

2025 LiveLaw (SC) 1199

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

PAMIDIGHANTAM SRI NARASIMHA; J., R. MAHADEVAN; J.
SPECIAL LEAVE PETITION (C) NO. 16860 OF 2021; DECEMBER 11, 2025

PRADEEP ARORA & ORS.

versus

DIRECTOR, HEALTH DEPARTMENT, GOVT. OF MAHARASHTRA & ORS.

Epidemic Diseases Act, 1897 – Sections 2, 3, and 4 – Maharashtra Prevention and Containment of Coronavirus Disease 2019 (COVID-19) Regulations – Regulation 10- Supreme Court examined whether a notice issued by a Municipal Corporation directing a private doctor to keep his clinic open during the lockdown constitutes "requisitioning" of services - Interpretation of "Requisitioning" – Noted that High Court had held that a notice directing a private practitioner to keep their clinic open was merely to ensure continuity of essential services and did not amount to a specific requisition for COVID-19 duty - Supreme Court reversed this narrow interpretation, holding that given the "compelling situation" of the pandemic and the invocation of the Epidemic Diseases Act, such notices constitute "requisition" of services - Declared that a conjoint reading of the Epidemic Diseases Act, the Maharashtra COVID-19 Regulations, and specific Municipal confirms the requisition of services of doctors and medical professionals - Supreme Court refused to accept the "simplistic submission" that the absence of an individual letter of appointment or specific "drafting" meant there was no requisition - The invocation of special laws to mandate service under threat of criminal prosecution (Section 188 IPC) is sufficient to infer requisitioning - While the Court established the fact of "requisition," it clarified that individual claims still depend on evidence - The claimant must prove the deceased lost their life while performing COVID-19-related duties - Held that the families of doctors who died while doing their duties during the Covid-19 pandemic are entitled to the Central Government's insurance coverage scheme "Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers Fighting COVID-19", even if they were not formally requisitioned by the Government. [Paras 16 - 30]

[Arising out of impugned final judgment and order dated 09-03-2021 in WPL No. 93840/2020 passed by the High Court of Judicature at Bombay]

For Petitioner(s) : Petitioner-in-person

For Respondent(s) : Mr. Aaditya Aniruddha Pande, AOR Mr. Siddharth Dharmadhikari, Adv. Mr. Shrirang B. Varma, Adv. Mr. Bharat Bagla, Adv. Mr. Sourav Singh, Adv. Mr. Aditya Krishna, Adv. Mr. Adarsh Dubey, Adv. Ms. Chitransha Singh Sikarwar, Adv. Mr. Suhaskumar Kadam, Adv. M/S. Black & White Solicitors, AOR Mr. Rajat Nair, Adv. Mr. S.k. Singhania, Adv. Mr. Ketan Paul, Adv. Mr. Navanjay Mahapatra, Adv. Ms. Shivika Mehra, Adv. Mr. Sudarshan Lamba, AOR Mr. Abhishek Kumar, Adv. Mr. Nikhil Jain, AOR Ms. Divya Jain, Adv. Mr. Anshul Mehral, Adv. Mr. Akshat Shrivastava, AOR Mrs. Pooja Shrivastava, Adv. Mr. Niteen Sinha, Adv. Mr. Palash Pareek, Adv. Mr. Lohit Panchal, Adv. Mrs. Manjula Chaurasiya, Adv. Mr. Amarjeet Singh, AOR

J U D G M E N T

1. Leave granted.
2. The onset of COVID-19 pandemic at the dawn of 2020 was unprecedented in its global sweep and consequence. Not since the 1918 influenza pandemic, an event coeval with the first world war, had a single infectious disease inflicted such widespread crisis on

human civilisation. The global death toll rising to millions, as revealed in the World Health Organisation's data, presents a tragic picture of this disruption. While COVID-19 pandemic exposed an acute systemic fragility within the global healthcare sector, highlighted lack of preparedness and strained the capacity of health professionals, our doctors and health professionals rose as unwavering heroes, turning challenges into courage. Indian Medical Association's COVID-19 registry records 748 doctors' deaths in the first wave and hundreds more in subsequent waves; one estimate noted around 798 doctors lost during the second wave alone.

3. Four years after the pandemic, when we are called upon to interpret the Government's assurance under the Pradhan Mantri Garib Kalyan Yojna, an insurance scheme for doctors and healthcare workers fighting Covid-19, we can neither forget the situation that prevailed in 2020, nor the purport of State's assurance to the doctors who were 'requisitioned' invoking special laws and regulations. A claim for insurance by appellant no. 3, wife of a deceased doctor was rejected on the ground that there is no proof of 'requisitioning' of his services for Covid related duties. This decision was upheld by the High Court in the order impugned before us. We are called upon to examine if there is 'requisitioning' of the services of appellant no. 2. Tasked with this duty, we will now proceed to examine the laws, rules and regulation, by which requisitioning was done.

