

(2019) 09 MAN CK 0003

In the Manipur High Court

Case No : Public Interest Litigation No. 40 Of 2019

Thoudam Dharmendra Singh

APPELLANT

Vs

State Of Manipur And Others

RESPONDENT

Date of Decision : 05-09-2019

Acts Referred:

Constitution Of India, 1950 — Article 21

Citation : (2019) 09 MAN CK 0003

Hon'ble Judges : Ramalingam Sudhakar, CJ;M.V. Muralidaran, J

Bench : Division Bench

Advocate : Hillson Angam, N.Kumarjit

Final Decision : Disposed Off

Judgement

R.S., CJ

[1] Heard Mr. Hillson Angam, learned counsel for the petitioner and Mr.N.Kumarjit, learned Advocate General for the State respondents.

[2] This Public Interest Litigation highlights the grievance of the people of Wangoo Laipham Village, Kakching District, Manipur. The prayers are as follows:-

"i) to admit this writ petitioner and issue Rule Nisi;

ii) to issue a writ in the nature of Mandamus or any other appropriate writ or direction thereby directing the Respondents to provide adequate manpower viz. (1) one Public Health Specialist, (2) one Public Health Nurse, (3) one General Surgeon, (4) one Physician, (5) one Obstetrician & Gynaecologist, (6) one Paediatrician, (7) one Anaesthetist, (8) one Dental Surgeon, (9) five Staff Nurse, (10) one Pharmacist, (11) one Pharmacist-Ayush, (12) one Laboratory Technician, (13) one Radiographer, (14) one Ophthalmic Assistant, (15) one Dental Assistant, (16) one Cold Chain & Vaccine Logistic Assistant, (17) one OT Technician, (18) one Rehabilitation worker, (19) one Counsellor, (20) one Registration Clerk, (21) two Data Entry Operator, (22) one Account Assistant,

(23) one Administrative Assistant, (24) one Dresser and (25) two Ward Boys at the Community Health Centre, Wangoo Laiphram, Kakching District, Manipur as per the guidelines of the Indian Public Health Standard (IPHS),

iii) to issue any other appropriate writ or order or direction which the Hon'ble Court deems fit and proper in the facts and circumstances of the case."

[3] The Community Health centre, Wangoo Laiphram Village, Kakching District, Manipur has only 5 Doctors, 5 nurses, 1 health asistant, 1 clerk, 1 technician, 3 group-D staffs and 1 driver in total 17 staff whereas the sanctioned post of 46 staff for the Community Health Centre. Many of the doctors are on leave pursuing post-graduation course. Therefore, there is hardly any Doctor to man the Community Health Centre and therefore, the people of nearby areas are suffering a great deal on account of lack of adequate manpower and also some infrastructure for the Community Health Centre. On 15th July, a representation has been submitted to Hon'ble Minister, Health & Family Welfare, Government of Manipur and the Director of Health Services, Government of Manipur requesting them to provide adequate numbers of Doctors at the Community Health Centre. Despite series of protest and expressing concern in press and media, there is no result. Therefore, the Public Interest Litigation has been field seeking for the above stated relief.

[4] In para No.5, details of vacant post have been highlighted and it reads as follows:-

"5. That the Community Health Centre (CHC) of Wangoo Laiphram caters to the healthcare need of more than 22 (Twenty-two) villages having a population of about 17,047 as per 2011 Census. There are 2 (two) Primary Health Sub-Centres (PHSC) under the jurisdiction of Wangoo Laiphram CHC. However, the Wangoo Laiphram CHC has only 5 Doctors, 5 Nurses, 1 health assistant, 1 clerk, 1 technician, 3 group-D staffs and 1 driver in total 17 staffs against the sanctioned post of 46 staffs for CHC. Out of 5 Doctors, 1 Doctor is on study leave for pursuing post-graduation course, 1 is an Ayush Doctor. Hence, the CHC is manned by three doctors in rotation. It may be mentioned here that in a particular day, only one Doctor is rostered at the CHC.

Staff Strength at the Community Health Centre, Wangoo Laiphram:

Sl. No

Name of Posts

Sanctioned post

Staff in position

Present Status

Vacant Post

Block Public Health Unit

1.

Block Medical Officer

1

1

-

Nil

2.

Public Health Specialis

1

1

-

1

3.

Public Health Nurse

1

Nil

-

1

Specialist

4.

General Surgeon

1

Nil

-

1

5.

Physician

1

Nil

-

1

6.

