

[CW-8139/2024]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR**

D.B. Civil Writ Petition No. 8139/2024

Chandra Shekhar

-----Petitioner

Versus

The State Of Rajasthan

-----Respondent



For Petitioner(s) : Mr. Ankur Mathur a/w
Mr. Harshvardhan Thanvi
Mr. HRS Bhati
Ms. Divya Bapna
Ms. Shrestha Mathur
Ms. Nikita Mathur

For Respondent(s) : Mr. Mukesh Rajpurohit, Dy. SG a/w
Mr. Uttam Singh Rajpurohit
Mr. Mahaveer Bishnoi, AAG
Ms. Anita Rajpurohit for
Mr. N.S. Rajpurohit, AAG
Mr. Sunil Beniwal, for HPCL.
Mr. Salil Trivedi for CAZRI.
Mr. Gaurav Agarwal, District Collector,
Jodhpur.
Mr. B.S. Khichi, Assistant Admn.
Officer (Legal) CAZRI, Jodhpur.
Mr. Pankaj Saxena, SE, (AIIMS)
Mr. Manumanish Gupta, Deputy
Director (Admn.), AIIMS
Mr. Chandresh Pareek, Ex. Engineer
(Civil), AIIMS.
Mr. Gaurav Sharma, AEN (Civil),
CPWD, (AIIMS).
Mr. Lalit Bohra, Asst. Legal. (AIIMS).

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MUNNURI LAXMAN**

Order

10/12/2024



“स्वस्थस्य स्वास्थ्यरक्षणं आतुरस्य विकारनिरोधः ।

आपत्संयमः शान्तिरेकं लोकस्य समृद्धिर्यः ।”

The aforementioned shloka from the Hindu scriptures translates to show that protection of health for the healthy, the removal of diseases for the sick, control in times of distress, and peace are the true measures of a prosperous nation."

1. Article 21 of the Constitution of India, guarantees to all Right to life and personal liberty. Here "life" refers to a humane life, not just a life of survival or animal existence. This right encompasses within its ambit various other corollary rights which are essential to ensure a dignified and a meaningful life. Right to life has been interpreted in catena of cases and the Hon'ble Apex Court in the landmark judgment of **Pramand Katara v. Union of India & others, 1989 SCR (3) 997**, has recognized the right to health to be a facet of right to life under Article 21 of the Constitution of India.

1.1. Right to health is a basic human right that one gets by virtue of one's existence as a human being. Article 25 of the UN Declaration of Human Rights also guarantees the right to a standard of living adequate for the health and well-being of himself and his family, including medical care and necessary social services. Health is an essential prerequisite for human beings and plays a vital role in national development. The right to health is an essential right, without which one cannot exercise its basic human rights.

1.2. India being a welfare State, the concerned Governments in



India are under a duty to provide an effective mechanism for the welfare of the public at large. Furthermore, Preamble to the Constitution read with Directive Principles of State Policy enshrined therein, highlights the Constitutional intendment to ensure a dignified and healthy life to all and thereby puts a duty upon the State to take necessary steps in order to facilitate the securement and promotion of the fundamental right to health of its citizenry.

1.3. In pursuance to the aforementioned, All-India Institute of Medical Sciences (AIIMS) was created in 1956 to serve as a nucleus for nurturing excellence in all aspects of health care, as an institution of national importance to bring together in one place educational facilities of the highest order in the healthcare sector and for the training of personnel in all important branches of health activity.

1.4. AIIMS Jodhpur is one of the six new AIIMS founded in 2014, established by the Ministry of Health & Family Welfare, Government of India under the Pradhan Mantri Swasthya Suraksha Yojna (PMSSY) with the aim of correcting regional imbalances in quality tertiary level healthcare in the country and attaining self-sufficiency in healthcare facilities in the western region.

1.5. However, this Court with deep concern takes cognizance of the deficiency in providing adequate healthcare services in the AIIMS which is attributable to the non availability of sufficient infrastructure in the present premises and apathetic attitude on the part of the concerned governments in taking necessary



measures to remove the obstructions to enable effective operation of the institution.

2. This Court with empathizes with the residents of the western region who are unable to secure basic and necessary medical facilities due to the persistent delays in the completion of critical infrastructure projects at AIIMS Jodhpur, particularly the construction of trauma centre. The project, covering an area of 54,358 square meters, has been significantly impeded by the State Government's failure to remove high-tension electrical lines. This obstruction has directly compromised the institution's capacity to deliver timely and adequate healthcare services to the citizens.