4. In exercise of powers conferred by sections 2, 3 & 4 of the Epidemic Diseases Act, 1897, the Government of Maharashtra issued Prevention and Containment of Coronavirus Disease 2019 (COVID-19) Regulations on 14.03.2020. Regulation 10 empowered the Municipal Commissioner to requisition the services of any person if so required. Regulations 10 to 13 are extracted hereinbelow for ready reference:

"GOVERNMENT OF MAHARASHTRA PUBLIC HEALTH DEPARTMENT

G.T. Hospital Compound, 10th Floor, New Mantralaya,

Mumbai 400 001

Dated 14th March, 2020

NOTIFICATION

No. Corona-2020/CR-58/Aarogya-5: Whereas State Government has decided to invoke provisions of Epidemic Disease Act, 1897 vide Notification No. Corona 2020/CR 58/Aarogya-5, dated 13th March, 2020 from the date of issue of the notification,

Therefore, in exercise of the powers conferred under section 2, 3 & 4 of the Epidemic Diseases Act, 1897, Government of Maharashtra is pleased to frame following Regulations for prevention and containment of Coronavirus Disease-2019 (COVID-19).

(...)

Regulation 10. *In the event of COVID-19 being reported from a defined geographic area such as village, town, ward, colony, settlement, the Collector of the concerned District/Municipal Commissioner of the concerned Municipal Corporation shall be competent to implement following containment measures, but not limited to these, in order to prevent spread of the disease.*

- i. Sealing of the geographical area.*
- ii. Barring entry and exit of population from the containment area.*
- iii. Restricting Vehicular Movement in the area.*
- iv. Closure of schools, offices, cinema halls, swimming pools, gyms, etc. and banning mass congregations, functions as may be deemed necessary.*
- v. Initiating active and passive surveillance of COVID-19 cases.*

- vi. Hospital isolation of all suspected cases and their contacts.
- vii. Designating any Government or Private Building as a quarantine facility.
- viii. Any other measure as directed by Public Health Department of Government of Maharashtra.

Staff of all Government Departments and Organisations of the concerned area will be at the disposal of Collector/ Municipal Commissioner for discharging the duty of containment measures. If required, Collector/ Municipal Commissioner may requisition the services of any other person also.

Regulation 11. Any person / Institution / organization found violating any provision of these Regulations shall be deemed to have committed an offence punishable under section 188 of Indian Penal Code (45 of 1860). Empowered Officers may penalize any person institution / organization found violating provisions of these Regulations or any further orders issued by Government under these Regulations.

Regulation 12. No suit or legal proceedings shall lie against any person for anything done or intended to be done in good faith under this Regulation unless proved otherwise

Regulation 13. These regulations shall come into force immediately and shall remain valid for a period of one year, or until further orders, whichever is earlier from the date of publication of this Notification.

By order and in the name of Governor of Maharashtra.”

5. In exercise of powers under Regulation 10, the Commissioner, Navi Mumbai Municipal Corporation (‘NMMC’) issued a notice on 31.03.2020 directing the late husband of Appellant No. 3 to keep his hospital/dispensary open during the lockdown period. The notice specifically invokes Regulation 10 of the COVID Regulations and also warns the addressee of criminal prosecution in the event of non-compliance. The notice dated 31.03.2020 is as follows:

“Navi Mumbai Municipal Corporation

Notice to keep the hospital /dispensary open in lock down period

No NMMC/Health/1855/2020

Date: - 31.03.2020

Notice to keep the hospital/dispensary open in lock down period

SUB:- Explanation as to why your hospital/dispensary is kept closed in the lock down period

WHEREAS the Government of Maharashtra, in the exercise of the power conferred under section 2,3 and 4 of the Epidemic Diseases Act, 1897, has framed Regulation vide Notification dated 14th March 2020, for prevention and containment of Coronavirus Disease-2019 (COVID19).

AND WHEREAS under rule 10 of the said Regulations the Municipal Commissioner/Empowered Officer are authorized to take any measures for prevention, containment measures in order to prevent spread of COVID-19.

I Annasaheb Misal, Municipal Commissioner of Navi Mumbai Municipal Corporation, in exercise of powers conferred upon me, had hereby directed you vide order no 123/2020 to keep your hospital/dispensary open.

And therefore it has been observed that your hospital/dispensary is kept closed. I hereby order you open your hospital/dispensary in the lock down period immediately after the receipt of the said notice by following the containment measures of social distancing, every persons face covered by mask and keeping hand sanitiser for every patient visiting the hospital/dispensary, failing of which the Navi Mumbai Municipal Corporation will be forced to file an FIR against you under Section 188 of IPC 1860.

(Annasaheb Misal)

Commissioner

Navi Mumbai Municipal Corporation"

6. While government and the corporations mandated availability of doctors for COVID duty, the Central Government also announced measures to assure doctors and frontline workers fighting the battle against the Coronavirus. Press release dated 26.03.2020 announced that, *"Finance Minister announces Rs 1.70 Lakh Crore relief package under Pradhan Mantri Garib Kalyan Yojana for the poor to help them fight the battle against Corona Virus"*. The relief package inter alia included:

"I. Insurance scheme for health workers fighting COVID-19 in Government Hospitals and Health Care Centres

- *Safai karamcharis, ward-boys, nurses, ASHA workers, paramedics, technicians, doctors and specialists and other health workers would be covered by a Special insurance Scheme.*
- *Any health professional, who while treating Covid-19 patients, meet with some accident, then he/she would be compensated with an amount of Rs 50 lakh under the scheme.*
- *All government health centres, wellness centres and hospitals of Centre as well as States would be covered under this scheme approximately 22 lakh health workers would be provided insurance cover to fight this pandemic.*

II. PM Garib Kalyan Ann Yojana

Government of India would not allow anybody, especially any poor family, to suffer on account of non-availability of foodgrains due to disruption in the next three months.

