
(2005) 12 DEL CK 0159
In the Delhi High Court
Case No : CS (OS) No. 856 of 2005

Sir Ganga Ram Trust Society

APPELLANT

Vs

Staff Welfare Board and Others

RESPONDENT

Date of Decision : 13-12-2005

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2005) 12 DEL CK 0159

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : Vinay Bhasin and H.L. Raina, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

Sanjay Kishan Kaul, J.

CS (OS) No.856/2005

1. The plaintiff has filed a suit for permanent injunction against the defendants, their agents, employees, members or anyone acting on their behalf from interfering in the normal functioning of the plaintiff's hospital, raising slogans, resorting to dharnas or holding demonstrations within the radius of 500 metres from the main gate and boundary wall of the plaintiff's hospital known as Sir Ganga Ram Hospital. A further relief has been claimed seeking restraint order against use of loud speakers, abusive language and interference with the ingress and egress of the doctors, employees, staff, patients etc.

2. Summons were issued in the suit and notice on the interim application on 10.06.2005. Interim relief was granted in favor of the plaintiff. None appeared for the defendants and defendants were proceeded ex parte. The plaintiff has filed affidavit of ex parte evidence. The documents are exhibited in court today as per the affidavit.

3. The plaintiff is a society registered under the Societies Registration act, 1960. A copy of the certificate of registration has been exhibited as Ex PW1/1. the plaintiff-society is running a charitable hospital under the name and style of Sir Ganga Ram Hospital, New Delhi. The plaintiff has also proved a copy of the resolution dated 19.11.2001 of the Society as ExPW1/2 which authorised Mr S M Puri to institute the suit. The plaintiff claims to be a leading multi specialty hospital having 620 beds and also runs a general OPD where more than 1,000 patients daily visit for treatment. There are certain areas of super specialties in the hospital including by pass surgery, kidney transplant, neurosurgery.

4. Defendant no.1 is the Staff Welfare Board consisting of the Chairman who has to be nominated by the Hospital Management Board and consists of eleven elected members of the employees. Two members are nominated by the Chairman of the Welfare Board. The staff is drawn from the various categories as clerks, laboratory technicians, X-ray technicians, to technicians, etc and includes Class IV Staff. The object of defendant no.1 Board is stated to be to promote harmonious relations and secure greater measure of cooperation in the progress of the hospital. the defendant no.2 is stated to be a dismissed employee of the plaintiff. The local police authorities have been imp leaded as defendant no.3 being the Society.

5. The defendant no.2 was the secretary of defendant no.1 and on 01.06.2005 is stated to have resorted to gross indiscipline by entering into the cabin of Dr. Vinay Verma, Assistant Medical Superintendent whereupon he physically assaulted Dr. Verma apart from using foul language. Dr. Verma is stated to have been threatened with dire consequences. Defendant no.2 was placed under suspension and a charge sheet dated 01.05.2002 was issued to defendant no.2. It is stated that defendant no.2 became even more aggressive after the service of the charge sheet and in collusion with certain other staff started obstructing the normal functioning of the hospital by preventing ingress and egress of employees who wanted to work as also the doctors and the patients. The object was to disrupt functioning of the hospital till such time illegal demand of reinstatement of defendant no.2 was met. Some of the employees used to gather at the gates of the hospital and shout slogans. Despite all efforts of the plaintiff, the said activities are stated not have ceased.

6. It is stated that the very nature of activities of the plaintiff are such that the normal principles of industrial law to the extent of permitting shouting of slogans, etc in the proximity of the premises cannot be permitted. There are patients with serious ailments who are likely to get affected by such activities and thus larger public good requires an appropriate restraint in such matters. The obstruction in the ingress and egress can also affect patients who maybe brought in emergency situations and any crucial time lapse could have serious consequences. The averments in the plaint have been verified by the affidavit of evidence by Sh.S M Puri.

7. Learned counsel for the plaintiff has referred to the judgment of the Division

Bench of this court in *Court on its own Motion v. All India Institute of Medical Sciences*; 2002 LLR 705 where it was held that the Article 21 of the Constitution of India providing for protection of life and personal liberty would include the right against denial of treatment or even from being prevented from availing of services of any doctor or any member of the staff from attending to the patients. Thus though ordinarily employees have the right to agitate their grievances by way of peaceful action, the same was not permitted in an institution like the AIIMS in view of the special circumstances and particularly the sensitive nature of a hospital requiring uninterrupted and smooth functioning of its various spheres of activities. A reference has also been made to the judgment of the Division Bench of this Court in *Shri Salekh Chand Jain v. Union of India and Ors.* 2002 LLR 1039. It again dealt with issue of a joint action committee for health employees going on strike in AIIMS.

8. In view of the aforesaid it cannot be doubted that in a place like hospital providing for medical facilities, greater restraint is expected from the employees. The services in a hospital are in the nature of public service and thus employees must be conscious of the consequences of any agitation which prevents the patients from being treated or disturbs the patients. A patient is already in the need of medical attention and it is necessary that such medical attention should be given in an environment of peace and the doctors and staff are not under any pressure while attending to such patient. The rights of such employees who agitate in the proximity of the hospital and shout slogans must give way to higher right of life of the patients guaranteed under Article 21 of the Constitution of India. A hospital cannot be treated at par with a factory or other industrial establishment and due care must be taken to ensure uninterrupted and undisturbed access and care to the patients. This does not only include ingress and egress of the patients, but also the rights of the patients to be treated by doctors and nursing staff.

9. It may be noted at this stage that Division Bench in the aforesaid two judgments has also emphasised that there should be a permanent negotiation machinery to ensure that a situation does not arise where the employees are brought to such a stage where normal functioning of a hospital is disrupted. Learned counsel for the plaintiff states that such a machinery/committee is already in existence.

10. A decree of permanent injunction is passed in favor of the plaintiff and against defendants no.1 & 2, their agents, or anyone acting on their behalf from interfering with the normal functioning of Sir Ganga Ram Hospital, from raising any slogans or resorting to dharnas and demonstrations within the radius of 500 metres from the main gate and the boundary wall of the hospital and from using any loud speaker or abusive language or interfering with the ingress and egress of doctors, employees, staff, patients or anyone accompanying them.

11. The plaintiff shall also be entitled to costs.

12. Decree sheet be drawn up accordingly.