

The High Court of Madhya Pradesh : Bench At Indore

DIVISION BENCH: HON'BLE MR. JUSTICE VIVEK RUSIA &
HON'BLE MR. JUSTICE AMAR NATH (KESHARWANI)

Writ Petition No.3876/2017

PRAMOD KUMAR

.....PETITIONER

versus

1. THE STATE OF MADHYA PRADESH PRINCIPAL SECRETARY VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)
2. SECRETARY MEDICAL EDUCATION DEPARTMENT VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)
3. DEPUTY INSPECTOR GENERAL OF POLICE THE STATE OF MADHYA PRADESH POLICE CONTROL ROOM, REGAL TIRAHA, INDORE (MADHYA PRADESH)
4. CHAIRMAN (COMMISSIONER INDORE) MAHARAJA YASHWANTRAO HOLKAR HOSPITAL PRABANDH SAMITI INDORE DIVISION, INDORE (MADHYA PRADESH)
5. COLLECTOR THE STATE OF MADHYA PRADESH COLLECTOR OFFICE, INDORE (MADHYA PRADESH)
6. SUPERINTENDENT MAHARAJA YASHWANT RAO HOLKAR HOSPITAL M.Y. HOSPITAL , INDORE (MADHYA PRADESH)
7. THROUGH DR. SUNIL NARANG , DEPUTY SUPERINTENDENT (KARYAKALP PRABHARI) MAHARAJA YASHWANTRAO HOLKAR HOSPITAL M.Y. HOSPITAL INDORE (MADHYA PRADESH)
8. CONTRACTOR MAHARAJA YASHWANTRAO HOLKAR HOSPITAL M.Y. HOSPITAL , INDORE (MADHYA PRADESH)

.....RESPONDENTS

Writ Petition No.3880/2017

Between:-

SANJYA MITTAL

.....PETITIONER

versus

1. THE STATE OF MADHYA PRADESH PRINCIPAL SECRETARY PUBLIC HEALTH DEPT BHOPAL (MADHYA PRADESH)
2. PRAMUKH SACHIV GRAH VIBHAG MADHYA PRADESH SHASHAN MANTRALAYA BHOPAL (MADHYA PRADESH)

3. MAHANIDESHAK MADHYA PRADESH SHASAN POLICE MUKHYALAY BHOPAL (MADHYA PRADESH)
4. AAYUKT INDORE SAMBHAG INDORE (MADHYA PRADESH)
5. MAHANIRIKSHAK INDORE VRATT INDORE (MADHYA PRADESH)
6. JILA DANDADHIKARI JILA INDORE INDORE (MADHYA PRADESH)
7. POLICE ADHIKSHAK INDORE INDORE (MADHYA PRADESH)
8. SANUKT SANCHALAK LOK SWASTHYA EVAM PARIWAR KALYAN VIBHAG MADHYA PRADHESH SHASAN INDORE SAMBHAG INDORE (MADHYA PRADESH)
9. ADHIKSHAK MAHARAJA YASHWANT RAV CHIKITSALAYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

Indore, dated 03.03.2022

As per Vivek Rusia, J:

Shri Manish Yadav, learned counsel for the petitioner in W.P. No.3876/2017.

Shri Manohar Singh Chouhan, learned counsel for the petitioner in W.P. No.3880/2017.

Shri Umesh Gajankush, learned Additional Advocate General for the respondents / State.

Shri Romesh Dave, learned counsel for respondent No.7.

ORDER

Regard being had to the similitude in the controversy involved in the present case, with the consent of the parties, writ petitions are analogously heard and decided by this common order. Facts of Writ Petition No.3876/2017 are narrated hereunder.

The shocking news was published in the local daily newspaper having wide circulation in Indore as well as in nearby areas that on the night of 21-22.06.2017, 17 persons died on account of disruption in the supply of oxygen in various wards of Maharaja Yashwantrao Hospital (M.Y. Hospital), Indore. It has also been presumed by the reporter that several deaths are

occurring in M.Y. Hospital on regular basis due to mismanagement, inadequate medical facilities, shortage of staff, lack of maintenance in the oxygen supply system etc. The aforesaid news has shocked the people of the city and the said news has led to filing these two writ petitions in the nature of Public Interest Litigation (PIL). The petitioners have added more vague allegations in the petitions like corruption, negligence in the medical system being run by the State Government. The petitioners by way of these petitions are seeking criminal as well as disciplinary action against the persons responsible for the death of innocent persons along with a heavy amount of compensation to family members of the victims. By way of interim relief, the petitioners have sought investigation / inquiry by an independent agency headed by a retired High Court Judge.

02. How the news was published, it appears that due to the lack of supply of oxygen, all of sudden 17 patients died due to suffocation. It was only speculation in the corridor of M.Y. Hospital that the reason behind these 17 untimely deaths, was the disruption in oxygen supply as per the news reporter. The then Commissioner, Indore as well as Superintendent of M.Y. Hospital have denied the aforesaid reasons behind these deaths. Since the news was so shocking, the Member of Parliament and other political leaders shown their concern and thought for an inquiry.

03. The Management of M.Y. Hospital has conducted an internal inquiry and concluded that the condition of all 17 patients was critical and they died because of the illness, not due to lack of oxygen. There was no such disruption in oxygen supply in the entire M.Y. Hospital. The Medical Officer of M.Y. Hospital has filed a reply stating in both the writ petitions that M.Y.

