IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30302-2024 (O&M)
Date of Decision: 27.08.2025

XXXXX

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aditya Sanghi, Advocate,
Ms. Shaveta Sanghi, Advocate
Mr. Pradeep Bhardwaj, Advocate and
Mr. Himanshu Garg, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Manish Bansal, P.P., U.T., Chandigarh and
Mr. Sandeep Vashisht, APP, U.T., Chandigarh.

Mr. Navjit Singh, Central Government Counsel
for the Union of India.

Mr. Ravi Sharma, Standing Counsel and
Mr. Raywant Kaushish, Advocate
for National Medical Commission (NMC).

Mr. Avinit Avasthi, Advocate
for the PGIMER, Chandigarh.

Mr. M. S. Randhawa, Advocate
for respondent No.2.

Ms. Tanu Bedi, Advocate as *Amicus Curiae* with
Ms. Simran, Advocate,
Mr. Vibhu Agnihotri, Advocate,
Mr. Pushp Jain, Advocate,
Ms. Hanima Grewal, Advocate.

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JASGURPREET SINGH PURI, J.

A. FACTUAL MATRIX

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner.

2. While looking at the Medico-Legal Report filed by the respondent-State along with reply as Annexure R-1, it shook the conscious of this Court as not even a word or a letter was legible. Thereafter, in the second case i.e. CRM-M-9887-2025 again the prescription in the nature of clinical notes (Annexures P-3 and P-4) were totally illegible. Both of them have been written by the Doctors working in the Government Hospitals while treating their patients. Therefore, this Court deemed it fit to take judicial cognizance of the issue pertaining to practice of both government and private doctors whereby they write medical prescription and diagnosis in a totally illegible handwriting which cannot be read at all by an ordinary person. This serious and important issue will be dealt with in the later part of this judgment.

3. As per the aforesaid FIR, the complainant knew the petitioner-accused since the time she was in school and he was living in her neighbouring village. In the year 2019, she took admission in a University at Delhi for pursuing her Graduation and in November, 2019, she again came in contact with the petitioner and they started talking to each other. In August, 2021, the petitioner visited the house of the complainant to meet her

father and misrepresented that he was well acquainted with some officers and he has been selected in the Navy and now a days anything can be achieved by money, accordingly a job can also be secured for the complainant by paying some money. The father of the complainant agreed to get the job of the complainant secured in the upcoming Intelligence Bureau on the post of ACIO-II and he was told that an amount of Rs.18-20 lakhs would be required for the same. Thereafter, communication at various instances took place and allegedly, the petitioner told the complainant and her father that due to some reason the officer is expressing his inability to meet and after some days, the petitioner again misrepresented before the father of the complainant that recruitment in Intelligence Bureau is about to be made and asked him to arrange an amount of Rs.5,00,000/- till tomorrow and in this way, the father of the complainant arranged Rs.4,00,000/- from his close relatives and told the petitioner that the remaining Rs.1,00,000/- will be paid in 2-3 days and in this way, the petitioner took Rs.4,00,000/- and went away and thereafter, the balance amount was also paid to the petitioner by the father of the complainant on 19.11.2022. Thereafter one person called the complainant and misrepresented himself as a Commander in Navy and told her that her form for recruitment in Intelligence Bureau has been filled up and remaining formalities were to be completed and on 15.02.2023, he took interview online and another person also misrepresented himself as a Rear Admiral in Navy and the complainant was again asked to send Rs.2,50,000/- in this regard to be paid to the aforesaid Officer. Thereafter, various communications took place and the petitioner rather told

the complainant to meet various persons and further demand of money was made. One military marriage certificate was allegedly prepared so as to get her the benefit of job under defence quota. Details of various occasions have been mentioned in the FIR whereby lakhs of amount of money have allegedly been paid by the complainant and her father and the complainant was told to meet various persons but thereafter, nothing had happened and allegedly, the petitioner gave death threats to the complainant and exploited her physically against her wish. Allegations were also made that on one night the petitioner and the complainant stayed together in a hotel where the petitioner committed rape upon the complainant.

4. When notice of motion was issued in the present case on 21.06.2024, interim protection was granted to the petitioner with a direction that in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of the Arresting/Investigating Officer and that he will join the investigation apart from abiding by the conditions provided under Section 438(2) Cr.P.C.

5. Since the MLR which was attached with the reply filed by the respondent-State was totally illegible, this Court took a serious note with regard to the same and the interim order granted to the petitioner was continued with a direction to the State to provide a proper legible typed detail of the MLR. On 27.02.2025, the learned State counsel had so submitted that illegible handwriting has been used by the Doctor in the MLR and the same was not readable and therefore, efforts were made to get the meaning of the handwritten notes deciphered by the same Doctor who had

written it and thereafter, the same in the legible writing will be placed on record. On 28.04.2025, the learned State counsel submitted that the petitioner has joined the investigation but he has not fully cooperated with the investigation process because he has not deposited his laptop, mobile and the original of the forged documents. On 12.05.2025, the learned State counsel agreed with the submission of the learned counsel for the petitioner that after joining the investigation again, the petitioner has deposited his laptop. Thereafter, on 21.05.2025, the learned State counsel on instructions had stated that although the laptop and mobile etc. have been submitted by the petitioner at the time of investigation and he has cooperated with the investigation process but he has not submitted the original of the fake documents, to which the learned counsel for the petitioner had stated that the petitioner does not have any such kind of documents which are fake and at the most whether the documents are fake or not, the same can be ascertained by the Forensic Science Laboratory and that itself cannot become a ground for denial of anticipatory bail to the petitioner particularly when he has already joined the investigation and has otherwise fully cooperated with the investigation process.

