

(2000) 12 AHC CK 0055

Allahabad High Court

Case No: C.M.W.P. No. 49411 of 1999

Rakesh Kumar Singh

APPELLANT

Vs

State of U.P. and others

RESPONDENT

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 Partem 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 lime 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.