Hospital is the biggest and super specialty Government Hospital in the State of Madhya Pradesh with the facility of 1309 functional beds. In the hospital, most of the persons are being referred from the District Hospitals and Primary Health Centre of nearby areas in critical conditions. Most of the patients are from middle-income groups and lower-income groups who cannot afford expensive treatment in a private hospital. The death of 10 to 15 persons per day is an average death ratio in the M.Y. hospital not because of lack of treatment or basic facilities.

04. It is further submitted that from 01.06.2017 to 21.06.2017, as many as 280 persons died in the hospital. The respondents have again given a figure about the death of 17 patients. From 21.06.2017 to 22.06.2017 between 8:00 am to 8:00 am out of 17 patients, 6 persons died, and the remaining 11 persons died between 8:00 pm to 8:00 am. They all were admitted to different wards. It is further submitted that on the fateful night, in MICU Ward five were on a ventilator and three were on oxygen. Eight operation theatres are working 24 hours. At that relevant point in time, surgeries were going on, and therefore, there was no disruption in the supply of oxygen. The allegations are baseless and only made in order to defame the medical facilities given by the Government free of cost. It is further submitted by the learned Additional Advocate General that no one from the family of deceased has made any complaint either to the police or hospital management, hence, the petitions are liable to be dismissed.

05. After filing this reply, respondents have also constituted a committee to inquire about any malfunctioning or fault in the oxygen plant. The following Government officers were the

member of the Committee who inspected the plant and supply:-

1. Dr. R.K. Mundra, Professor / HOD, ENT Department, My Hospital, Indore;
2. Shri Ajaydev Sharma, Additional Collector / Additional District Magistrate, Indore;
3. Dr. S.B. Bansal, Professor, Community Medical Department;
4. Shri Prashant Basod, HOD, Biomedical Engineer, SGSITS, Indore;
5. Shri Nirmal Shrivastava, Executive Engineer, PWD, Indore;
6. Shri Siddhartha Mishra, Administrative Officer, SGAITS, Indore;
7. Shri Satish Hirve, Administrative Officer, Mental Hospital, Indore.

06. The Inquiry Committee submitted a report that during 24 hours oxygen plant was working properly. There was no stoppage of supply and the Committee did not find any fault in oxygen supply as well as in refilling. Although the committee has made certain recommendations for improvement in the system as the oxygen plant has become very old.

07. After filing of the return, the petitioners have filed the rejoinder stating that one person namely Ram Singh, resident of District – Mandsaur was discharged on 13.06.2017 and again admitted on 21.06.2017 in ICU of MYH, thereafter, he died due to lack of oxygen.

08. The respondents have filed an additional return to explain that Ram Singh was suffering from malfunctioning of the kidney as also pulmonary tuberculosis and died because of it not due to lack of oxygen.

09. We have heard learned counsel for the parties at length and perused the record.

10. These writ petitions (PIL) are only based on the news published in various newspapers suspecting the death of 17

patients in M.Y. Hospital due to disruption in oxygen supply. Apart from paper news, not a single material has been filed in these petitions to support the allegations. The petitioners have presumed that the death occurred due to shortage of supply of oxygen, corruption, negligence etc. on the part of the Management of M.Y. Hospital. It is very easy for newspaper agencies or the general public to blame the Government institutions. M.Y. Hospital is the only hospital in Indore or the nearby area that has 1309 functional beds. The patients from lower-income groups and below the poverty line (BPL) are getting the best treatment from the highly qualified doctors and paramedical staff virtually free of cost. There are eight operation theatres continuously working 24 hours. PG students are there to give treatment while pursuing studies and all the faculties are given 24 hours 365 days. The Government is spending so much amount to provide free medical facilities to persons who cannot afford expensive treatment in a private hospital, therefore, before making such serious allegations in the newspaper as well as by way of the writ petition, a basic inquiry ought to have been conducted. The respondents have given a detail that every patient was in critical condition and died due to illness. As many as 6 Government Officers from different departments have jointly inspected the oxygen plant and found that there was no malfunctioning as well as disruption in oxygen supply and we have no reasons to disbelieve their reports, therefore, filling of these Public Interest Litigation based on the paper news, is nothing but misuse of the process of law.

11. During the course of the argument, the Superintendent of M.Y. Hospital present in the Court has submitted that not a single

relative of the patients died on 21-22.06.2017 neither made a complaint nor claimed any amount of compensation from the Management of the Hospital. All the deaths were natural death as the patients were in critical condition. In case of death due to negligence on the part of the hospital either by a doctor or any other faculty led to the filing of case before the consumer forum but not a single case has been filed making allegations that the 17 death was occurred due to negligence on the part of the MY Hospital.

12. These two writ petitions were filed in the year 2017 and 50 times, all these petitions were listed before this Court only because the newspaper reporter has assumed that death took place due to disruption of oxygen supply and due to such insinuation, havoc has been created and petitioners have rushed to this Court by filing these writ petitions showing concern about the death without inquiring the matter. Had it been a case that death occurred due to negligence, the police would have registered FIR *suo motu* but no case has been registered, no complaint has been made either to the police or the Management of M.Y. Hospital, therefore, we are not inclined to entertain these petitions.

13. In view of the above, these Writ Petitions (PIL) stand dismissed with a cost of Rs.10,000/- each on all the petitioners. The cost shall be paid to the MY Hospital Indore.

(VIVEK RUSIA)
J U D G E

(AMAR NATH (KESHARWANI))
J U D G E

Ravi