6. It was submitted by the learned counsel for the petitioner that since the petitioner has already joined the investigation and as per the State, he has cooperated with the investigation process, then the mere fact that the objection pertaining to non-deposit of some fake certificates is concerned, the same cannot become a ground for denial of anticipatory bail to the petitioner because the petitioner has not prepared any fake document and regarding the same mere allegations were made by the complainant which

can only be ascertained at the time of trial because the same is based upon documentary evidence and therefore, considering the aforesaid facts and circumstances, the petitioner may be considered for the grant of anticipatory bail. He also submitted that it is a case where the complainant had tried to blackmail the petitioner and rather both of them were childhood friends and due to some other money dispute, the relationship turned sour and the present FIR was lodged by the complainant by levelling false allegations of forgery and rape. He also submitted that the complainant is a lady of matured understanding and no ground of rape is made out in this regard.

7. The learned State counsel had submitted on instructions that the petitioner joined the investigation number of times and he has also deposited his laptop and mobile etc. which were required from him and in this way, he has cooperated with the investigation process but the only objection is pertaining to non-deposit of original of fake documents regarding which allegations were made in the FIR that the petitioner had prepared some fake marriage certificates etc.

8. After hearing the learned counsels for the parties on the issue of anticipatory bail, this Court is of the considered view that considering the totality of facts and circumstances where the petitioner and the complainant are stated to be known to each other since childhood and they were in contact with each other, the fact that the petitioner has already joined the investigation for a number of times after interim anticipatory bail was granted to him more than 1 year ago and that he has also cooperated with the

investigation process, he deserves the concession of anticipatory bail. The objection raised by the learned State counsel with regard to non-deposit of some fake documents/ certificates itself cannot become a ground for denial of anticipatory bail to the petitioner as the same is based upon documentary evidence and the same can be ascertained by way of adducing evidence at the time of trial. Apart from the above, even otherwise also, as per the allegations made by the complainant, she and her father had paid lakhs of rupees to the petitioner for getting a job in Intelligence Bureau, by paying money and if at all the same has been paid, the same is for an illegal purpose of getting a government job by paying money.

9. So far as the MLR report (Annexure R-1) which is fully illegible is concerned, the concerned Medical Officer later on filed her affidavit after deciphering the language of MLR and thereby reproducing in the affidavit wherein it is so opined that sample could not be collected as last sexual contact was established on 03.12.2023 and that possibility of sexual assault cannot be ruled out on the basis of alleged history. The complainant was medically examined on 19.02.2024 which was after about 2 ½ months.

10. Consequently, the present petition filed by the petitioner seeking anticipatory bail is allowed. The order dated 21.06.2024 is hereby made absolute. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

B. NEED FOR TAKING JUDICIAL COGNIZANCE OF THE SERIOUS ISSUE OF ILLEGIBILITY

11. On 05.02.2025, when the matter came up for hearing it was noticed that the handwriting in the attached MLR (Annexure R-1) was absolutely illegible and could not be understood at all. This Court noted that it is very surprising and shocking to note that in this era of technology and accessibility of computers, the notes on the medical history and on the prescriptions by the Government Doctors are still written by hand which cannot be read by anybody except perhaps some Doctors and even this Court in number of cases has seen where even the medical prescription is written in such a handwriting which nobody can read except perhaps some Chemists and the same was the position with regard to the State of Punjab and probably U.T., Chandigarh as well.

12. Therefore this court took a *prima facie* view that right to have knowledge about medical prescription issued by a Doctor and the notes on the medical history is *prima facie* a right which is vested in the patient or the attendants to peruse the same and apply mind especially in today's technological world and that right to know the medical status of a human being can also be considered as a Fundamental Right under Article 21 of the Constitution of India because health and treatment given to a human being is a part of life and therefore, may be considered as a part of right to life. Considering the aforesaid seriousness of the issue, this Court therefore deemed it fit and proper to request the learned Advocate General, Haryana to assist this Court and also directed that the State of Punjab as well as U.T.,

Chandigarh shall also assist this Court in this regard. Assistance of National Medical Commission (hereinafter referred to as 'NMC') was also required and therefore, Mr. Ravi Sharma, Advocate, who is on the panel of NMC was also requested to assist this Court on the aforesaid issue. Ms. Tanu Bedi, Advocate was appointed as *Amicus Curiae* in the present case on 13.02.2025. It was suggested by the learned counsels for the parties that the learned Senior Standing Counsel for PGIMER, Chandigarh may also be informed with regard to the present case for valuable inputs which can be taken from him and therefore, Mr. Amit Jhanji, learned Senior Standing Counsel for PGIMER, Chandigarh was requested to assist this Court on this issue.