- *80 crore individuals, i.e., roughly two-thirds of India's population would be covered under this scheme.*
- *Each one of them would be provided double of their current entitlement over next three months.*
- *This additionality would be free of cost.*
- *To ensure adequate availability of protein to all the above-mentioned individuals, 1 kg per family, would be provided pulses according to regional preferences for next three months.*
- *These pulses would be provided free of cost by the Government of India."*

7. Following the announcement of the scheme, the Ministry of Health & Family Welfare, Government of India, issued an order dated 28.03.2020 launching the insurance scheme for Health Workers fighting COVID-19 named as the Pradhan Mantri Garib Kalyan Yojana Package: Insurance Scheme for Health Workers Fighting COVID-19 ('PMGKYPackage'). The said scheme assures next of kin of eligible healthcare workers an insurance cover of Rs 50 lakhs. The order dated 28.03.2020 is extracted herein:

"Ministry of Health and Family Welfare

Department of Health and Family Welfare

Nirman Bhawan, New Delhi

Dated 28.03.2020

ORDER

As per the announcement made under the Pradhan Mantri Garib Kalyan Package, the competent authority has approved the launch of 'Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers Fighting COVID-19' with the following conditions:

- i. It will be a comprehensive personal accident cover of Rs. 50lakh for ninety (90) days to a total of around 22.12 lakh public healthcare providers, including community health workers, who may have to be in direct contact and care of COVID-19 patients and who may be at risk of being impacted by this. It will also include accidental loss of life on account of contracting COVID19;
- ii. On account of the unprecedented situation, private hospital staff/retired/volunteer/local urban bodies/contract/daily wage/adhoc/outsourced staff requisitioned by States/Central hospitals/autonomous hospitals of Central/States/UTs, AIIMS & INIs/hospitals of Central Ministries can also be drafted for COVID19 related responsibilities. These cases will also be covered subject to numbers indicated by MoHFW;
- iii. The scheme will be funded through the NDRF Budget operated by the Health Ministry for this purpose;
- iv. Actual payment by the Insurance Company to the beneficiary will be under certification of the authorised Central State Government Officials; and
- v. The insurance provided under this scheme would be over and above any other insurance cover being availed by the beneficiary.

2. This Order is issued with the concurrence of Integrated Finance Division vide their CD no. 4593.

(Alok Saxena)

Joint Secretary to the Government of India”

8. An explanatory letter dated 03.04.2020 was addressed to all stakeholders to dispel any notion of limited coverage while informing them that the scheme benefits were inclusive of healthcare providers. It was intended to encourage doctors to come forward without a sense of insecurity about their health or that of their families. The relevant extract of the explanatory letter is extracted below:

“Dated 03rd April, 2020

Dear All,

In continuation of letters by Secretary, MoHFW (D.O. No. Z.21020/16/2020- PH, dated 30th March 2020), addressed to all the Chief Secretaries/Administrators of the States/UTs and the Heads of all the Associations of Doctors/Healthcare providers regarding 'Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers Fighting COVID-19', you are requested to kindly inform all such health care providers through various mediums like SMS, whatsapp, e-mail etc. in local language about their inclusion under Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers Fighting COVID-19 in line with the enclosed order regarding this scheme.

The claim Form-I (Personal Accident Insurance Claim Form for loss of life due to COVID19) and Form-II (Personal Accident Insurance Claim Form for accidental loss of life on account of COVID-19 related duty) for the above scheme detailing the procedure, claim certifying authority and documents to be submitted along with claim form is also attached for your reference and disbursement.

I request you to give more publicity to this initiative to instill a sense of security among healthcare providers. In case of any clarifications, Dr. Manohar Agnani, JS (RCH) may be contacted by the States / UTs at agnanim@ias.nic.in.”

9. To provide further clarity on the eligibility of the beneficiaries under the PMGKY-Program, a Frequently Asked Questions (FAQs) was also released, elaborating on the coverage under the scheme, time duration, who should to pay the premium, procedure to follow, and the documents required to avail the benefits under the scheme. Answers to the

FAQs make it clear that it PMGKY-Package covers a variety of private healthcare workers if their services were 'requisitioned by States'. The relevant portion of the FAQs is extracted below:

"Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers Fighting COVID-19"

FAQ's

Question 1: What does this Scheme cover? This accident insurance scheme covers;

- **Loss of life due to COVID19, and**
- **Accidental death on account of COVID-19 related duty.**

Question 2: What is the definition of Accident?

An accident is sudden, unforeseen and involuntary event caused by external, visible and violent means.

Question 3: Who all are covered under the scheme?