Issues

In light of the aforementioned, it is crucial to address the following quintessential issues: -

- (I) The delay in construction of trauma centre, spanning 54,358 square meters, due to the State Government's inability to remove high-tension electrical lines.
- (II) The issue of water contamination in the AIIMS is having an adverse impact upon the institution's operational efficiency and patient care standards by endangering the health of residents at the institution.
- (III) The possibility of transferring Central Arid Zone Research Institute (CAZRI's) land to AIIMS as a potential solution to its existing spatial constraints by determining the feasibility of relocating CAZRI to an alternative site.



(IV) The exploration of a short-term parking solution by potentially utilizing the existing diesel shed adjacent to AIIMS as an alternative location.

(V) The possibility of utilizing the recently vacated and currently unoccupied HPCL Campus which was relocated in March 2024, to support AIIMS's infrastructure requirements.

(VI) The potential relocation of Transport Nagar from its current high-density population area, with considerations for leveraging its infrastructure to support AIIMS's ongoing expansion of medical and health facilities.

Submissions made by the Parties

3. Qua Issue No. I pertaining to Construction of Trauma Centre:

3.1. The first issue, which has been brought to the notice of this Court that the construction of a trauma centre, spanning 54,358 square meters, is being impeded by the State Government's failure to remove high-tension lines.

3.2. The record provided by AIIMS Authorities and Mr. Mukesh Rajpurohit, learned Deputy Solicitor General, indicates extensive correspondence regarding the shifting/transferring of high-tension power lines. These communications span multiple dates: 28.03.2009, 25.04.2011, 2016, 18.05.2017, 02.08.2017, 08.12.2017, 25.11.2019, 22.02.2021, 28.09.2021, 05.05.2022, 23.03.2024, 26.06.2024, 23.07.2024, 13.08.2024, 16.08.2024, and 30.11.2024.

3.3. The aforesaid communications are taken on record.



3.4. A meeting was held on 25.04.2011 at the AIIMS Jodhpur site, minutes whereof discloses that the Additional Chief Secretary (Development), Government of Rajasthan, visited the site and chaired a meeting attended by various officials, including the Additional Chief Secretary (Development), Government of Rajasthan; Superintending Engineer, AIIMS Jodhpur; Financial Adviser AIIMS, Jodhpur; ADM-II Jodhpur; Secretary, Jodhpur Development Authority, Jodhpur; Additional DCP (Traffic) Jodhpur; Public Relationship Officer; Additional Chief Engineer, Public Works Department, Jodhpur; Zonal Chief Engineer, Jodhpur Discom; Superintendent Engineer (City) Jodhpur Discom; ZCE (T&D), RVPNL, Jodhpur; Superintending Engineer, 400 KV GSS, RVPNL; Dy. General Manager, RSRDC, Jodhpur; Project Director, RSRDC, Jodhpur; Principal, Dr. SN Medical College, Jodhpur and Medical Supdt., MG Hospital, Jodhpur.

3.5. During the meeting, under the guidance of the Additional Chief Secretary (Development), it was resolved that two high-tension power lines running through AIIMS would be removed and the other modalities were also discussed therein.

3.6. Mr. Mahaveer Bishnoi, learned AAG however submitted that they are working on the issue and a tender has been issued. He submitted that the shifting of high-tension lines may be possible within approximately 9 months, considering public safety concerns. Learned AAG has also given a copy of the work schedule dated 05.12.2024, in which the schedule for completion of the work for the next nine months has been determined, the work schedule dated 05.12.2024 reads as follows :-



"9.0 Work Schedule

9.1 The basic consideration and essence of this contract shall be the strict adherence to the work schedule for completion of entire work. The work under this Contract shall be performed in such a manner so as to meet the schedule and the key dates identified as given below:-



S. No.	Description of Work	Period in Months (from the date of Letter of Award)
1.	Completion of detailed engineering	60 days
2.	Procurement of raw materials	60 days
3.	Manufacturing a) Commencement b) Completion	60 days
4.	Type Tests (if envisaged) a) Commencement b) Completion	Not required
5.	Shipments a) Commencement b) Completion	10 days
6.	Establishment of Site office	10 days
7.	Erection a) Commencement b) Completion	60 days
8.	Testing & Pre-commissioning a) Commencement b) Completion	05 days
9.	Commissioning	05 days
	Total Months	09 Months

9.2 The time for Shifting / Undergrounding of 132kV Basni NPII line passing through the campus of AIIMS, Jodhpur (on the request of AIIMS, Jodhpur) with 630 sq. mm, 132kV XLPE cable system on D/C monopole including detailed route survey, laying and installation of cable and monopole alongwith associated accessories/items and civil works covered under the subject Contract is **09 (Nine) months** from the date of Letter of Award.

