

IN THE HON'BLE HIGH COURT OF MADHYA PRADESH,
BENCH AT INDORE

W. P. No. _____/2020
Other than service matter

PETITIONER :1) The M.P. High Court Bar Association, Indore

VERSUS

RESPONDENTS :1) The State of M.P.
Through – Chief Secretary
Vallabh Bhavan, Bhopal (M.P.)

2) The Directorate of Health Services
Through - The Director
Directorate of Health Services, 6th Floor
Satpuda Bhavan, Bhopal (M.P.)

3) The Chief Medical Officer
Indore, District – Indore (M.P.)

4) The Collector,
Indore , District – Indore (M.P.)

5) The Superintendent of Police
S.P. Office , R.N.T. Marg, Indore (M.P.)

6) The Bombay Hospital Indore
Through – The Director/ Administer
Eastern Ring Road, IDA Scheme No. 94/95
Tulsi Nagar, Vijay Nagar , Indore (M.P.)

7) The Aurobindo Institute of Medical Science
Through – The Director/Administer
Indore - Ujjain State Highway,
Indore (M.P.)

WRIT PETITION UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA

Petitioner most respectfully submits as under :

1. Particulars of the cause/order against which the petition is made :-

- (1) Date of Order : Nil
- (2) Passed in : Nil
- (3) Passed by : Nil
- (4) **Subject-matter in brief :-**

That, it is come into the knowledge of the petitioner association from the Various newspaper and also from the family members of Sushri Achla Joshi who is the life member of the petitioner association that because of the carelessness negligence of the Respondent No.6 and 7 she could not get treatment in time and died untimely ,therefore, the present petition is filed seeking strict action against the illegal, careless and negligence action on the part of the Respondent no.6 and 7 because of which the member of the Petitioners association Sushri Achla Joshi, Advocate could not get the proper and immediate emergency treatment in time and died untimely. It is submitted that on 05/09/2020 Sushri Achla Joshi was feeling uneasy ,therefore, firstly she immediately taken to the respondent No.6 Hospital i.e. Bombay Hospital, Indore (M.P.) but the administration of the respondent No.6 Hospital refuse to admit Sushri Achala Joshi and also not provide primary lifesaving medication in time. The family member of Sushri Achla Joshi requested to the respondent No.6 administration to look into the matter and provide primary immediate treatment but they also refused the same hopelessly the family members of Sushri Achla Joshi immediately taken her to the another Hospital i.e. Respondent No.7 hospital but unfortunately they also denied to admit Sushri Achala Joshi and also refuse to provide primary treatment in time ,however, after inordinate delay the respondent no. 7 Hospital ready to provide treatment to Sushri Achla Joshi but till then she died. It is submitted that Sushri Achla Joshi feeling uneasy at about 06:00AM and she herself told his brother to take her Hospital immediately. The Brother of Sushri Achala Joshi, Shri Arvind Joshi immediately takes her to the Respondent No.6 Hospital which is approximately 4 K.M.

away from her House. It is submitted that during that time she was very well conscious and reach to the respondent No.6 hospital in consciousness ,however, the respondent no.6 neither look her nor provide any primary lifesaving treatment and also refuse to admit her in the hospital. It is submitted that at the relevant time when she was at respondent No.6 Hospital she was very well conscious and at that time if she has been given primary and essential treatment, the said unfortunate incident could not be happen. It is submitted that from the above mention facts it is apparently clear that the Respondent No.6 Hospital shows gross carelessness and negligence. It is further submitted that after refusal from the Respondent No.6 Hospital Sushri Achla Joshi, at the relevant time she was not in good condition and also losing her consciousness taken to the Respondent No.7 Hospital and where initially the Respondent No.7 hospital also denied to provide treatment, however, after making so many requests, the respondent No.7 with inordinate delay only ready to provide primary treatment ,however, the respondent no.7 cause delay in providing primary emergency treatment because of which Sushri Achla Joshi Died. It is necessary to mention her that if the Respondent No.6 and 7 provide treatment in time to Sushri Achla Joshi such unfortunate incident could not be happened. The respondent No.6 and 7 are responsible for causing death of Sushri Achla Joshi therefore strict action is required to be taken against the Respondent No.6 and 7.

