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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
LD-VC- 50 OF 2020

Mohiuddin Vaid

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

Mr. Mohiuddin Vaid, Petitioner-in-person, present.

Ms. Purnima Kantharia with Ms. Jyoti Chavan AGP for State

Mr. A.Y.Sakhare, Sr. Counsel a/w Mr. Rohan Mirpure a/w Madhuri More
a/w Rupali Adhate for MCGM

CORAM: DIPANKAR DATTA, CJ. &
S. S. SHINDE, J.

MAY 22, 2020.

P.C.:

1. Noticing a media report that an expecting lady was refused admission at J.J. Hospital, Mumbai on the ground that she did not carry with her a COVID-19 negative report and also that such lady was subsequently denied admission in Dholkawala Hospital, whereafter she was attended to by an old lady who helped her in delivering the child, the petitioner, a legal practitioner, instituted this PIL petition seeking, inter alia, the following reliefs:

“(A) That this Hon’ble Court be pleased to issue appropriate Writ Order or direction in the nature of Mandamus directing the Respondents to issue appropriate circular and/or rules and/or regulations binding the hospitals which shall regulate the admission of persons seeking admission in hospitals during the current pandemic COVID-19;

“(B) That this Hon’ble Court be pleased to issue appropriate Writ Order or direction in the nature of Mandamus directing the Respondents to admit the patients going through emergent medical situation which cannot wait beyond receipt of Covid medical report;”

2. While hearing this PIL Petition on an earlier occasion, a Division Bench of this Court had called upon the Municipal Corporation of Greater Mumbai to file a reply affidavit indicating therein the names and particulars of maternity homes and clinics which are attending to expecting ladies and the number of deliveries that have been performed in such maternity homes over the past couple of months.

3. Two affidavits-in-reply have been filed before us, one by the Corporation and the other by the State.

4. The particular incident referred to in the PIL petition has been controverted by the State in its reply affidavit. It is the specific case of the State that no details of the concerned lady are available with the J.J.Hospital and it is difficult for the authorities to furnish a specific reply with regard to

the contention raised in the PIL petition. However, the reply affidavit refers to facts and figures relating to deliveries conducted at J.J. Hospital over the past few days. It is the categorical stand of the State that there has been no slip on its part to attend to expecting ladies during these trouble times. The protocol in respect of Out Patients Department has been de-alienated in such affidavit. We quote the relevant paragraph hereunder:

“When antenatal patient comes to OPD No.16, all routine investigations and Covid swap is sent. Patient is asked to follow up with the investigations. If test is Covid negative, treatment is continued at J.J. Hospital. In case, if Covid report is positive patient is referred to BMC Covid Hospital or to Cama & Albless Hospital (Government Hospital) in Ambulance provided by Hospital”.

It is also averred in such affidavit that J.J.Hospital is a non-Covid hospital.

5. The reply affidavit of the Corporation contains an averment that there have been 3905 deliveries in March, 4169 deliveries in April and about 2412 deliveries till the date of affirmation of the affidavit, of which about 359 patients tested positive for COVID-19. Such COVID-19 positive patients have been treated in special facilities. It is the further claim of the Corporation that revised guidelines have been issued on May 12, 2020 for testing of even asymptomatic patients who are expected to deliver in the next five days and should any of such expecting ladies test positive for COVID-19, it has been assured that all arrangements would be made to arrange for smooth delivery in other facilities available with the Corporation. The affidavit also includes in its exhibit the names of the

hospitals which have been identified as COVID hospitals together with the number of beds available thereat.

6. Based on the above facts and figures, we record our satisfaction that the Corporation and the State have lived up to the expectations of the people in general and the expecting ladies in particular. The number of deliveries performed during the past three months provides reason to hold that the contentions urged by Mr. Sakhare and Ms. Chavan are sound and that there has not been any reported incident of negligence does not call for judicial intervention on this PIL petition.

7. Reacting to the submission of Mr. Vaid that an exclusive helpline ought to be provided to attend to calls of expecting ladies, Mr. Sakhare submits that the helpline (1916) is provided by the Corporation for Covid/non-Covid patients including expecting ladies, which are attended to by the available doctors, and it may not be possible to accede to the request of the petitioner at this stage. We appreciate the difficulties being encountered by the Corporation. However, we hasten to add that subject to the situation improving in future, the Corporation may explore the possibility to provide exclusive helpline for expecting ladies.

8. We, therefore, dispose of this PIL petition expressing hope and trust that the State and Corporation shall continue in its efforts to ensure that expecting ladies are well attended to even in these testing times and that maximum care is taken so that not only the mother but the new born child does not face difficulties till such time normalcy is restored. There shall be no order as to costs..

9. This order will be digitally signed by the Sr. Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

S. S. SHINDE, J.

CHIEF JUSTICE