9.3 You shall develop and furnish a detailed schedule in the form of a master network identifying key phases in various areas of the total work like design/drawing approval, manufacture, testing, shipment etc. of the equipment/materials for substation and line work. The Master Network shall be submitted separately for each of



the items of works specified within 30 (thirty) days from the date of Letter of Award in line with Schedule-A of the specification. The master network shall conform to the scheduled commissioning period, reckoned from the date of Letter of Award based on the key dates identified at Clause 9.1 above. You shall submit network schedules based on Letter of Award for review and approval. After approval of network schedule, one reproducible with sufficient number of prints as desired by RVPN shall be submitted."

4. Qua Issue No. II vis-a-vis Water Contamination :

4.1 The Deputy Director (Admn.) AIIMS, present in person, submits that they have already conducted a meeting with the District Administration and are taking all necessary steps to address the water quality concerns.

4.2 The District Collector of Jodhpur, also present in person, assures the Court that the concerned authority of State would be directed to keep the issue regarding treatment of contaminated water at the AIIMS, Jodhpur at the highest priority and resolve it permanently, so that such issues do not arise in future.

5. Qua Issue No. III vis-a-vis Feasibility of Utilizing CAZRI's Land :

5.1 AIIMS has now requested the transfer of 233 acres of land from the CAZRI, Jodhpur, and 12.5 acres from the Arid Forest Research Institute (AFRI), Jodhpur, to enhance healthcare services and provide parking facilities. The same is also to accommodate the increasing patient population and develop necessary infrastructure for future growth, AIIMS proposes to establish several Centres of Excellence, including a Comprehensive Cancer Care Centre, a centre for Rare Diseases, a centre for Infectious Diseases, a centre for Rural Health, an Allied Health Centre, a De-



addiction Centre, a Dental Wing, a new Academic Block, a Dharamshala, and a Multilevel Parking facility.

5.2. In this regard, it becomes pertinent to explore the possible options of relocating CAZRI to another place where suitable land and soil is available for its research work, in order to make the necessary land available for the expansion of AIIMS.

5.3. On this issue, Mr. Salil Trivedi, learned counsel appearing for CAZRI informs the Court that surrendering any land at present would be detrimental to their ongoing research work involving specific plants in the institution.

6. Qua Issue No. IV vis-a-vis Parking Facility :

6.1. In this regard, the District Collector, Jodhpur, informs the Court that he has convened a meeting with the Administrative Officers of AIIMS, Jodhpur and has identified a particular stretch of land adjoining the AIIMS boundary, where a diesel shed is existing, which could accommodate about 300 cars for proper parking facilities as a short-term measure, while they explore long-term measures for multilevel parking to be constructed in and around AIIMS.

7. Qua Issue No. V vis-a-vis Utilization of Vacant and Unoccupied HPCL Campus :

7.1. The fifth issue, which has been brought to the notice of this Court by learned counsel Mr. Ankur Mathur, is that there is an HPCL Campus adjoining AIIMS, which was shifted in March 2024 and is currently lying vacant and being a State land, it is likely to be surrendered.



8. Qua Issue No. VI vis-a-vis Shifting of Transport Nagar:

8.1. It is also brought to the notice of this Court that the Transport Nagar is adjoining to AIIMS and would need to be explored as a site to be shifted from the high-density population area, and its infrastructure could be utilized by AIIMS during its ongoing expansion of medical and health facilities.

8.2. Mr. Rajesh Panwar, the learned Additional Advocate General submits that the Jodhpur Development Authority (JDA) has already proposed to relocate the Transport Nagar by floating a scheme, but the scheme is yet to be fully implemented due to the reluctance of transporters to shift.

8.3. This Court, on last few occasions, has taken a very serious note of slow progress in transferring additional land to AIIMS for future expansion.

Observations and Directions of this Court :-

9. A full-fledged medical institution with the dimensions of the All India Institute of Medical Sciences (AIIMS) is the future of medical science and a critical and crucial asset for the citizens of Rajasthan. Such an institution could be directly beneficial for maintaining medical and health facilities in the State. However, it is extremely concerning to note that the people are being deprived of access to basic medical and diagnostic facilities and are made to wait in queues with a waiting period of over 1-2 months, which is violative of their fundamental right to live with dignity.

9.1. It is necessary that all organs of the Union of India and the State Government work in tandem with each other, taking into confidence the Authorities of AIIMS, Jodhpur and ensuring that the institution has ample breathing space for facilitating the common



citizens of India. As a result, a large number of lives are likely to be saved. Such development of medical infrastructure is a joint responsibility of all organs of the State.

I. Qua the first issue, this Court expresses extreme shock at the apparent apathy in delaying the shifting of high-tension lines for 16 years. The Court proposes to initiate action for professional/public misconduct as well as criminal negligence in not shifting the high-tension lines despite the requirement of AIIMS for developing a trauma centre, which could have saved hundreds of lives each year. Although the cost of life cannot be measured in monetary terms, this Court takes a serious note of the delay caused by the State of Rajasthan and its agencies and organs in not shifting the high-tension lines.

