

ITEM NO.7 Court 4 (Video Conferencing)

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).15615/2021

(Arising out of impugned final judgment and order dated 09-03-2021 in WPL No. 93840/2020 passed by the High Court of Judicature at Bombay)

PRADEEP ARORA & ORS.

Petitioner(s)

VERSUS

DIRECTOR, HEALTH DEPARTMENT & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.118503/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.118504/2021-PERMISSION TO FILE SLP and IA No.118505/2021-PERMISSION TO APPEAR AND ARGUE IN PERSON)

Date : 20-10-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Dr Pradeep Arora, in-person

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Permission to file the Special Leave Petition granted.
- 2 The petition before the High Court of Judicature at Bombay was instituted by Kiran Bhaskar Surgade, whose spouse, Dr Bhaskar Surgade died on 10 June 2020, during the course of the Covid-19 pandemic. Dr Surgade conducted his own clinic. The petitioner before the High Court is the third petitioner in these proceedings under Article 136 of the Constitution. Apart from her, several other doctors as well as surviving heirs of medical professionals, who died due to the

Covid-19 pandemic, have joined in the proceedings before this Court. An association of medical professionals is included in the array of petitioners.

- 3 The issue which has come up before this Court turns upon the construction of the Scheme which was notified by the Union Government in the Ministry of Health and Family Welfare¹ on 28 March 2020. The scheme was formulated under the auspices of the “Pradhan Mantri Garib Kalyan Package” and is labelled as the “Insurance Scheme for Health Workers Fighting Covid-19”². Under the Scheme, a personal accident cover has been provided by New India Assurance Company Limited extending to an amount of Rs 50 lakhs. Clause (ii) of the order of the MoH&FW dated 28 March 2020, *inter alia*, contains the following stipulation:

“ii. On account of the unprecedented situation, private hospital staff/retired/ volunteer/ local urban bodies/contract /daily wage/ ad-hoc/ outsourced staff requisitioned by States /Central hospitals/ autonomous hospitals of Central/States/UTs, AIIMS & INIs/ hospitals of Central Ministries can also be drafted for COVID19 related responsibilities. These cases will also be covered subject to numbers indicated by MoHFW;”

- 4 A notice was issued on 31 March 2020 by the Commissioner of the Navi Mumbai Municipal Corporation to Dr Surgade to keep his dispensary open for the treatment of patients suffering from Covid-19 during the period of the lock down.
- 5 The case before the High Court was that Dr Surgade, while responding to the notice, was compelled to keep his dispensary open and that he eventually succumbed to an infection from the Covid-19 virus. On 14 March 2020, a notification was issued by the Public Health Department of the Government of Maharashtra framing regulations for the prevention and containment of Covid-19, in terms of the provisions of Sections 2, 3 and 4 of the Epidemic Diseases Act

¹MoH&FW

²“Scheme”

1897. Regulation 10 of the Regulations stipulates that the staff of government departments and organizations of each area would be at the 'disposal' of the Collector/Municipal Commissioner for discharging the duty of taking containment measures and, if required, the services of other persons may also be requisitioned. It was in pursuance of the above Regulation that the notice dated 31 March 2020 was issued.

- 6 The Government of Maharashtra addressed a letter dated 1 October 2020 to the Secretary in the MoH&FW seeking a clarification in regard to the applicability of the Scheme to private practitioners. The Union Government, in its response dated 15 October 2020, highlighted Clause (ii) of the order dated 28 March 2020, which refers to: (i) requisitioning of services of medical practitioners; and (ii) drafting of personnel for Covid-19 responsibilities.
- 7 The High Court rejected the writ petition on the ground that the services of Dr Surgade were not requisitioned for Covid-19 duties and that the notice that was issued on 31 March 2020 cannot be construed as a notice requisitioning his services for the specific purpose of treating Covid-19 patients. The High Court has held that the notice did not mandate that the dispensary was required to be kept open for Covid-19 patients.
- 8 The issue which has been raised in the Special Leave Petition raises a matter of significant public importance since it has a bearing on the assured cover of insurance which is sought to be provided by the Union Government to health professionals who have served the nation in the course of the Covid-19 pandemic. *Prima facie*, the object of the Scheme is to provide a measure of social security to the health professionals because of the exposure to the Covid-19 virus which they are liable to suffer in the course of the discharge of their medical duties both in public and private institutions. Though the petition before

the High Court was instituted by a sole petitioner aggrieved by the denial of compensation on account of the death of her spouse, we are inclined to permit the other petitioners to join the proceedings before this Court since the matter raises an issue of nation-wide concern.

- 9 Issue notice, returnable in three weeks.
- 10 Liberty to serve the Standing Counsel for the State of Maharashtra in respect of first and third respondents.
- 11 Liberty to serve the Central Agency, in addition.
- 12 We request the Solicitor General of India to assist the Court on the interpretation of the Scheme so that the wholesome object and intent underlying the Scheme is duly fulfilled.
- 13 List the Special Leave Petition on 12 November 2021.
- 14 Dr Pradeep Arora, who appears in person, is permitted to file an additional compilation of the relevant documents relating to the Scheme.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER