

Rakesh Kumar Singh Vs State of U.P. and others

Court: Allahabad High Court

Date of Decision: Dec. 4, 2000

Acts Referred: Constitution of India, 1950 " Article 226

Citation: (2001) 1 AWC 20

Hon'ble Judges: Binod Kumar Roy, J; A.K. Yog, J

Bench: Division Bench

Advocate: Malaya K. Shukla, for the Appellant; Sabhajeet Yadav and P.K. Besaria, S.C., for the Respondent

Final Decision: Allowed

Judgement

Binod Kumar Roy and A. K. Yog, JJ.

The prayer contained in the present petition are to the effect that this Court may be pleased to issue

a writ, order or direction in the nature of certiorari and quash the impugned orders dated 13.10.1999 and 2.11.1999 (Annexures-1 and 2 to the

petition) and a writ of mandamus directing the respondents not to interfere with the proper functioning of the Post Partum Centre in the new District

Hospital (Ram Prasad Bismil District Hospital), Shahjahanpur apart from other usual reliefs.

2. Annexure-1 to the petition is the letter from the Director General, Rashtriya Karyakram Anushrawan Evam Mulyankan, Family Welfare

Directorate, U. P. Lucknow addressed to the Chief Medical Superintendent, Shahjahanpur requiring him not to shift the old centre to the new

building and maintain status quo in compliance to earlier order dated 7.7.1999. Annexure-2 to the petition is an order of Chief Medical

Superintendent, District Women's Hospital, Shahjahanpur, referring to the order dated 13.10.1999 of the State Government, requiring the staff of

the Centre to continue to work at their old place and deposit the articles issued to them from District Women's Hospital.

3. The petitioner Rakesh Kumar Singh has approached this Court by filing this writ petition under Article 226 of the Constitution of India alleging,

inter alia, amongst others, that being resident of district Shahjahanpur, he has interest in the subject-matter of this petition ; a Post Partum Centre

(Zila Prasawaottar Kendra) in its existing building called "Old District Hospital" was to be shifted with Ram Prasad Bismil District Hospital to a

new complex having all modern facilities, situate over about 100 Hectares of land raised at a cost of Rs. 14 crores ; after said building is

constructed and equipped, the orders impugned as contained in Annexures-1 and 2 were passed to keep the matter in "stalemate" and as a

consequence thereof, the entire project has been directed to be kept in abeyance so as to maintain "status quo"; the impugned orders have been

passed with ulterior motive at the behest of certain persons prompted and motivated by extraneous consideration having no concern with the

general interest of the public and purely on the ground of their own personal vested interests ; in case the Post Partem Centre is transferred to the

new hospital, public at large will have the advantage of availing modern facilities like Ultra Sound etc. besides "expectant mothers" having the

advantage of emergency services.

The petitioner has attempted to highlight the importance of health of future generation of the country and of healthy "nation" for general welfare in

our society.

4. This petition was filed on 2.12.1999. A Division Bench granted three weeks time to the respondents for filing counter-affidavit. The case was

listed on 23.12.1999 but no counter-affidavit was filed (see office report of the date on the order sheet). On 7.4.2000, a Division Bench of this

Court again granted time and required the respondents to submit an explanation in the form of report for non-action in the matter. The case was,

thereafter, listed on two occasions but no counter-affidavit has been filed till date. It may be recalled that on 7.4.2000 the learned standing counsel

(Sri Sabhajeet Yadav, Advocate) was required to intimate the order of the Court to the Secretary, Department of Health, Government of U. P. for

taking appropriate action. None of the respondents (including Secretary of the Department concerned) have cared to file counter-affidavit or

submit their report as stated by the learned standing counsel. The learned standing counsel further orally informs this Court that he has no

instruction in the matter despite repeated intimation and communication to the respondents.

5. Heard Sri Malaya K. Shukla, the learned counsel for the petitioner, who in the peculiar facts and circumstances prayed to allow this writ

petition, as well as Sri Sabhajeet Yadav, learned standing counsel and perused the record.

6. Healthy babies are invaluable and precious national resource, and to have a "Healthy Nation" will remain a dream if expectant mothers are not

provided all possible and proper "pre-natal" care. From the facts stated in the petition, which have been unrebutted, coupled with the

circumstances that the respondents have no defence to offer inspite of repeated opportunities being given, we are of the considered opinion that

huge public money having been invested in constructing "New Hospital Complex" with modern facilities should not be allowed to go in vain. The

money spent by the Government on behalf of the public must not be wasted and the complex (New Hospital) must be utilised forthwith;

particularly when there is no explanation whatsoever for not carrying the project to its logical end.

7. Accordingly, the orders dated 13.10.1999 and 2.11.1999 as contained in Annexures-1 and 2 to the writ petition being arbitrary and without

any reasonable justification are quashed. The respondents are directed to ensure shifting of the Post Partem Centre forthwith. The writ petition

stands allowed.

8. No order as to cost.

9. The office is directed to hand over a copy of this order within one week to Sri Sabhajeet Yadav, learned standing counsel, for its intimation to

the authority concerned.