This Court, therefore, is inclined to impose a cost of Rs. 50 crores upon the State of Rajasthan, to be utilized for the purpose of enhancing and improving the medical facilities for the common citizens visiting AIIMS Jodhpur, as well as issuing a direction to initiate necessary action against the erring officers / officials, looking to the criminal negligence and gross dereliction of duty on their part. However, Mr. Mahaveer Bishnoi, learned AAG, seeks one last opportunity at least to defend the cost and inaction. He has requested a chance to explain the delay in shifting of the high-tension wire. The Court was not at all inclined to grant additional time for the said purpose looking into the apparent correspondence between AIIMS authorities indicating that from 2009 to 2024, repeated requests have been made annually to remove the high-tension wires to enable expansion/construction, which were not heeded.



But even though this Court is of the firm opinion that the present case is that of criminal negligence and requiring imposition of a cost of Rs.50 crores upon the State, as indicated above, but in the interest of justice, before issuing any direction in this regard, one last opportunity is given to the learned AAG to file an affidavit before the next date, which will enable the Court to conclude its directions regarding the cost and actions for complete failure in public duty.

Further, the learned Additional Advocate General shall obtain necessary instructions from the competent authority of the State of Rajasthan regarding the circumstances that have halted the trauma centre's construction for 16 years, directly impacting the potential life-saving capabilities for a large number of citizens, and ensure that the high-tension lines are removed in a time-bound manner to facilitate the completion and immediate operationalization of the trauma centre.

II. Qua the second issue, the District Collector, Jodhpur, with the help of all State organs, shall ensure that all possible measures are taken to supply clean water to AIIMS. Regular checks will be conducted, and any deviations must be immediately brought to the State's notice by the AIIMS Administration and any deviations will be viewed very seriously by the Court.

III. Qua the third issue, the Ministry of Agriculture, Government of India, shall file a report before this Court to explore and find a resolution for shifting the Central Arid Zone Research Institute (CAZRI) from a heavy density area of the town to another location with suitable land and soil for its research work. The responsibility shall lie with the Ministry of Agriculture,



Government of India, CAZRI, and the State Government to provide alternate land.

Mr. Mukesh Rajpurohit, learned Deputy Solicitor General, is also directed to explore whether a some part of CAZRI's land can be allocated to AIIMS for the purpose of expanding the facilities.

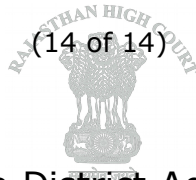
Mr. Mukesh Rajpurohit, learned Dy. S.G., will also hold deliberations with Mr. Mahaveer Bishnoi, learned AAG, and Mr. Rajesh Panwar, learned AAG, to determine if alternate land of appropriate measurements and type can be allotted for CAZRI's functioning. They shall be free to consult with the highest executive authorities dealing with this proposition.

IV. Qua the Fourth Issue, the diesel shed area parking shall be immediately ensured by the District Administration and all respondents. To facilitate entry from that gate, the AIIMS Administration shall take requisite steps to ensure patients can reach the OPD, which they claim is nearer to that gate, as a short-term measure.

The District Collector, Jodhpur, is directed to explore any other land, possibly private land available, for making multilevel parking possible for patients visiting the AIIMS Institute.

V. Qua the Fifth Issue, the HPCL compound shall be explored to be handed over to AIIMS with the help of learned counsel Mr. Sunil Beniwal. The area to be handed over to AIIMS shall be explored in coordination with the District Administration and all concerned authorities.

Mr. Sunil Beniwal, learned counsel representing HPCL, is directed to explore how the HPCL Campus, which is approximately 4 bighas, can be handed over to AIIMS. It shall be open for Mr.



Sunil Beniwal to consult the District Administration, HPCL officials, and AIIMS officials for facilitating such shifting of the HPCL Campus as part of the AIIMS facility. Such possibility of handing it over to AIIMS shall be explored. Meanwhile, status-quo as it exists today regarding the HPCL Complex shall be maintained.

VI. Qua the Sixth Issue, the Transport Nagar area will be facilitated for relocation in accordance with the JDA scheme, which has already proposed to relocate the Transport Nagar. The area to be handed over to AIIMS shall be explored in coordination with the District Administration and all concerned authorities.

The learned AAG is directed to explore, in collaboration with the District Administration, methods to persuade the transporters to comply with the scheme already prepared by the JDA and to investigate the possibility of transferring the land to AIIMS for its necessary requirements, such as parking facilities.

10. List the matter on 06.02.2025.

(MUNNURI LAXMAN),J

(DR. PUSHPENDRA SINGH BHATI),J

100-sudheer/-