quo in terms of the order of the Hon''ble Supreme Court until the matters of administrative control, financing and other relevant issues are settled. We, however, feel that the extreme stand taken by the State Government will prolong the impasse and the issues may not be resolved in near future.

13. We are also deeply concerned with the conditions prevailing in the Medical College and the Hospital. The 900 bedded hospital with its limited resources, is unable to function properly and extend its services to the ten million people of the region, who depend on the Hospital for critical medical care. The SRN Hospital is the only referral Hospital providing the facilities in the region. We, therefore, feel that in larger public interest, the issues need to be settled.

14. The application is, accordingly, disposed of with observation that it will be open to the Allahabad University or any other party to approach the Hon''ble Supreme Court to seek appropriate directions.

15. List on 28th March, 2008.