Obst. & Gynae

1

Nil

-

1

7

Paediatrician

1

Nil

-

1

8

Anaesthetist

1

Nil

-

1

General Duty Officers

9

Dental Surgeon

10

General Duty Medical Officer

2

3

PG-1

Nil

11

MO-Ayush

1

1

-

Nil

Nurses and paramedical

12

Staff Nurses

10

5

-

5

13

Pharmacist

1

Nil

-

1

14

Pharmacist-Ayush

1

Nil

-

1

15

Lab. Technician

2

1

-

1

16

Radiographer

1

Nil

-

1

17

Ophthalmic Assistant

1

Nil

-

1

18

Dental Assistant

1

Nil

-

1

19

Cold Chain & Vaccine Assistant

1

Nil

-

1

20

OT technician

Nil

-

1

21

Rehabilitation worker

1

Nil

-

1

22

Counsellor

1

Nil

-

Nil

23

Health Assistant

1

1

-

Nil

Administrative staffs

24

Registration Clerk

2

1

-

1

25

2

Nil

-

2

26

Account Assistant

1

Nil

-

1

27

Administrative Assistant

1

Nil

-

1

Group-D

28

Ward boys

5

3

-

2

29

Driver

1

1

-

Nil

Total

46

18

-

30

As shown in the above table, about 30 posts are lying vacant at the said CHC. The CHC has no Specialist Doctors (General Surgeon, Physician, Obst. & Gynae,

Paediatrician and Anaesthetist) Dental Surgeon, Pharmacist, Radiographer, Ophthalmic Assistant, Dental Assistant, OT Technician, Rehabilitation worker, Counsellor, Data Entry Operator, Account Assistant, Administrative Assistant. One of the major problems faced by the residents of these area is the unavailability of access to healthcare services as a result of shortage of Doctors and Nurses and other staffs at the CHC."

[5] It appears from the facts pleaded by the petitioner that there is an acute shortage of doctors and specialist doctors (General Surgeon, Physician, etc.), Nursing and paramedical staff and other administrative staff and Group-D staff which is hampering the effective functioning of the Community Health Centre of Wangoo Laipham Village, Kakching District, Manipur. The representation has not shown any result and therefore, the Public Interest Litigation has been filed.

[6] Heard Mr.N.Kumarjit, learned Advocate General who says that subject to distribution of funds for all Community Health Centres, an informed decision will be taken to provide adequate number of Doctors, staffs, etc. with equitable distribution to all the Community Health Centres. We impress upon the Government that that need to provide proper medical facilities at the grass root level is imperative for a democratic state and a necessity. The petitioner only highlights the duty of the State to provide best medical care to the citizen whether it is from the village level or taluk level or municipal level.

[7] Be that as it may, in view of the fact that the State is bound to provide best medical care to the people, we direct the State Government to immediately address the need of the Community Health Centre at Wangoo Laipham Village, Kakching District, Manipur in the light of the decision of the Hon'ble Supreme Court in Pashim Banga Khet Mazdoor Samiti vs. State of West Bengal & anr., (1996) 4 SCC 37. Para No.14 of the petition is extracted for better appreciation of the case.

"14. That, the petitioner humbly submits that in Pashim Banga Khet Mazdoor Samiti, (1996) 4 SCC 37, the Supreme Court discussed the welfare obligations of the Government in providing health care and unequivocally defined, "Adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The Government discharges this obligation by running hospitals and health centres which provide medical care to the person seeking to avail those facilities. Article 21 imposes an obligation on the State to safeguard the right of life of every person. Preservation of human life is thus of paramount importance..... Failure on the part of a Government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21."

[8] Same view was expressed by the Delhi High Court in the Laxmi Mandal vs. Deen Dayal Harinagar Hospital & ors. (W.P.(C) No.8853 of 2008). Para No. 15 of the petition is extracted as under:

"15. That in Laxmi Mandal vs. Deen Dayal Harinagar Hospital & ors. (W.P.(C)

No.8853 of 2008), the Delhi High Court explained that an "inalienable" component of the right to life is "the right to health which would include the right to access and to receive a minimum standard of treatment and care in public facilities. In particular, this would include the enforcement of the reproductive rights of the mother advertisement the right to nutrition and medical care of the newly born child." The Respondents violate a woman's reproductive right when they fail to address barriers to reaching care at the Wangoo laipham CHC, including inadequate infrastructure, poor hygiene, and limited services and when they fail to implement health schemes aimed at reducing maternal mortality, including the JSSK."

[9] Keeping all these in mind, we are inclined to direct the State to provide all necessary facilities including doctors and staffs, etc. for running the Community Health Centre at Wangoo Laipham Village, Kakching District, Manipur.

[10] With the above observation, the Public Interest Litigation stands disposed of.