

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) DIARY NO. 10918 of 2020

IN THE MATTER OF:

SACHIN JAIN

.....PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

..RESPONDENT(S)

REPORT ON BEHALF OF RESPONDENT NO. 1, UNION OF INDIA

1. That this Hon'ble Court vide order dated 14.07.2020 had directed the answering respondent to meet the petitioner and other parties to this petition and thereafter to place the decision taken for consideration of this Hon'ble Court. The operative part of the order dated 14.07.2020 is set out below:

"In view of the submissions made by the learned Counsel and learned Solicitor General, we permit the petitioner party-in-person, learned Counsel or their representatives to make a representation in this behalf to the Secretary, Ministry of Health and Family Welfare, Govt. of India, who shall meet all the parties concerned of the present petition on 16.07.2020 at New Delhi and an appropriate decision may be taken within a period of one week thereafter. The decision of the said meeting shall be placed before this Court for further consideration of the matter before issuing directions/guidelines under the Disaster Management Act, to the various State Governments/Union Territories. List the matter for further consideration thereafter."

2. In accordance with the directions of the Hon'ble Court, a personal hearing was accorded to all the parties concerned on 16.07.2020 by Smt. Arti Ahuja, Additional Secretary (Health), Government of India. The meeting was attended by Shri Sachin Jain (Petitioner), Dr. Alex (President, AIPH), Dr. Girdhar Gyani (Director General, Association of Health Care Providers), Shri Siddharth Bhattacharya (Health Care Federation of India), Ms. Malini Aisola & Ms. Inayat S. Kakkar (All India Drug Action Network/AIDAN), Ms. Brinelle D'Souza & Sh. Anand Grover (Jan Swasthya Abhiyan) and Shri Navneet Jain (Intervenor). During the hearing all the parties were requested to submit written submissions by the evening of 16.07.2020. The submissions received are collectively placed at **Annexure-I**.
3. It is submitted that the Ministry of Health and Family Welfare also took on record the observation of this Hon'ble Court of the order dated 14.07.2020

to this very petition that it is not possible to determine/lay down the uniform cost structure for treatment of patients suffering from COVID-19 throughout the country, as the cost structure varies from State to State. This Hon'ble Court has also observed that "We, therefore, consider it inequitable to impose a ceiling on the charges for treatment of COVID-19."

4. It is to be highlighted that Health is a State subject and primary responsibility in terms of management of Covid-19 rests with the States. Depending on the number of cases and availability of health infrastructure in government set-up, States may consider exploring utilizing health facilities available in private sector to augment the available public health infrastructure for COVID-19. Many States have also fixed rates and communicated the same to private hospitals.
5. The Ministry of Health and Family Welfare is of the view that while the decision for utilizing services of private sector rests with the States, a normative guidance may be provided to States to facilitate them for arriving at reasonable rates for the private hospitals to undertake COVID-19 treatment. The following guiding principles are proposed by the answering respondent:
 - i. The States may on a priority basis, arrive at fair rates for private hospitals to ensure that there is no over-charging from COVID-19 patients or indiscriminate hikes for patients.
 - ii. The rates may be arrived at after appropriate stakeholder consultation.

- iii. States may consider Ayushman Bharat-PMJAY and/or CGHS rates as the bench mark basic rates. Certain states have already fixed rates for COVID-19 treatment in private hospitals in their states. The criteria adopted by those states may also be examined by other states in their own context.
- iv. The costing may consider any/all of the below parameters:
 - a. Categorization of hospitals (NABH/ non-NABH)
 - b. Categorization of illness (Mild, Moderate, Severe)
 - c. Category of beds (Isolation Bed without oxygen; Oxygen supplementation bed; ICU bed with non-invasive Ventilation, ICU bed with Ventilator, etc.)
 - d. Tier wise categorization of cities (A, B, C)
 - e. Categorization of hospitals (Tertiary care, Secondary care) or on basis of bed strength (>250; 250-50; <50)
- v. The cost ideally should be all inclusive [PPE, drugs (generic to the extent possible), consumables; investigations, procedures, treatment of co-morbidities, diagnostics, patient transportation and referral, etc.]
- vi. COVID-19 treatment should be based on Standard Treatment Protocols and on the rational use of PPEs as issued and circulated by Ministry of Health and Family Welfare.

- vii. States should set up a mechanism where such fair rates are given wide publicity and where grievances regarding overcharging can be redressed and timelines fixed for their redressal.
 - viii. States should set up oversight mechanisms for monitoring and enforcement of the rates.
 - ix. States shall ensure that the treatment rates so finalized should be widely disseminated not only at State headquarters level but also at district and sub district level making full use of print and electronic media.
 - x. The rates so fixed can also be reviewed from time to time, keeping in view the possibility of reduction in cost of drugs, consumables and evolving clinical management protocols
6. In view of deliberations with the petitioner and all the parties concerned of the present petition, the decision arrived at is submitted by the answering respondent to this Hon'ble Court for favour of kind consideration.

DEPONENT

(सारंगधर नायक)
(S. NAYAK)
उप सचिव/Deputy Secretary
स्वास्थ्य एवं परिवार कल्याण विभाग
Ministry of Health & F.W.
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

VERIFICATION

Verified at New Delhi on this day of July, 2020 that the contents of the above report are true and correct based on the information derived from the

official records. No part of the report is false and nothing material has been concealed there from.

DEPONENT

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