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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 2442/2021, CM APPL. 7098/2021

SURENDRA KUMAR & ANR. .....Petitioners

Through: Mr. Ashok Agarwal, Ms. Ashna Khan, Mr. Kumar Utkarsh and Mr. Manoj Kumar, Advocates.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Rajesh Kumar, Advocate for UOI.
Mr. Tanveer Oberoi, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 16.07.2024

1. The Petitioners underwent renal transplant surgery in 2017 at Respondent No. 2 – All India Institute of Medical Sciences[1] after securing financial assistance from the Ministry of Health and Family Welfare, Government of India. Post the transplant, they have been prescribed specialised medicines, and through this petition, they seek continuous financial aid from AIIMS for provision of the medicines, that cost nearly Rs. 10,000/- a month, without any charge.

2. Petitioner No. 1 has unfortunately deceased during the pendency of the writ petition. For Petitioner No. 2 – Mr. Raj Kumar Singh, an amount of

[1] "AIIMS."

Rs. 4,95,000/- was sanctioned by the Government under the Rashtriya Arogya Nidhi Scheme. These funds were transferred to AIIMS and have since been exhausted. The Petitioners however seek a lifetime assistance from AIIMS in respect of the specialized medicines, citing their financial inabilities. They point out that AIIMS is providing other medicines, except the two essential medicines which form subject matter of the present proceedings. On 28th February, 2023, AIIMS was directed to consider the Petitioner's case. In terms thereof, on 13th January, 2024, a Committee comprising of the Head of Department and Chairperson of AIIMS deliberated on the Petitioner's situation *vis-à-vis* AIIMS' policy for Provision of Medicines/ Consumables to Indigent and BPL Cases admitted in AIIMS, and have submitted a report. Counsel for AIIMS has handed across the board a copy of the said report, which is taken on record.

3. The Committee has expressed their inability to provide necessary medical assistance. While taking into consideration the specific challenges posed by lifelong medication requirements, they have opined that in disbursing the limited funds available with them, AIIMS has to maintain a balance between providing necessary medical assistance and ensuring a fair and equitable distribution to all those in need. They have further recommended certain measures to ensure fair distribution to indigent persons requiring medical assistance, which are extracted below:

> *"1. **Review of Existing Policy**: The committee suggested a comprehensive review of the existing policy and procedure for providing free treatment, medicine, and surgical items to needy patients from AIIMS poor funds.*
> *2. **Constitution of Allocation Committee**: The committee recommended the establishment of a Allocation committee comprising specialists from various disciplines to assess requests from different clinical departments and make informed decisions on fund allocations to different patients.*
> *3. **Equal Allocation for All Beneficiaries**: The committee advised that all*

clinical departments may submit names and details of poor and needy patients, along with an estimate certificate, who could benefit from treatment. The committee also Emphasized that the fund should be utilized equally for all beneficiaries across clinical departments.

4. ***Maximum Treatment Period****: The committee suggested that treatment from this fund be provided for a maximum period of one year to ensure maximum benefit.*

5. ***Preference for Unassisted Patients****: The committee suggested that treatment should preferably be provided to patients who have not received financial assistance from any other source (Government or Non-Government).*

6. ***SOP for Fund Utilization****: The committee recommended the creation of a Standard Operating Procedure for the utilization of these funds by the Department of Hospital Administration.*

7. ***Government Policy for Life-Saving Drugs****: The committee acknowledged the absence of a government policy for providing lifesaving drugs to all transplant patients free of cost. Committee also highlighted that, in the absence of any such a policy, providing medicine indefinitely to these patients may not be feasible within the limited resources. Also providing medicine only to litigants may result in unequal treatment.*

8. ***Inclusion in Free Generic Pharmacy****: The committee recommended the inclusion of the required medicine in the formulary of the "Free Generic Pharmacy" operated by HLL Lifecare Ltd at the AIIMS campus. This would ensure that the medicine is provided free of cost to all patients, including those involved in the legal proceedings."*

4. In the opinion of the Court, the afore-noted observations of the Committee are germane in facilitating supply of medicines over an extended period of time. Accordingly, the Court directs that the aforesaid recommendations be taken into consideration by AIIMS in formulation of a revised policy for provision of medical assistance to the patients in need.

5. In addition, counsel for Petitioner submits that under the Rashtriya Arogya Nidhi Scheme, Petitioner No. 2 is entitled to nearly Rs. 15,00,000/- against which, only an amount of Rs. 4,95,000/- has been sanctioned. He points out that this Scheme is presently under consideration in a PIL [W.P.(C) 5502/2024], which is now listed before the Hon'ble the Acting Chief Justice on 02nd September, 2024.

6. In view of the above, the present proceedings are adjourned to 30th September, 2024.

SANJEEV NARULA, J

JULY 16, 2024
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