



[1]
HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

IN RE:Right to Health and Well Being of Everyone.

JUSTICE ANOOP KUMAR DHAND

ORDER

11.11.2024

Reportable

By the Court:

1. Right to health is an essential component of human dignity, and it is the responsibility of the government to ensure that this right is protected and promoted for all individuals who are citizens of the nation.
2. Right to health is inherent to right to life and it has been recognised even in "YAJUR VEDA": the first 'mantra' of Yajur Veda reads as under:-

*"Ishe tvoarjey twaa vaayavastha devo vah savitaa
praarpayatu shreshthatamaaya karmana
aapyaadwarmaghnyaa indraaya bhaagam
prajaapatiranameevaa ayakshmaa maa vahstena
eeshata maaghashanso dhruvaa asmin gopathau
syaata bahveeryajamaanasya pashoon paahi."*

The mantra tells at the outset, about the various types of actions that man must undertake to bring happiness to the world. It says that the vital airs, the winds, the etherial elements (vaayavah) may be harnessed for food (ishe), the food which may give energy and vitality (oorjey). May the God Savitaa, the producer of precious gifts and the great inspirer of men and other beings, help the people to engage themselves in the best deeds (shreshthatamaaya karmana). The sense organs, and also all living



beings (Aghnyaah) are fit to be protected and properly maintained, for, our own happiness depends upon them. We must keep ourselves free from the wasting disease (anameevah), we must save ourselves from the thieves (stenah) i.e., robbers and cheats, we must also keep ourselves away from the (aghashansah) people who directly or indirectly, actively or passively support the sinners and their sinful activities. The children, the servants as well as other dependents of a house-holder, also have to be protected against all sorts of dangers (Yajamaanasya pashoon paahi).

This gives us a general idea about the contents of the Yajur Veda. The first and the foremost concern of the living beings is food. Animals eat food for their own survival. They are not concerned about the survival of others.

But human beings cannot afford to neglect the survival of others. They must be always conscious about their environment. They must also take care of the ecological balance. These are necessary for their own survival and happiness. Men must also be able to produce food by harnessing the natural resources. They must take special care of their own health. Their happiness depends upon it. Men must also protect themselves from wasting disease. Or else their life may become miserable."

3. As per Article 25 of the Universal Declaration of Human Rights, everyone has the right to a standard of living, adequate for the health and well-being of himself and of his family including food, clothing, housing & medical care and necessary social services.

4. Health is an essential pre-requisites for human beings and plays a vital role in national development. The Right to health is





an essential right, without which one cannot exercise its basic human rights.

5. The Fundamental Right to Health is not officially recognized by the Constitution of India, but the Fundamental Right to Life and Personal Liberty is guaranteed under Article 21 of the Constitution of India. It includes Right to Human Dignity which extends to Right to Health and medical aid. In this Article "Life" refers to a humane life, and not just a life of survival or animal existence. It covers rights things like the right to a better standard of living.

6. The Indian Constitution contains a numerous provisions that address public health. To safeguard common man's health, the framers of the Constitution included the Directive Principles of the State Policy. Article 38 imposes a liability on the State that it should secure a social order for promotion of welfare of the people, but without public health, we cannot achieve it. Article 39 (e) of the Constitution of India is related to worker to protect their health. Similarly, Article 41 imposes are duty on the State to provide public assistance to those who are of old age, sick and disabled. Article 47 imposes a duty on the State to improve public health.

7. Right to Health is an integral part of Right to Life which is fundamental for all human beings, under Article 21 of the Constitution of India. Article 21 of the Constitution of India deals with the provision of protection of life and personal liberty and it says that no person shall be deprived of his life or personal liberty except according to the procedure established by law. The right to life means something more than mere animal existence and it



includes the right to life consistently, with human dignity and decency.

8. A Government hospital or any other medical institution has the professional obligation to extend its services with the expertise, for protection of human life. Preservation of health should be a paramount consideration and all possible efforts should be made to save the life. Once the life is lost, it cannot be restored. Hence, it is the duty of the hospital administration to preserve life, without any kind of discrimination and negligence.

9. It is the duty of State to provide effective mechanism for the welfare of the public at large. In spite of various health schemes and policies, the condition of health care system is deteriorating day by day beyond the control of State and hospital administration.

10. Recently two news items have been published in a daily newspaper Rajasthan Patrika on 08.11.2024 and 10.11.2024 with the following two titles:-

1. "Ye Kaise Andekhi: Gandghi or Untrend Hathon Main Dialysis, Khule Pani Se Saaf Kar Rahe Khoon" (08.11.2024) and
2. "Haal-e-Aspataal: Mukhya Dwaar Se Trolley Gayab, Emergency Mai Bed Nahi, Kuch Hi Deer Mai Toota Dum" (10.11.2024).

The above nerve shocking news items are reflecting the real picture of the gross negligence on the part of the various hospital administration.



The cuttings of there two news items are marked as Annexure C1 and C2.

11. The Government has a constitutional obligation to provide health facilities to the general public at large. The hospital administration and the staff posted there cannot be allowed to play with the humane life in such a casual manner and callous. No human should lose his life due to negligence on the part of the hospital, staff and Government's poor administration.

12. It is the need of hour that the Government should now focus to improve its health care system and establish good number of hospital and Public Health Centres with better and adequate facilities in the interest of public at large. The present health care services and system is required to be renewed and improved.

13. Taking a serious note of the current situations existing in the state, a *Suo Motu* cognizance is taken to find the solution of the existing problem faced by the general public at large. Let this petition is registered as:-

Suo Motu: In the Matter of Right to Health and Well Being of Everyone.

Versus

1. Union of India through Secretary, Ministry of Medical and Health, New Delhi.
2. State of Rajasthan through Chief Secretary, Government of Rajasthan Secretariat Jaipur.
3. Additional Chief Secretary, Department of Medical and Health, Jaipur.
4. Director, Department of Medical and Health, Jaipur.



14. Issue notice to the respondents. Rule is made returnable by four weeks.

15. Let a report be summoned from the Secretary, Ministry of Medical Heath, Government of India, New Delhi and the Chief Secretary of the State of Rajasthan about the ongoing effective steps being taken by the Centre as well as the State Government, for improving the present health care system.

16. The Court requests Mr. Ashish Saxena and Mr. RD Rastogi, Additional Solicitor General, Union of India, Mr. Archit Bohra, Additional Government Counsel and Mr. Tanveer Ahamad to assist this Court on the issue involved in this petition. Names of the respective counsel and their associates be reflected in the cause list.

17. Let a copy of this order be sent in the office of Secretary, Ministry of Medical and Health, New Delhi; Chief Secretary, Government of Rajasthan, Jaipur and respective counsels for their information and necessary compliance.

18. Office is directed to list this matter before the appropriate Bench on 11.12.2024.

(ANOOP KUMAR DHAND),J

Kud/Karan/Aayush