

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1118 of 2020

Petitioner :- Vivek Singh Chakravarti

Respondent :- Union Of India And 7 Others

Counsel for Petitioner :- Shri Krishna Mishra, Sharad Chand Rai

Counsel for Respondent :- A.S.G.I., Avanish Mishra, C.S.C., Ved Mani Tiwari

Hon'ble Govind Mathur, Chief Justice

Hon'ble Siddhartha Varma, J.

As per mandate of article 47 of the Constitution of India, it is the duty of the State to raise the level of nutrition, the standard of living and to achieve improvement in public health. In the light of the mandate aforesaid, the Parliament enacted The Clinical Establishments (Registration and Regulation) Act, 2010 hereinafter referred as 'Act of 2010'.

As per the Act aforesaid, "clinical establishment" means :-

"(i). a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or

(ii) a place established as an independent entity or part of an establishment referred to in sub-clause (i), in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not, and shall include a clinical establishment owned, controlled or managed by-

a. the Government or a department of the Government;

- b. *a trust, whether public or private;*
- c. *a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government;*
- d. *a local authority; and*
- e. *a single doctor, but does not include the clinical establishments owned, controlled or managed by the Armed Forces. Explanation.-For the purpose of this clause "Armed Forces" means the forces constituted under the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957"*

Chapter 3 of the Act of 2010 provides for registration and standards of clinical establishments and according to it the State Council of clinical establishments shall regulate all the performance of clinical establishments including their registration. The registration of clinical establishments may also be cancelled in certain eventualities.

The grievance of the petitioner is that in the District of Etawa no register of clinical establishments as prescribed under Chapter 5 of the Act of 2010 has been prepared and maintained. The register of clinical establishment has to be maintained compulsorily as per the Act of 2010. If such a register has not been maintained then that is a serious lapse on the part of the State was there.

We considered the submission contained in the writ petition and looking to the provisions of the Act of 2010, we deem it appropriate to direct the Principal Secretary of the Government of Uttar Pradesh, Medical and Health Services to respond the writ petition by way of an additional affidavit with regard to implementation of the Act of 2010 and the rules framed therein. The Chief Medical Officer and the Health Officer Etawah as well as the Chief Medical Officer and the Health Officer Mainpuri shall also file affidavits about implementation of all

the provisions within their jurisdiction in the district concerned.

Let this petition for writ be listed on 17th, December 2020.

The affidavit in the terms above shall be filed prior to the next date.

Order Date :- 17.11.2020

A.Dewal

(Siddhartha Varma,J)

(Govind Mathur,Chief Justice)