IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURIDICTION

WRIT PETITION (CIVIL) NO. 138/2024

IN THE MATTER OF :

DR. RAJSHREE NAGARAJU .....PETITIONER

VS.

UNION OF INDIA & ORS. .....RESPONDENT

INDEX

Date : 13/8/24

Place : New Delhi

ADVOCATE FOR RESPONDENT : AMRISH KUMAR

IN THE SUPREME COURT OF INDIA

EXTRA ORDINARY ORIGINAL JURISDICTION

WRIT PETITION [C] NO. 138 OF 2024

IN THE MATTER OF:-

Dr. Rajshree Nagaraju ...Petitioner

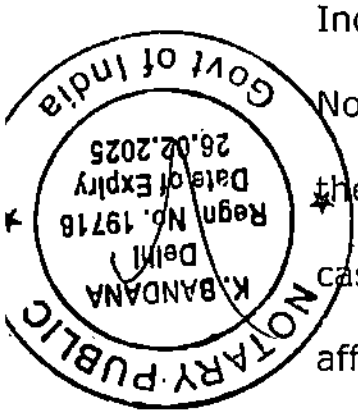
Versus

Union of India & Ors. ...Respondent

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1

I, Rajesh Kumar S/o Late Shri Narottam Singh, Working as Under Secretary in the Ministry of Health & Family Welfare, New Delhi, do hereby solemnly affirm and sincerely state as follows:-

1. That I am working as the Under Secretary to the Govt. of India, Ministry of Health & FW for the answering Respondent No.1 in the aforesaid matter and have thoroughly perused the entire Writ Petition and is well aware of the facts of the case, hence, am competent to swear the present counter affidavit on behalf of the respondent No.1.



2. That primarily I state that all averments, contentions and allegations made by the Petitioners, in the aforementioned

Petition, to the extent they are inconsistent with the submissions made hereinafter in this Counter Affidavit, are incorrect and denied.

3. That I have gone through the contents of the list of the dates, questions of law framed and the grounds raised in the present Petition and, hereby, denies all the averments made therein **"ad verbatim in seriatim"** unless the same have been expressly admitted herein.

4. That the answering respondent is filing a short counter affidavit and will be file the detailed counter affidavit as and when this Hon'ble Court will ask for the same.

5. It is respectfully submitted that the following scheme are in continuously working for the welfare of the public. The details of the same are as under:

National Health Policy (NHP)

The National Health Policy (NHP) of India, released in 2017, addresses various aspects of healthcare delivery in the country, including the importance of palliative care. It emphasizes the importance of providing comprehensive healthcare services that address the diverse needs of the population. This includes ensuring access to palliative care

services for patients with advanced illnesses and their families.

The Ministry of Health and Family Welfare has been making efforts to address the growing need for palliative care in the country. The National Cancer Control Program was launched in India in 1975, wherein palliative care was provided as a part of the cancer care. Later, the Ministry constituted an expert group on palliative care which submitted its report Proposal of Strategies for Palliative Care in India in November 2012. Subsequently, National Program for Palliative Care (NPPC) was launched in 2013-14, which is now a part of the National Health Mission (NHM). It caters cancer patients, HIV /AIDS patients, chronic or end stage renal disease, Alzheimer dementia patients, frail bedbound elderly, inclusive of all those who require respite care and end of life care.

The National Programme for Palliative Care (NPPC) has the goal of availability and accessibility of rational quality pain relief and palliative care to the needy, as an integral part of Health Care at all levels, in alignment with the community requirements

Under the National Programme for Palliative Care, Operational Guidelines have been released in 2017 for the implementation of the programme effectively. On the basis of these guidelines, the states/UTs prepare their proposals under National Programme for Palliative Care(NPPC) and incorporate them in their respective Programme Implementation Plans (PIPs) to seek financial support under National Health Mission(NHM). The government of India is providing the financial support to the States/UTs.

2. Home Based Care

Home based care is being delivered by most states to bedridden elderly and patients needing end of life care. Under the Ayushman Arogya Mandir - SC, palliative care is included as extended package of services. The identification, management of simple conditions like wounds, osteotomies etc., medicines, supplies as a palliative care kit are provisioned. Community Health Officer, MultiPurpose Worker & Accredited Social Health Activist (ASHA) and involvement of community has been mandated to provide services to both patients and the family members.

3. Continuum of Care

Palliative care is included in the continuum of care through provision of services for chronic malignant and non-malignant diseases patients. Additionally, it is already a part of the extended package of services under the Ayushman Bharat Health & Wellness Centres.

4. Training & Capacity building

Modular Trainings have been made available for existing Medical Officer, Staff Nurse, Community Health Officers and ASHA. State level trainings is conducted to prepare master trainers followed by district level and below trainings have also been conducted by few states.

5. Kerala model of palliative care

The Government of Kerala has integrated palliative care with healthcare policy at all levels in a three-tier system. Local governments and over 350 non-government and community-based organizations are now providing Palliative Care services, largely home-based. The Kerala Model places a strong emphasis on community participation and volunteerism integrated with Primary Health Care

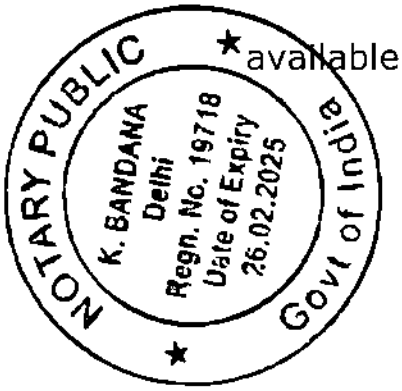
system especially through dedicated nurses under the overall leadership of local governments.

