

Court No. - 2

Case :- MISC. BENCH No. - 2534 of 2021

Petitioner :- Sri Sauhard Lakhanpal (Petitioner-In-Person)

Respondent :- State Of U.P. Thru Chief Secy. Lucknow & Ors.

Counsel for Petitioner :- In Person, Murli Manohar Srivastava

Counsel for Respondent :- Abhinav N. Trivedi, Anupras Singh

Hon'ble Devendra Kumar Upadhyaya, J.

Hon'ble Manish Kumar, J.

Heard Shri Murli Manohar Srivastava, learned Amicus appearing for the petitioner, learned State Counsel, Shri Anupras Singh, learned counsel representing Dr. Ram Manohar Lohiya Institute of Medical Sciences, Lucknow and Shri Ashish Kumar Pathak, Advocate holding brief of Shri Abhinav N. Trivedi, appearing for King George's Medical University, Lucknow.

This petition has been filed seeking a direction from the Court for ensuring appropriate treatment of the mother of the petitioner, who is suffering from Breast Cancer. The petition has been filed by Shri Sauhard Lakhanpal with the assertion that his father was a freelance Journalist, however, at present, he is out of employment for the last about a decade. The petitioner's mother, Smt. Uma Lakhanpal is suffering from Cancer. She is not a working woman and unfortunately the petitioner himself is also an unemployed youth. It has further been stated by the learned Amicus, after ascertaining the facts, that income of the petitioner's family is almost negligible or nil. In these circumstances, the petitioner is faced with the gigantic task of treatment of his mother.

The petitioner had applied for certain grants from Chief Minister's Discretionary Fund and accordingly from the said fund, grant of Rs.75,000/- (Rs. Seventy Five Thousand) has been

provided to the petitioner's mother vide letter of the Special Secretary of the State Government, dated 15.07.2020. The said amount has been deposited in King George's Medical University, Lucknow (hereinafter referred to as 'KGMU') for treatment of mother of the petitioner.

The petitioner's mother was diagnosed to be suffering from Infiltrating Ductal Carcinoma by the pathologist at KGMU on 17.04.2020 and she was admitted in KGMU on 28.04.2020. However, after undergoing certain medical examinations and pathological tests, she was discharged on 29.04.2020. The Department of Surgical Oncology provided an estimated cost of treatment of Rs.1,50,000/- (Rs. One Lakh and Fifty thousand) vide its certificate dated 08.05.2020 and accordingly the petitioner requested for grants from the Chief Minister's Discretionary Funds, however, as against the estimated cost of Rs.1,50,000/-, a sum of Rs.75,000/- only has been made available from the Chief Ministers Discretionary Funds. The petitioner's mother having been discharged from the Department of Surgical Oncology, KGMU had undergone two chemotherapy sessions on 09.05.2020 and 10.06.2020. As per the learned Amicus each sitting for chemotherapy treatment costed the petitioner Rs.10,000/-. However, on account of the financial crisis/condition of the family of the petitioner, the petitioner is not in a position to take treatment for her mother any further.

On query made by the Court, learned State Counsel, on the basis of instructions provided to him by the Special Secretary in the Department of Medical Education vide his letter dated 05.02.2021, has stated that the State Government has made provisions for free of charge treatment of patients suffering from incurable diseases, such as Cancer. He has further drawn attention of the Court to the rules made by the State Government

known as “उत्तर प्रदेश में असाध्य रोगों के निःशुल्क उपचार हेतु नियमावली, 2013” (hereinafter referred to as 'the Rules, 2013'). According to the said Rules, 2013, the State Medical Colleges and other Autonomous Medical Institutions provide free of charge medical facility for treatment of incurable diseases and in case any further facility is required for treatment, the treating Institution/Medical College is required to refer the patient for treatment to other Institutes/Medical Colleges. The said provision is clearly available in Part 5 of the Rules, 2013 which is quoted hereunder:

“भाग-5

अन्य राजकीय मेडिकल कालेजों के चिकित्सालय/संस्थानों/चिकित्सा विश्वविद्यालय में सन्दर्भित किया जाना

यह कि जिन राजकीय मेडिकल कालेजों एवं स्वायत्तशासी चिकित्सकीय संस्थानों में जिस सीमा तक उक्त असाध्य रोगों के इलाज की सुविधा उपलब्ध है, उस सीमा तक उनका इलाज उस कालेज/संस्थान में तदनुसार निःशुल्क उपलब्ध कराये जाने एवं उसके पश्चात् अग्रेतर इलाज के लिए अन्य कालेजों/संस्थानों में जहाँ उस स्तर की सुविधा उपलब्ध हों, (परिशिष्ट-अ एवं ब के अनुसार) में सन्दर्भित करते हुए उनका इलाज वहाँ कराए जाने की व्यवस्था लागू की जाती है।