- Public healthcare providers including healthcare community providers health workers, who may have to be in direct contact and care of COVID 19 patients and who may be at risk of being impacted by this.
- Private hospital staff and retired /volunteer /local urban bodies/ contracted /daily wage /ad hoc/outsourced staff requisitioned by States/ Central hospitals/ autonomous hospitals of Central/States/UTs, AIIMS and INIs/ hospital of Central Ministries can also be drafted for COVID 19 related responsibilities.

Question 4: Who can be a volunteer under this scheme?

Volunteers are those who are drafted **by the Government Official authorized by Central/State/ UT Government** for care and may have come in direct contact of the COVID 19 patient **Question 5:** Who are 'Private persons' under this scheme?

☐ Private persons are those who are engaged by both public & private health care institutions/organization through an agency and were deployed /drafted for care and may have come in direct contact of the COVID-19 patient (with the proof that the service of the agencies were engaged by the institution/organization). **Question 6:** When does insurance coverage policy begins and ends?

☐ The duration of the policy is for a period of 90 days, starting from March 30, 2020.

Question 7: Is there any age-limit for health workers under this scheme?

☐ There's no age limit for this scheme.

Question 8: Is individual enrolment required?

☐ Individual enrolment is not required.

Question 9: Whether an individual is required to pay any premium to be eligible under the scheme?

- The entire amount of premium for this scheme is being borne by the Ministry of Health and Family Welfare, Government of India. **Question 10:** What is the benefit available to the insured persons?

☐ INR 50 LAKHS will be paid to the claimant of the insured person.

Question 11: Is COVID-19 laboratory test mandatory for claiming the benefit?

- Laboratory report certifying positive medical test is required for loss of life on account of COVID-19. However, it is not required **in case of Accidental loss of life on account of COVID-19 related duty.**

Question 12: Whether expenses incurred on treatment or during quarantine are covered under the scheme?

- Any type of expenses related to treatment or quarantine is not covered.

Question 13: If a person is having another Personal accident policy or life insurance policy, what is the effect of the same on claim under this policy?

- The benefit/claim under this policy is in addition to the amount payable under any other policies.

Question 14: Documents required to claim benefits under this scheme? **a. In case of Loss of life due to COVID19 following documents are required:**

- I. Claim form duly filled and signed by the nominee/claimant.
- II. Identity proof of Deceased (Certified copy)
- III. Identity proof of the Claimant (Certified copy)
- IV. Proof of relationship between the Deceased and the Claimant (Certified copy)
- V. Laboratory Report certifying having tested Positive for COVID-19 (in Original or Certified copy)
- VI. Death summary by the Hospital where death occurred (in case death occurred in hospital) (Certified copy).
- VII. Death Certificate (in Original)
- VIII. Certificate by the Healthcare Institution/ organization/office that the deceased was an employee of /engaged by the institution and was deployed/drafted for care and may have come in direct contact of the COVID-19 patient. For community health care workers, the Certificate should be from Medical Officer of Primary Health Centre (PHC) that ASHA/ASHA Facilitator was drafted for work related to COVID-19.

*****"

10. On 08/09.05.2020, the Director of Medical Education & Research ('DMER'), Respondent No. 3 herein, issued an order directing all registered doctors of homoeopathy and Ayurved to make their services available for the COVID-19 cure. The said letter was also issued to the Dr. Surgade, late husband of appellant no. 3. The relevant extract of the said order is as follows:

"DIRECTORATE OF MEDICAL EDUCATION & RESEARCH

Govt. Dental College & Hospital Building,

St. George's Hospital Compound, Near V.T., Mumbai,

Maharashtra 400001

No. DMER/COVID-19/RMP's/MCIM/262/2020/A

Date: 09.05.2020

NOTIFICATION

To,

ALL R.M.P's

Registered in MCIM (only Ayurved faculty)

Sub: Utilization of services of Registered R.M.P's in MCIM (Only Ayurved Faculty) for COVID-19 Patients in Mumbai and suburban district-

Ref.: 1. The Epidemic Diseases Act, 1897;

2. The Disaster Management Act, 2005;

3. The Maharashtra Essential Service Maintenance (Amendment) Act, 2011;

4. The Mumbai Nursing Home Registration (Amendment) Act, 2006

5. The Bombay Public Trusts Act, 1950 (for short B.P.T. Act)

As you are aware, Nation is facing COVID-19 pandemic. The State and Central Government is taking every precaution to fight against this deadly viral infection In Mumbai city, the outbreak of COVID-19 is spreading very fast as compared to other parts of the State. Hence the State Government has taken rigorous steps towards Prevention, Control and Treatment of COVID-19 patient.

Whereas the Government of Maharashtra, in exercise of the powers conferred under Section 2 3. & 4 of the Epidemic Diseases Act 1897 has framed Regulations for Prevention, Control and Treatment of COVID-19 under No. corona 2020/CR/58/Aarogya-5, dated 13th March 2020.

And where Director of Medical Education and Research, has been declared as "Empowered Officer" & is empowered to take such measures as are necessary to prevent the outbreak of COVID-19 or spread thereof within his respective jurisdiction,

I Dr. T.P. Lahane, in the larger public interest and in exercise of the powers conferred upon me request you as follows:

that your services are required for the prevention and treatment of COVID-19 patient at least for 15 days. You shall therefore convey your willingness and place of choice where you would like to render your services to <https://forms.gle/ucfYQB7s2pwBVDL98> within 3 days. Nonattendance of the duty will be considered as breach of Hippocratic Oath that we administered at the time of obtaining degree and action will be initiated according to the provisions of Epidemic Diseases Act, 1897 and other Acts referred above.

