

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF DECEMBER, 2021

PRESENT

THE HON'BLE MR. RITU RAJ AWASTHI, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.9700/2021 (GM-RES-PIL)

BETWEEN

GURUNATH VADDE
S/O VAJINATH VADDE
AGE: 55 YEARS, R/O NO.14
SANTOSH COLONY
AURAD (B)
BIDAR DISTRICT - 585 326

...PETITIONER

(BY SRI SRINIVAS V, ADVOCATE)

AND

1. STATE OF KARNATAKA
REPRESENTED BY ITS
CHIEF SECRETARY
VIDHANA SOUDHA
BANGALORE - 560 001
2. THE PRINCIPAL SECRETARY
KARNATAKA RURAL
DEVELOPMENT AND
PANCHAYAT RAJ DEPARTMENT
VIKAS SOUDHA
BANGALORE - 560 001
3. THE PRINCIPAL SECRETARY TO
HEALTH AND FAMILY WELFARE

DEPARTMENT
VIDHANA SOUDHA
BANGALORE

4 . THE TAHSILDAR
AURAD (B) TALUK
BIDAR DISTRICT - 585 382

...RESPONDENTS

(BY SMT. VANI H, AGA FOR R-1 TO 4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF MANDAMUS OR ANY OTHER WRIT OF LIKE NATURE AND DIRECT THE RESPONDENTS TO CONSIDER THE REPRESENTATION OF THE PETITIONER GIVEN ON 15/05/2021 TO RESPONDENT NO.4 I.E., ANNEXURE-A TO THE WRIT PETITION AND DIRECT THE RESPONDENTS TO START A HOSPITAL AT THE GRAMPANCHAYATH LEVEL AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, **SACHIN SHANKAR MAGADUM .J** MADE THE FOLLOWING:

ORDER

The captioned writ petition is filed seeking the following reliefs:

"a) Issue a writ of mandamus or any other writ of like nature and direct the respondents to consider the representation of the petitioner given on 15/05/2021 to respondent No 4 i.e, Annexure A to the writ petition and direct the respondents to start a hospital at the grampanchayath level.

b) Grant any other remedy that this Hon'ble Court deems fit in the facts and circumstances of the case."

2. In response to the notice, the State has filed compliance report by way of affidavit on 24.11.2021. The State, at paragraph 7, has stated as follows:

*"7. The State has undertaken to upgrade PHCs to IPHS standards in a phased manner. As per Budget 2021-22 at para 114 it is proposed to establish 250 Model PHCs this year. Budget announcement is enclosed as **Document No.3***

*a. Majority of PHCS are functioning in Government buildings. Only in a few places due to non-availability of land PHCS are being run in rented buildings. It is submitted that the Government will provide suitable site and Government buildings in such places in a phased manner. Dilapidated buildings will be repaired as soon as possible by following the necessary provisions of the Karnataka Transparency in Public Procurement Act, if applicable and/or new buildings will be constructed in the places mentioned in para 8(c) of the report of KSLSA in the coming days. In this regard, already communications have been issued to the Chief Engineer, Engineering Division Health Department requesting to carry out repairs of the buildings. Copy of the communication dated 23.11.2021 sent to Chief Engineer, Engineering Division Health Department is enclosed as **Document No.4.***

b. Most of PHCs have a minimum area of 2 acres. But in urban areas where land value is very high 2 acres could not be provided. PHCS in these areas are established in smaller areas. In urban areas some UPHCs are being run in rented buildings. These UPHCs function basically as dispensaries and provide basic healthcare facilities only. As per Government of India guidelines these UPHCs can be run in rented buildings if own building is not available.

c. AYUSH Services are not integrated in all PHCS. However, these services will be provided in a phased manner. This year 250 PHCs are being upgraded as Model PHCS where AYUSH Services will be provided.

d. All PHCs provide essential OPD services. PHCs provide only primary healthcare services. However, in 24/7 PHCs maternal healthcare services are provided throughout the day and 24/7.

e. It is submitted that Covid patients require specialized treatment, Specialist care, Laboratory investigations and in some cases ventilatory support. Such patients are being treated at Taluk and District hospitals only. Screening, follow up treatment, vaccinations and control measures are being provided at all PHCS."

3. We have also examined the recommendations made by the Karnataka State Legal Services Authority (KSLSA) at paragraph 9. Having perused paragraph 7 of the compliance

affidavit filed by the State Government, we find that Primary Healthcare Centres (PHCs) are established in terms of rural population ratio. It is stated by the State that the requirement is one PHC for every 30,000 rural population as per the Indian Public Health Standards guidelines prescribed by the Union Ministry of Health which is based on the recommendation of the Bhore Committee. In the said compliance report, the State has also stated that 2359 PHCs are established as of now. The State claimed that they have set up more than the required PHCs and in fact, there are around 322 PHCs in excess in terms of population ratio.

4. Therefore, the apprehension of the petitioner that there are lesser PHCs and that the rural population is deprived of health care system cannot be acceded to. However, learned counsel appearing for the petitioner, at this juncture, would submit to this Court that at least in the existing PHCs, the State is bound to provide infrastructure and maintain quality. But, the State has failed to maintain the quality in PHCs and has also failed to provide infrastructure for proper functioning of PHCs.

5. We have examined the recommendations made by KSLSA. Therefore, we deem it fit to dispose of the present writ petition by directing the respondent/State to strictly implement the recommendations of KSLSA in terms of paragraph 9 of the report submitted by KSLSA on 21.09.2021.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

bkv