2. A declaration that no proceeding on the same subject matter has been previously instituted in any Court, authority or tribunal. If instituted, the status or result thereof, along with copy of the order:

Petitioner declares that no proceeding with regard to subject-matter of this petition is instituted nor is pending before any Court or tribunal at its behest.

3. Details of remedies exhausted : Petitioner further declares that it has no other alternative equally efficacious remedy except to file the present petition.

4. **Delay in filing of the petition, if any :** There is no delay in filing the present writ petition.

5. **FACTS OF THE CASE :-**

5.1) That, the Petitioner M.P. High Court Bar Association , Indore is the association of the practising lawyers of the High Court of M.P. Bench at Indore, and Sushri Achla Joshi was the Life Member (A-41) of the Petitioner Association thus, is entitled to rights and protection enshrined in the Constitution of India. The Respondents are state within the meaning of Article 12 of the Constitution of India and are, thus, amenable to the writ jurisdiction of this Hon'ble High Court.

5.2) That , it is come into the knowledge of the petitioner association from the Various newspaper and also from the family members of Sushri Achla Joshi who is the life member of the petitioner association that because of the carelessness negligence of the Respondent No.6 and 7 she could not get treatment in time and died untimely. A copy of the Newspaper cutting and affidavit of the family members who were with Sushri Achla Joshi at the relevant time are filed here with and marked as **Annexure P/1.**

5.2) That, it is necessary to mention here that this is not the first case of the negligence and carelessness showed by the Hospital in the City. Every day the hospitals are showing such type of negligence and carelessness and not providing the emergency and primary immediate treatment to the Citizens. A copy of news Paper Cutting is filed herewith and marked as **Annexure P/2.**

5.3) That, It is submitted that on 05/09/2020 Sushri Achla Joshi feeling uneasy ,therefore, firstly she immediately taken to the respondent No.6 Hospital i.e. Bombay Hospital, Indore (M.P.) but the administration of the respondent No.6 Hospital refuse to admit Sushri Achala Joshi and also not provide primary lifesaving medication in time. The family member

of Sushri Achla Joshi requested to the respondent No.6 administration to look into the matter and provide primary immediate treatment but they also refused the same ,hopelessly the family members of Sushri Achla Joshi immediately taken to the another Hospital i.e. Respondent No.7 hospital but unfortunately they also denied to admit Sushri Achala Joshi and also refuse to provide primary treatment in time ,however, after inordinate delay the respondent no. 7 Hospital ready to provide treatment to Sushri Achla Joshi but till then she died.

5.4) That, It is submitted that Sushri Achla Joshi feeling uneasy at about 06:00 AM and she herself told his brother to take her Hospital immediately. The Brother of Sushri Achala Joshi, Shri Arvind Joshi immediately takes her to the Respondent No.6 Hospital which is approximately 4 K.M. away from her House. It is submitted that during that time she was very well conscious and reach to the respondent No.6 hospital in consciousness ,however, the respondent no.6 neither look her nor provide any primary lifesaving treatment and also refuse to admit her in the hospital. It is submitted that at the relevant time when she was at respondent No.6 Hospital, she was very well conscious and if at that time she has been given primary and essential treatment, the said unfortunate incident could not happen. It is submitted that from the above mention facts it is apparently clear that the Respondent No.6 Hospital shows gross carelessness and negligence.

5.5) That, after refusal from the Respondent No.6 Hospital Sushri Achla Joshi, at the relevant time she was not in good condition and also losing her consciousness taken to the Respondent No.7 Hospital and where initially the Respondent No.7 hospital also denied to provide treatment, however, after making so many requests, the respondent No.7 with inordinate delay only ready to provide emergency primary treatment ,however, the respondent no.7 cause delay in providing emergency primary treatment because of which Sushri achla Joshi Died. It is necessary to mention her that if the Respondent No.6 and 7 provide treatment in time to Sushri Achla

Joshi such unfortunate incident could not be happened. The respondent No.6 and 7 are responsible for causing death of Sushri Achla Joshi therefore strict action is required to be taken against the Respondent No.6 and 7. The action on the part of the respondent no.6 and 7 is illegal, malafide , and against the guidelines of the Apex Court issued in this regard that the every hospital is duty bound to provide immediate emergency primary treatment to every person. The action of the respondent no.6 and 7 is also in violation of the direction issued by the state government and central government.