(Dr. T. P. Lahane)

Director,

Medical Education & Research, Mumbai"

11. Facts: The facts relevant to the appeal are that, husband of appellant no. 3, Late Dr. B S Surgade, was a medical practitioner running a private medical clinic. It was contended on behalf of appellant no. 3 that her husband Dr. Surgade was directed to keep his clinic open as per the NMMC notice dated 31.03.2020 reproduced above, and his services were also requisitioned by the communication dated 09.05.2020 extracted above.

12. Dr. Surgade was infected and tested positive for COVID-19 infection on 08.06.2020, and succumbed to the infection on 10.06.2020. Appellant no. 3 applied to the insurance company, respondent No. 6, seeking insurance benefits under the PMGKY-Package. However, by letter dated 07.09.2020 Joint Director, Medical Services, communicated to Medical Health Officer of the corporation rejecting the claim on three grounds. Firstly, on the ground that the late Dr Surgade was carrying out a private practice and hence his next of kin was ineligible for the benefit under the scheme. Secondly, that Dr Surgade's dispensary was not a COVID-19 designated dispensary, and thirdly, that Dr Surgade's services were not requisitioned. The relevant portions of the order dated 07.09.2020, containing the reasons for the denial of insurance benefit, are extracted below:

"To,

Medical Health Officer,

Navi Mumbai Municipal Corporation

Sub: - Covid-19 infected/Officers who died in the accident /Employee nomination for insurance claim sanction under PM Garib Kalyan Package deceased Dr. Bhaksar Surgade, Private Medical Professional A-1002, Satyam Imperialites, Plot-2, Sector22, Ghansoli, Navi Mumbai 400701

MangirishRangnekar <drmanagerish@gmail.com>

Ref: - 1) Ministry of Health and Family Welfare, New Delhi order dt.28.03.2020

2) Government Ltr. No. Carona2020/P.K. 84/Health-5, dt.11 April,2020

3) Mr. Mangirish Regnekar Email dt. 19.08.2020

4) This office letter Out. No. SAS/Director room/Prime minister poor welfare package/Insurance/ Perfect Proposal/7623-29/2020, dt. 20.08.2020

5) Your letter No. N.M.M.P./Health/9504/2020, dated 01.09.2020.

Above mentioned matter reference no. 1 and 2, treatment of patients related to Covid-19 diseases by Central Government, investigating officers providing all types of health services and employees under this package Rs. 50 lakh insurance cover is for the first 90 days. Accordingly, in case of covid infection and death under this package, amount of Rs 50 lakh will be provided through the accident insurance scheme of New India Assurance Company for the families of the officers and employees providing health services. This insurance cover will be available to all those involved in the investigation and treatment of COVID - 19 infestation. This includes private hospital staff / retired staff / contract staff / salaried staff / staff provided by external agencies,

Asha, Anganwadi staff, Central State Local Self Government Institutions etc. In order to get this sum assured to the beneficiaries, it is necessary for the concerned State or Central Government to certify that the death of the insured was due to COVID-19 obstruction and related to this work. Under Section 2 of Section 2, the Director, Health Services has been declared as the competent authority to certify the application filed under the State and submit it to the insurance company.

According to Reference No.3 the deceased Dr. Bhaskar Surgade in our jurisdiction, Private medical professional, Navi Mumbai the office received an email about him. Accordingly, reference No. 4, the information was sought from us about the services of private Medical professional deceased Dr. Bhaskar Surgade in this case,

With regard to reference No.5, deceased Dr. Bhaskar Surgade, a private medical professional, was serving in his own private hospital. His service has not been acquired by Navi Mumbai Municipal Corporation. Also the hospital providing the service has not been acquired as Covid Hospital. Such clear feedback has been submitted to this office.

Therefore, the late Dr. Bhaskar Surgade's service at first sight reference No. 1 and 2 respectively not included in the terms and conditions of the said scheme, it will not be possible to send their insurance proposal for further action.

(Dr. Nandkumar Deshmukh)

Joint Director, Health Services, (Malaria, Elephantiasis and Waterborne Diseases) Pune – 1"

13. It is against the above-referred order denying the claim of the appellant no. 3, that Writ Petition No. 93840/2020 was filed by appellant no. 3 before the High Court of Judicature at Bombay, inter alia, praying for:

"a) That this Court be pleased be exercise its jurisdiction under Constitution of India and issue writ or direction calling for the record and proceedings from the office of the respondents Nos.1 and 2 and after examining the validity, legality and propriety and correctness be given order and or direction to the respondent Nos.1 and 4 to quash and set aside the Impugned Order annexed as Exhibit- "O" and allow the claim of the Petitioner that annexed as Exhibit-"J".

b) The Court be pleased to give an order and or direction to the respondent No.6 - The New India Assurance Co. Ltd. to immediately disburse the claim of the Petitioner annexed as Exhibit-"J" in time bound schedule.