6. Drugs

As per amendment of the Narcotic Drugs and Psychotropic Substances Act, most District Hospitals have been already designated as Recognised Medical Institute (RMI). Medical officers are being trained by the states for morphine and other [Essential Narcotic Drugs (END's)] procurement, storage, prescription and dispensation.

7. Ayushman Bharat Pradhan Mantri Jan Arogya Yojana(AB-PMJAY)

National Health Authority(NHA) has informed that under AB PMJAY, the treatment of Cancer has been one of the prime focus areas to safeguard the beneficiaries from catastrophic expenditure of treatment. NHA has signed Memorandum of Understanding with National Cancer Grid (NCG) and Tata Memorial Hospital (TMH). Further, 42 packages and 42 procedures i.e National Health Benefit Package (HBP) are available under AB-PMJAY.



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8. Palliative Care Under National AIDS Control Program (NACP)

1. Palliative care for adults and children living with HIV under the National AIDS Control Program (NACP) is a crucial component of the holistic care provided to individuals living with HIV/AIDS. The National AIDS Control Organisation (NACO) has been actively involved in integrating these services into Antiretroviral Therapy (ART) centers across the country, ensuring that patients receive comprehensive care that addresses not only their medical needs but also their psychosocial and emotional well-being.

National AIDS Control Organisation(NACO) monitors the implementation of palliative care services through regular assessments and feedback mechanisms. This ensures that the quality of care provided meets the set standards and addresses the evolving needs of patients. Palliative care is a vital component of the comprehensive HIV care model under the National AIDS Control Program (NACP). Through strategic funding, training, and integration with Antiretroviral Therapy (ART) services, NACO ensures that both adults and children living with HIV receive.

compassionate and effective care aimed at improving their overall quality of life.

3. The availability of Antiretroviral Therapy (ART) and palliative care has made HIV a manageable disease for many. Anti-retroviral drugs, Counselling, Nutritional support and Opportunistic Infection management and palliative care included as package of services for people living with HIV/AIDS through ART centres and care support centres across the country.

9. National Programme for the Health Care forthe Elderly (NPHCE)

The National Programme for the Health Care forthe Elderly was launched by the Government of India in 2010-11 to address the health care needs of the elderly population. NPHCE is an articulation of the International and national commitments of the Government as envisaged under the UN Convention on the Rights of Persons with Disabilities (UNCRPD), National Policy on Older Persons (NPOP) adopted by the Government of India in 1999 & Section 20 of " The Maintenance and Welfare of Parents and Senior Citizens Act, 2007" dealing with provisions for medical care

of Senior Citizen. Under this program , apart from provisions for health promotional preventive and curative services for the geriatric population, there is also the provision of domiciliary visits for attention, needed care, counselling and rehabilitative services to the home-bound and bed-ridden elderly persons and to provide training to the family care providers of the disabled elderly people.

10. Palliative Care Medicine Department in Colleges

National Medical Commission has informed that setting up of Palliative Medicine Department in each Medical College would depend on the availability of infrastructure and the faculty.

11. Research

Indian Council of Medical Research(ICMR) has constituted India Cancer Research Consortium (ICRC) in which public and private entities working in cancer research are on board. ICRC's focus is on India Centric Cancers with 06 thematic areas including Palliative Care. It is placed in priority areas of research involving both government and private set up.

12. Progress under National Programme for Palliative Care (NPPC)

- Under the NPPC, services like Out-Patient Department (OPD), In-Patient Department (IPD), referral, home based palliative care, training are being provided at District level. As per the information obtained from the States/UTs, a total of 609 Districts are approved in which 493 districts are functional as of December 2023.

PARAWISE REPLY:

1. That the para No.1 of the Writ Petition are matter of record, hence need no reply.

2. That the petitioners herein have not formulated any substantial questions of law which can warrant interference by this Hon'ble Court in its inherent jurisdiction under Article 32 of the Constitution of India.

Reply to Grounds

That the petitioners have not make out any ground for interference of this Hon'ble Court in the present Petition. It is respectfully submitted that the

grounds, the answering reiterated the preliminary objection to avoid repetition of the same.

6. That the petitioners have failed to make out any ground for interim relief, which can warrant interference by this Hon'ble Court.

For the aforesaid reasons, the Writ Petition is devoid of any merits and the same is liable to be dismissed.

9. That no new facts which were not pleaded before the Courts below have been pleaded in the present Counter Affidavit.

DEPONENT

(राजेश कुमार)
(RAJESH KUMAR)
अवर सचिव/Under Secretary
स्वास्थ्य एवं परिवार कल्याण मंत्रालय
Ministry of Health & F.W.
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

13/8/2024
IDENTIFIED

VERIFICATION

I, the above named deponent, do hereby verify that the contents of the aforesaid paragraphs of this affidavit are true and correct to the best of my knowledge, belief and no part of it is false and nothing material has been concealed from.

Verified at New Delhi on this day 13th of August, 2024.

NOTARY PUBLIC
K. BANDANA
Delhi
Regn. No. 19718
Date of Expiry
26.02.2025
Govt of India

13 AUG 2024

ATTESTED
NOTARY PUBLIC DELHI
Govt of India
Mob.: 9654768498

DEPONENT

(राजेश कुमार)
(RAJESH KUMAR)
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