

In Chamber

Case :- MISC. BENCH No. - 7967 of 2020

Petitioner :- Provincial Medical Service Officers (R) Welfare Association

Respondent :- State Of U.P Thru.Prin.Secy.,Medical & Health Services & Ors

Counsel for Petitioner :- Nutan Thakur,Raghvendra Kumar Saini

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Kumar Jaiswal,J.

Hon'ble Rajesh Singh Chauhan,J.

When the matter was taken up today through Video Conferencing, Mrs. (Dr.) Nutan Thakur, learned Counsel for the petitioner, Sri Amitabh Roy, learned Additional Chief Standing Counsel for the respondents no. 1 to 4/State and Sri Abhinav Narain Trivedi, learned counsel for the respondent no.5 appeared.

The present writ petition under Article 226 of the Constitution of India has been filed by the petitioner, who is claiming to be General Secretary of the Provincial Medical Service Officers (R) Welfare Association, U.P., Lucknow.

Learned counsel for the petitioner has submitted that the respondent no.5 has made huge corruption and irregularities in supplying the medical equipments such as PPE kits etc. but no action has been taken by the Government of Uttar Pradesh and, therefore, appropriate direction as prayed in this writ petition be issued and a Committee be constituted to inquire into the matter and submit a report and, thereafter, on the basis of the report, the State Government may take appropriate action against the erring official(s).

Learned counsel for the respondents has raised a preliminary objection with regard to the maintainability of the present writ petition by contending that the petitioner has not made due

disclosure as required by sub-rule (3A) of Rule 1 of Chapter XXII of the Allahabad High Court Rules, 1952, which was amended in view of the judgment of the Apex Court in ***State of Uttaranchal Vs. Balwant Singh Chaufal & Ors.***, 2010 AIR SCW 1029 and prays for dismissal of present petition. Further, no document of credential has been filed to support the pleadings made in para-3 of the writ petition nor any material has been filed to prove that the petitioner society is working to the welfare of public at large.

As per averments made in the writ petition, it appears that only bald allegations have been made by the petitioners in the writ petition without filing any material or document to prove that there are number of irregularities in the Corporation in supplying medical equipments such as PPE kits etc.

On due consideration and also the law laid down by the Apex Court in ***State of Uttaranchal Vs. Balwant Singh Chaufal & Ors. (supra)***, we are of the view that in the absence of any material or documents or credential, the present writ petition is not maintainable at this stage particularly when the State Government is complying the guidelines issued by the Central Government during the lock down period. There is nothing to show that the order issued by the Central Government and State Government are not complied with by the officer(s) of the Government.

Law is well settled that a writ petition for a mandamus without making any representation is not maintainable. Writ of mandamus can be filed only if the statutory authority fails to perform his duty. Reference may be made to the judgement of the Supreme Court in ***Amrit Lal Berry Vs. Collector of Central Excise Central Revenue and others*** : AIR 1975 538 and ***Oriental Bank of Commerce v. Sunder Lal Jain and another*** :

In ***Sunder Lal Jain (supra)***, the Apex Court has observed as under :-

"12. ... Therefore, in order that a writ of mandamus may be issued, there must be a legal right with the party asking for the writ to compel the performance of some statutory duty cast upon the authorities. ..."

From the record, it is evident that the petitioner has not filed any representation with regard to grievances which have been raised in the present writ petition. If the petitioner has any grievance with regard to irregularities in supplying the medical equipments, he ought to have filed representation to the concerned authority for redressal of his grievance.

For the aforesaid reasons, we are not inclined to issue any show cause notice or mandamus as prayed in the writ petition and accept the contention made by the learned counsel for the respondents.

The writ petition lacks merit and is, accordingly, **dismissed**.

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(Rajesh Singh Chauhan, J.) (Pankaj Kumar Jaiswal, J.)

Order Date :- 14.5.2020

Ajit/-