c) *Pending the hearing and final disposal of the writ petition be pleased to direct the respondents except respondent No.6 to file their respective affidavit in respect of claim of the Petitioner."*

14. The said writ petition came to be dismissed by the order impugned before us. After rejection of appellant's claim, the Principal Secretary, Government of Maharashtra, communicated to the Secretary, Department of Health and Family Welfare, Government of India, dated 01.10.2020, requesting the Union to extend the benefits of insurance coverage to all private practitioners. The letter was responded to by the Deputy Secretary, Department of Health and Family Welfare, Government of India, on 15.10.2020 clarifying as under:

"Sir,

I am directed to refer to your letter No. Corona-2020/CR430/Aa5 dated 01.10.2020 regarding the subject mentioned above and to state the following: -

(i) *PMGKP: Insurance Scheme for Health workers fighting COVID-19 was launched w.e.f. 30.03.2020 to provide comprehensive personal accident cover of Rs. 50 lakh to public healthcare providers, including community health workers, who may have to be in direct contact and care of COVID-19 patients and who may be at risk of being impacted by this.*

(ii) *On account of the unprecedented situation, private hospital staff/ retired/volunteer/ local urban bodies/contract/daily wage/ adhoc/outsourced staff **requisitioned** by States/Central hospitals/autonomous hospitals of Central/States/UTs, AIIMS & INIS/hospitals of Central Ministries can also be drafted for COVID19 related responsibilities. These cases are also covered under the scheme subject to fulfilment of the following conditions (a) **They should have been drafted** by the States/ Central hospitals/ autonomous hospitals of Central/ States/ UTs, AIIMS & INIS/hospitals of Central Ministries for **COVID 19 related responsibilities**.*

(b) They should have been working as a front-line health workers, who may have to be in direct contact and care of COVID-19 patients and who may be at risk of being impacted by this. (c) The loss of life is due to COVID-19 or accidental death on account of COVID-19 related duty.

2. In view of the above, no other group of healthcare workers other than those mentioned under (i) & (ii) above, can be included under PMGKP: Insurance Scheme for Health Workers Fighting COVID-19."

15. High Court placed great emphasis on the words 'drafted' and 'requisitioned' for 'COVID-19 related responsibilities' which appear in the letter dated 15.10.2020 and similar wordings in the FAQs to the scheme. Reading these documents, the High Court came to the conclusion that, while private medical practitioners fall under the ambit of the Insurance Scheme, claims for insurance must necessarily establish that the services of the deceased medical professional were *requisitioned* in relation to COVID-19-related duty. The relevant portion of the impugned order is as under:

"21. In order to demonstrate that Dr. Surgade's services were requested, the Petitioner has placed paramount reliance on the NMMC Notice dated 31st March, 2020. Therefore, we propose to analyse the NMMC Notice reproduced hereinabove. By this notice, the NMMC called upon inter alia Dr. Surgade to explain why his private dispensary was kept closed during the lock down. It stated that despite earlier Orders, Dr. Surgade's dispensary was kept closed. Resultantly, the NMMC Notice came to be issued calling upon Dr. Surgade to keep open his dispensary after following the prescribed measures for social distancing etc. In our opinion, a plain reading of this NMMC Notice cannot be construed as a notice requisitioning Dr. Surgade's services for the specific purpose of treating COVID-19 patients and/or working in a COVID-19 centre / hospital. There is a difference between specifically requisitioning / drafting services and directing private practitioners to not keep their clinic closed. In the present case, this distinction is evident from the record. The intent and object of the NMMC Notice was to encourage medical practitioners to keep

open their dispensaries which were otherwise closed due to the fear of COVID-19. This notice did not mandate that the said dispensaries are to be kept open for COVID-19. As opposed to this letter, the Medical Education & Research, Mumbai's circular dated 8th May, 2020 specifically stated "that your services are required for the prevention and treatment of COVID-19 patient atleast for 15 days". Clearly therefore, the circular dated 8th May, 2020 was a specific requisition within the meaning of the Scheme and not the NMMC Notice dated 31st March, 2020. We do not agree with the Petitioner's reliance on the words "prevention, containment measures in order to prevent the spread of Covid-19". The NMMC Notice has to be read as a whole and not in isolation. Resultantly, we hold that the NMMC Notice would not amount to a requisition for the purposes of the Scheme. Resultantly, the question of estoppel applying would not arise. As stated earlier, Dr. Surgade had not responded to the notification /circular dated 8th May, 2020 by offering/giving his services as requested therein.

22. We now consider the overwhelming evidence produced by the Respondents explicitly demonstrating that Dr. Surgade's services were not requisitioned for the purposes of treating COVID-19 patients and/or working in a COVID-19 centre/hospital:

i. The Respondents have pleaded before us on oath that Dr. Surgade's services were not requisitioned;

ii. The Medical Officer, Primary Health Centre, Turbhe has submitted a report dated 21st August, 2020 stating that the information with respect to Dr. Surgade's services being requested are not available and instead; he was carrying out his private practice;

iii. Following the aforesaid, the report dated 1st September, 2020 issued by the Medical Officer of Health, NMMC categorically stated that Dr. Surgade's services were neither requisitioned by NMMC for COVID-19 related responsibilities nor was his clinic requisitioned as a COVID-19 hospital;

iv. NMMC has addressed a letter dated 1st September, 2020 also stating that Dr. Surgade's services were not requisitioned by NMMC.

