

(2021) 05 DEL CK 0187

In the Delhi High Court

Case No : Civil Writ Petition No.5510 Of 2021

Vivek Sheel Aggarwal & Ors

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 25-05-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 05 DEL CK 0187

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ;Jyoti Singh, J

Bench : Division Bench

Advocate : Sacchin Puri, Dhananjay Grover, Chetan Sharma, Kirtiman Singh, Vinay Yadav, Akshay Gadeock, Amit Gupta, Sahaj Garg, Waize Ali Noor, Taha Yasin, Anurag Ahluwalia, Abhigyan Siddhant, Nitnem Singh Ghuman

Final Decision : Dismissed

Judgement

D.N. Patel, CJ

Proceedings have been conducted through video conferencing.

CM APPL.17078/2021 (exemptions from filing court fee/attested affidavit)

For the reasons stated in the application and in view of the present prevailing situation, the present application is allowed. However, the Applicant is

directed to file duly signed and affirmed affidavits within a period of one week and the requisite Court fee within a period of 72 hours from the date of

resumption of regular functioning of the Court.

The application is disposed of.

W.P.(C) No.5510/2021

1. This writ petition has been preferred with the following prayers:

â??a) Issue a writ of mandamus to the Respondents directing the Respondents to

consider and respond to the representations of the

Petitioners dated 29.04.2021, 04.05.2021, 07.05.2021 and 08.05.2021 and to hold a double blind human clinical trial on the Safety

and efficacy of the use of antipyretics in COVID-19 Moralties forthwith and further to modify the Treatment Protocol of Covid -19

patients across the country especially the management of Mild Cases in the light of the hypothesis of the Petitioners , if the course suggested

by the Petitioners, are found in order;

b) Issue a writ of mandamus directing the Respondents to lay down protocols against use of antibiotics and steroids in the treatment of mild

cases of Covid-19;

c) Pass any other or further order as may be deemed fit in the facts and circumstances of the present case.

2. Having heard the learned counsel for the Petitioners and looking to the facts and circumstances of the case, we see no reason to entertain this writ

petition.

3. Much has been argued by the learned senior counsel appearing for the Petitioners regarding the need to modify the treatment protocol of Covid-19

patients across the country, especially the management of mild cases in the light of hypothesis of the Petitioners. It is argued that the suggested

protocol of treatment by the Petitioners was brought to the notice of the Ministry of Health and Family Welfare by representation dated 29.04.2021

followed by reminders. The suggested regime of treatment by the Petitioners which aims at reducing use of antibiotics and antipyretics is supported by

International Research Papers and opinion of Experts globally as well as Virologist and Doctors from across the world. Learned senior counsel places

reliance on some Research Papers and medical literature placed on record and annexed to the writ petition. The treatment protocol adopted in

California for Covid-19 patients including the dosage is also highlighted through a Research Paper.

4. While the object of the Petitioners may be laudable but we cannot lose sight of the fact that treatment protocol for Covid-19 patients in India has

been devised by the experts in the field, after discussions, suggestions, trials and based on sound medical knowledge in this field and the Court cannot

readily accept the ipse dixit of the Petitioners based on some Research Papers.

Treatment protocol of Covid-19 patients in India which includes administering medicines, injections etc. is a complex procedure and Court is not equipped with the necessary expertise or medical knowhow to even direct the Government to substitute one protocol with another. Respondents have experts/multi-member committees for deciding the treatment protocol for Covid-19 patients in India and a team of experts is taking decisions based on verified data and trials. This cannot be altered or even interfered with by this Court.

5. While exercising powers under Article 226 of the Constitution of India, if this Court were to entertain petitions of this nature, there would be a floodgate of petitions where every petitioner would seek the relief of directing the Government to abide by his or her suggestions on a certain protocol and line of treatment. It is not for the Court to render advice much less issue directions to the Government on the line of treatment that is required to be followed, as we are sanguine that the Departments concerned have the assistance of able and competent Doctors, Scientists and Researchers in the field, to assist in devising or improving the protocols.

6. Learned senior counsel, at this stage, seeks a direction to the Respondents to dispose of the representations pending before them and look into the suggestions given. We see no reason to give any such direction to the Respondents to decide the representations of the Petitioners for modification/change of the treatment protocol. It is a matter of common knowledge that the officials in various Departments concerned with the Pandemic are already overburdened in handling the crisis of the Pandemic and they ought to be left to handle patients, their treatment and connected issues, rather than deciding representations of the Petitioners. In fact Respondents No. 2 and 3 are at present handling an additional crisis on account of a newly emerging infection i.e. Mucormycosis and have their hands full.

7. In view of the above, we see no reason to entertain this Public Interest Litigation, which is more in the nature of publicity interest litigation.

8. We, therefore, dismiss this writ petition with costs of Rs. 25,000/- (Rupees twenty five thousand only) to be paid by the Petitioners to the Delhi State

Legal Services Authority (DSLISA) within four weeks from today. The aforesaid amount shall be utilized for the programme of Access to

Justice.

9. A copy of this order be sent to the Member Secretary, Delhi State Legal Services Authority, Central Office, Patiala House Courts Complex, New Delhi - 110001.