6. GROUND'S URGED :-

6.1) That, the conduct of the Respondent no.6 and 7 is against the guidelines of the Apex Court in the matter of Parmanand katara Vs. Union of India AIR 1989 SC 2039 issued in this regard that the every hospital is duty bound to provide emergency immediate primary treatment to every person.

6.2) That, the impugned inaction of the respondent no.6 and 7 is in violation of the article 21 of the constitution.

6.3) That, the conduct on the part of the respondent no.6 and 7 not providing the emergency primary treatment is also in violation of the guidelines issued by the State Government and Central Government.

6.4) That, the conduct of the Respondent no. 6 and 7 are against the medical ethics and morality, therefore, required to be punished.

6.5) That, the Conduct of the Respondent No.6 and 7 Hospital shows gross carelessness and negligence because of which Sushri Achla Joshi died untimely. It is submitted that if she got the initial and emergency primary treatment such unfortunate incident would not happen.

6.6) That, looking to the conduct of the Respondent no.6 and 7 prima facie appear that they have committed offence punishable in the Indian Penal Code, therefore, F.I.R. be registered against concerned person.

6.7) That, the conduct of the Respondent no.6 and 7 is amounting to the culpable Homicide.

6.8) That , the conduct of the respondent no.4 and 5 is against the morality and such type of conduct is dangerous to the society and humanity.

6.9) That, it is the duty of every person who is attached with the medical profession to provide Emergency treatment without an excuse despite this respondent No.6 and 7 have not done on their part therefore required to be punished in accordance with law.

6.10) That, in the present situation such types of incident are increasing day by day therefore strict action is required to be taken against the Hospitals.

6.11) That, the petitioner be permitted raise other grounds at the time of hearing.

7. RELIEF SOUGHT :-

7.1) That, in the facts and circumstances of the case this petition may kindly be allowed and the respondent no. 1 to 5 may kindly be directed to initiate inquiry and punish the concerned director and employee involve in the management of hospital, Doctors and Staff of the Hospital in accordance with law.

7.2) That, in the facts and circumstances of the case this petition may kindly be allowed and the respondent no. 1 to 5 be directed to take the appropriate action and registered F.I.R. against the concerned director and employee involve in the management of hospital, Doctors and Staff of the Respondent No. 6 and 7 Hospital.

7.3) That, the respondent 1 to 5 be directed to take action against the cancellation of the licences of the concerned director and employee involve in the management of hospital, Doctors and Staff of the Respondent No. 6 and 7 Hospital who were on emergency duty at the relevant time.

7.4) That, the Respondent no.1 to 5 may kindly be directed to issued guidelines for all the Hospital to provide Emergency primary treatment to all the citizens of state and also establish Emergency primary health Centre for providing immediate treatment.

7.5) That, the respondent no.1 to 5 may kindly directed to establish or appoint grievance redressal authority in state.

7.6) That, the respondent no. 1 to 5 may kindly be directed to issued guidelines for providing emergency primary health treatment so that such type of incident will not be repeated and if repeated by any hospital of the state ,they may be punished in accordance with law.

7.7) That, to direct the respondents to pay the compensation of Rs.1,00,00,000/- to the family of the deceased.

7.8) That, this petition may kindly be allowed with cost and any other relief which this Hon'ble Court may deems appropriate in the facts of the case be also granted.

8. **INTERIM RELIEF :-** That, in the meantime the CCTV Footage and all the document related to the treatment of Sushri Achla Joshi of the Respondent No.6 and 7 Hospital dated 05/09/2020 to 06/09/2020 may kindly be preserved and submitted under the custody of this court for the purpose of inquiry in the interest of Justice.

9. **Documents relied on but not in possession of the petitioner :-** Nil

10. **Caveat :-** Petitioner states that he has received no notice of lodging any caveat by the respondents.

Indore,
Date: 07/09/2020

Submitted by,

Counsel for the Petitioner.
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