23. In view of the aforesaid overwhelming correspondence, we would be required to accept the Respondents' contention and assertion that Dr. Surgade's services were not requisitioned as mandated under the Scheme and therefore, the Petitioner cannot now avail of the Scheme. As opposed to the aforesaid documentary record produced by the Respondents, the Petitioner has, barring the NMMC Notice, been unable to bring on record any documentary proof to establish that Dr. Surgade's services were availed for the purpose of treating and/or in relation to COVID-19. As a result, we hold that Dr. Surgade's services were not requisitioned as required under the Scheme and therefore, the Scheme would be inapplicable in the present matter.

24. Considering that Dr. Surgade's services were not requisitioned as mandated under the Scheme, we are unable to extend the applicability of the Scheme to persons who fall outside the ambit thereof. Resultantly, no relief can be granted to the Petitioner. This being so, we also find no merit in the contention that Dr. Surgade duly completed the AYUSH training for COVID-19 preparedness, response and containment. The completeness or otherwise of AYUSH training bears no relevance to the applicability of the Scheme.

(...)

26. The Writ Petition is dismissed accordingly."

16. Taking into account the requirement of 'requisitioning', the High Court concluded that the appellant's claim under the insurance policy is unsubstantiated as Mr. Surgade's services were not requisitioned. Referring to NMMC notice dated 31st March, 2020, the High Court drew a distinction between specific *requisitioning/drafting of services* and directing *private practitioners not to keep their clinic closed* and concluded that:

a) The purpose of NMMC notice is only to encourage medical practitioners to keep open their dispensaries, which were otherwise closed due to fear of COVID-19.

- b) The notice does not mandate that dispensaries be kept open for COVID-19.
- c) The notice called upon Dr. Surgade to explain why his private dispensary was kept closed during lockdown despite orders. Resultantly, the notice calls upon Dr. Surgade to keep the dispensary open after following the prescribed measures.
- d) As opposed to the 31st March, 2020 notice, circulars dated 8th May-9th May, 2020 specifically requisition the services within the meaning of the scheme.
- e) However, Dr. Surgade did not respond to the circular dated 8th May, 2020 and did not offer or give his services requisitioned.

17. On the basis of the material on record, the High Court dismissed the Writ Petition relying on the following evidences, which in High Court's view established conclusively that Dr. Surgade's services were not requisitioned;

- (i) Affidavit filed on behalf of the Government indicating that the services of Dr. Surgade were not requisitioned.
- (ii) Report dated 21st August, 2020, of Medical Officer Primary Health Centre, Turbhe, stating that there is no evidence that Dr. Surgade's services were requisitioned.
- (iii) Report dated 1st September, 2020, issued by Medical Officer NMMC categorically stating that Dr. Surgade's services were neither requisitioned by NMMC nor was his clinic a requisitioned medical facility.
- (iv) Letter dated 1st September, 2020 of NMMC stating that Dr. Surgade's services were not requisitioned.
- (v) The Ayush training for Covid-19 preparedness of Dr. Surgade has no relevance to the applicability of the scheme.

18. We heard Dr. Pradeep Arora, appellant no. 1-in person on behalf of all the appellants and Ms. Aishwarya Bhati, Ld. Additional Solicitor General for the respondent. At the time of reserving our judgment, we had conveyed to the stakeholders that we will examine the appeal only to the extent of interpreting the policy under PMGKY-Package and to see if there is requisition of services of appellant no. 3's husband under the Act and the Regulation and will not undertake a factual inquiry in relation to the individual claims.

19. Ms. Aishwarya Bhati, learned ASG, argues that the purpose of the NMMC notice issued under the provisions of the Prevention and Containment of COVID-19 Regulations 2020, directing hospitals and dispensaries to remain operational, was to ensure the continuity of essential healthcare services and to prevent disruption of routine medical care. Submitting so, Ms. Bhati argued that the impugned order was well-reasoned and does not warrant any interference. Ld. ASG also brought to our notice that the insurance cover under PMGKY-Package is over and above other insurance policies that cover life and provide rehabilitation and restitution.

20. As there is no prescribed procedure for requisitioning services of doctors or other medical professionals, and the High Court came to the conclusion that there is no document, letter or material evidencing such requisitioning, we have to decide the question as to how requisitioning of services can be inferred and concluded. This is necessary because a claim for insurance under PMGKY-Package necessitates *requisition* of service and the consequent loss of life while performing COVID-19 related duties. In the circumstances, requisitioning has to be seen and assessed in the context of the situation

that prevailed, coupled with the applicable laws and the executive actions that were resorted to.

21. Circumstances that prevailed at the dawn of 2020, required immediate implementation of certain compelling measures to control and handle the ill effects of the pandemic, and this included invocation of the Epidemic Diseases Act, 1897 and issuance of necessary Rules and Regulations for implementation of Covid-19-related measures. Insofar as the State of Maharashtra is concerned, Prevention and Containment of Covid-19 Regulation 2020 were issued, inter alia providing that the Collector or the Municipal Commissioner shall be competent to take measures, such as sealing of the geographical area, requisition, if necessary, staff of Government Departments and organizations. It also provides that *“if required the Collector, Municipal Commissioner may requisition the services of any other person also”*.