इस नियमावली के अन्तर्गत निःशुल्क उपचार की सुविधा केवल प्रदेश के भीतर राजकीय मेडिकल कालेजों/चिकित्सालय संस्थानों/चिकित्सा विश्वविद्यालय में अनुमान्य होगी।”

Rule 1 in Part 2 of the Rules, 2013 provides that those patients who are suffering from incurable diseases, such as Cancer, Heart Disease, Liver Disease and Kidney Disease, shall be given the facility of free of charge treatment if they are BPL Cardholders. It further provides that in addition to BPL Cardholders those persons will also be given the facility of free of charge treatment under the said Rules, 2013 who have land holding upto 3.25 acres or whose income is less than Rs.35,000/- per annum.

As ascertained by the learned Amicus in this case, income of the family of the petitioner or his mother is negligible/nil and hence we find that the case of the petitioner's mother is covered under the aforesaid Rules, 2013 for free of charge treatment for

Breast Cancer. We have been informed by the learned Amicus that the Department of Radio Diagnosis at KGMU on 15.01.2021 has required the petitioner's mother to undergo bone scan and has referred her to Dr. Ram Manohar Lohiya Institute of Medical Sciences, Lucknow.

In view of the aforequoted provisions contained in Part 5 of the Rules, 2013, if the bone scan facility is not available in the KGMU, the same needs to be conducted at Dr. Ram Manohar Lohiya Institute of Medical Sciences, both of which have been earmarked in appendix A of the Rules, 2013 where free of charge facility for treatment is available for a patient who is suffering from Cancer.

Taking into account the overall facts and circumstances of the case, we direct as under:

(i) Petitioner's mother Smt. Uma Lakhanpal shall be admitted in the Surgical Oncology Department of KGMU within three days and shall be provided appropriate bed where her treatment shall start forthwith.

(ii) Whatever diagnostic tests/examinations are required and facility for which are available at KGMU, the same shall be conducted and performed at KGMU itself. In case any requisite diagnostic test or any other medical examination facility is not available at KGMU, patient may be referred to Dr. Ram Manohar Lohiya Institute of Medical Sciences. However, the treating doctors in the department of Surgical Oncology at KGMU shall ensure that if the samples for any test etc. is required, the patient will not be required to personally visit Dr. Ram Manohar Lohiya Institute of Medical Sciences and if it is possible, the sample etc. shall be collected from her bed at KGMU. All these arrangements shall be made under the direct supervision of the Senior Medical

Superintendent of the Hospitals at KGMU who shall personally report the developments in respect of the treatment of petitioner's mother on weekly basis to the Vice Chancellor of the University.

(iii) The Senior Medical Superintendent of the Hospitals at KGMU shall personally coordinate with the Chief Medical Superintendent at Dr. Ram Manohar Lohiya Institute of Medical Sciences, in case there arises any such requirement in the process of the treatment of the petitioner's mother, Smt. Uma Lakhanpal.

(iv) The entire treatment, including the medicines, medical equipments and medical diagnostic test/examination etc. of the patient shall be provided free of charge in terms of the provisions contained in Rules, 2013. The amount released for treatment of the petitioner's mother Smt. Uma Lakhanpal from the Chief Ministers Discretionary Funds may be utilized for the said purpose.

(v) We also provide that in case any medical facility of treatment/ diagnostic or medical examination is available at Sanjay Gandhi Post Graduate Institute of Medical Sciences, Lucknow, the same, if any such need is felt by the treating doctors at KGMU, will be availed from the said Institute as well. In this regard the Chief Medical Superintendent of SGPGIMS is directed to coordinate with the Chief Medical Superintendents at KGMU and Dr. Ram Manohar Lohiya Institute of Medical Sciences.

List this case on 24.03.2021 on which date a report shall be submitted by the Chief Medical Superintendent of Hospitals at KGMU giving therein the details of the steps which may be taken for treatment of petitioner's mother Smt. Uma Lakhanpal.

Learned Standing Counsel representing the KGMU, Dr. Ram Manohar Lohiya Institute of Medical Sciences and the State

Government shall communicate this order forthwith to all concerned.

Office is directed to furnish a certified copy of this order to the learned counsel appearing for the parties, including the learned Amicus, free of charge.

Order Date :- 9.2.2021

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