22. Regulation 11 declares that any person found to be violating the provisions of the regulations will be punished under the provisions of the Indian Penal Code. Therefore, there is no gainsaying about the fact that circumstances in which the country was reeling under the COVID-19 pandemic required States and their instrumentalities to take immediate measures. This included requisitioning and drafting of doctors and other healthcare professionals as an emergent measure, as many as possible and as early as State can.

23. It is in the above referred context that, invoking powers under the Act and the 2020 Regulation, the Commissioner, Navi Mumbai issued notice dated 31.03.2020 calling upon Dr. Surgade to explain the reason for not keeping the hospital/dispensary open during the lockdown period. This notice clearly refers to the Epidemic Diseases Act, 1897 and the powers thereunder (Sections 2, 3 and 4). Intimating Dr. Surgade that vide order no. 123/2020 he was already directed to keep his hospital/dispensary open, the notice dated 31.03.2020 directs and orders Dr. Surgade to open the hospital/dispensary immediately, failing which, the Corporation will be forced to file an FIR under Section 188 of the IPC.

24. Taking into account the live situation that existed as on March 2020, coupled with the invocation of the Epidemic Diseases Act, 1897 and the Regulations 2020 thereunder, there cannot be any doubt about the compelling situation in which the Governments and their instrumentalities requisitioned services of doctors and other health professionals to be on the frontline for containing the fast-spreading infection. It is not difficult to conceive the situation, in which individual letter of appointment or requisitioning would not have been possible and that exactly the reason for invoking the Epidemic Diseases Act, 1897 and the Regulation 2020 for implementing immediate measures. Further, powers under the Act and Regulation 2020 were also exercised while issuing the order dated 31.03.2020 issued in the nature of show cause notice to Late Dr. Surgade. In this view of the matter, we have no hesitation in holding that there was a “requisition” of doctors and other medical professionals. We are not inclined to accept the rather simplistic submission that there was no specific requisition and therefore the claim for insurance must fail on this ground alone.

25. The truth and reality of requisitioning is also evident from the decisions of the government, made almost at the same time. In the same month, i.e., in March 2020, the Finance Ministry issued the press release dated 26.03.2020, and this was followed by the declaration of the PMGKY-Package on 28.03.2020. The FAQs and the clarificatory letter dated 03.04.2020 issued thereafter also prove that large number of doctors and healthcare professionals were requisitioned, and this compelling measure is not confined to Government employees, but also extended to private doctors and hospitals. The

insurance cover under PMGKY-Package was extended to all those who were requisitioned by law and the executive actions under the compelling circumstances.

26. In view of the above discussion, we are not inclined to take a narrow view of the intent and application of Regulation 14.03.2020 and the NMMC notice dated 31.03.2020 to conclude, as the High Court did, that there was no requisition.

27. The country has not forgotten the situation that prevailed at the onset of Covid-19, when every citizen contributed in some measure, despite fear of infection or imminent death. That is also a moment of pride and recognition of the *strength of character* and *discipline* that our people demonstrated when circumstances demanded it.

28. The courage and sacrifice of by our doctors remain indelible, as five years following the pandemic that spared us, we are now called upon to interpret the laws and regulations enacted for urgent requisition of doctors and health professionals to safeguard public from the seemingly overwhelming onslaught of Covid 2019. We have no hesitation in concluding that invocation of laws and Regulations were intended to leave no stone unturned in requisitioning the doctors and the insurance scheme was equally intended to assure doctors and health professionals in the front line that the country is with them. In this view of the matter, we are not inclined to take the view that there was no requisitioning of the doctors and medical professionals.

29. Once we have decided that there was 'requisition', the applicability of the insurance policy will then depend upon actual evidence. Whether the doctor or healthcare professional has, and in fact, presented and offered his or her services in furtherance of COVID-19-related responsibilities is a matter of evidence. If there is clear evidence that the deceased lost his life while performing COVID-19-related duties, the policy will have to be applied. We have already indicated that our enquiry is confined to determining the question as to whether there is 'requisition' of the services of doctors and health professionals. We are not examining the credibility of individual claims. It is for the concerned offices or agencies to look into individual claims on the basis of clear evidence.

30. In view of the above, in partial modification of the judgment and order of the High Court, we declare that;

a) there is a requisition of services of doctors, and this is evident from the conjoint reading of provisions of the Act, the Maharashtra Prevention and Containment of Covid-19 Regulations 2020, the NMMC Order dated 31.03.2020, PMGKY-Package Scheme, explanatory communication to the PMGKY policy, and the FAQs released.

b) Individual claims for insurance made as per the PMGKY-Package will be considered and decided in accordance with the law and on the basis of the evidence. The onus to prove that a deceased lost his life while performing a COVID-19-related duty is on the claimant, and the same needs to be established on the basis of credible evidence.

31. With the above observations, the appeal stands disposed of. Pending applications including the application for intervention/impleadment are also disposed of.