13. On 20.02.2025, Ms. Tanu Bedi, learned *Amicus Curiae* suggested that there in an association of doctors at the Apex Level India having branches at the State Level and she has contacted Dr. Dilip Bhanushali, President of the Indian Medical Association (IMA), Delhi and he has consented to assist this Court on the present serious issue and the learned *Amicus Curiae* submitted that she will provide the phone number and e-mail address of the President of Indian Medical Association (IMA) in this regard. On 27.02.2025, the learned *Amicus Curiae* again submitted that she has spoken to the President of Indian Medical Association (IMA) and he is ready and willing to assist this Court on the aforesaid serious issue either physically or through video conferencing and she also supplied the phone number and e-mail address of the President of Indian Medical Association (IMA), Delhi.

14. Therefore, this Court issued notice to Indian Medical Association (IMA) on the aforesaid e-mail address provided by the learned *Amicus Curiae*. Thereafter, on 06.05.2025, the learned *Amicus Curiae* submitted that the President of Indian Medical Association (IMA), Delhi has been repeatedly informed and she will again inform him with regard to the pendency of the present petition.

15. The following was the report of the Registry dated 17.03.2025.

> *"Notice issued to the President of Indian Medical Asso. on e-mail provided by the learned Amicus Curiae".*

16. However, nobody appeared on behalf of the Indian Medical Association (IMA) despite being informed repeatedly by the learned *Amicus Curiae* and served through e-mail by this Court. Therefore considering the seriousness of the present issue, this court deemed it fit and proper to continue adjudicating on the present issue despite their absence, although their presence in joining the proceedings would have been appreciable.

C. ILLUSTRATIONS OF ILLEGIBILITY

17. In *CRM-M-30302-2024*, vide Annexure R-1, the MLR was absolutely illegible and in *CRM-M-9887-2025* as well, the prescriptions vide Annexures P-3 and P-4 were absolutely illegible and all of them have been issued by the Government Hospitals. CRM-M-9887-2025 was dismissed as withdrawn but it was directed to be tagged with the present petition for reference purpose. Therefore, it will be necessary to look at three documents which are printed as follows:-

ANNEXURE R-1: MLR

(CRM-M-30302-2024)

13

STEP-II. HISTORY

17. Marks of Identification

(1) Scar on Rt. [illegible]

(2) FWC Black mole on [illegible] neck.

18. History/Brief description of the incident (as narrated by the victim)

[illegible] (on 20.10.23) [illegible] again on [illegible]

[illegible] 19/02/24

History was given by me

19. General Physical Examination

(1) Physical development — Normal

[illegible]

(2) General condition of the person :

[illegible]

(3) Gaite of the victim :

Normal.

ANNEXURE P-3: MEDICAL PRESCRIPTION

(CRM-M-9887-2025)

P-3

QUEUE NO- [14]

SH PARBODH CHANDER CIVIL HOSPITAL PATHANKOT

Civil Hospital Pathankot, 37

Tb And Chest Clinic-TB and Chest Clinic(Room No. - 17) (OPD All Days)

OUT PATIENT RECORD - REVISIT (MORNING CLINIC)

Registration Fee : Rs. 0.00/-

: 2500112400047216 [redacted]	Date & Time : 30-Oct-2024 10:38	Category : TB Patient (NA)
: SHASHI KANTA	Age/Sex : 65 Yr/F	Father/Spouse/Mother Name : TARSEM
: Ptk,Pathankot, Punjab India , Mobile: 7009566221		

Date	Clinical Notes/Prescriptions	Investigations

Sample A-ve

Lab No. 4027

ANNEXURE P-4: MEDICAL PRESCRIPTION

P-4

SH PARBODH CHANDER CIVIL HOSPITAL PATHANKOT

Civil Hospital Pathankot

Orthopedic-ORTHOPEDIC OPD(Room No. - 13) (OPD All Days)

OUT PATIENT RECORD (MORNING CLINIC)

Registration Fee : Rs 10

CR No. : 28001123300818671	Date & Time : 08-Jun-2023 12:19	Category : General (NA)
Patient Name : SANDEEP MALOTRA	Age/Sex : 36 Yr/M	Father/Spouse/Mother name : TARSEM LAL

Residence : PTK,Pathankot,Punjab,India, Mobile: 9999999999

DIAGNOSIS :

Date	Clinical Notes/Prescriptions	Investigations
	Rx	

Advise: No travel without attendant

MEDICAL OFFICER
Civil Hospital, Pathankot

D. ISSUE OF ILLEGIBLE HANDWRITING IN THE MEDICO-LEGAL REPORT

18. The issue with regard to preparing MLR/PMR in a typed format and not handwritten has already been dealt with by this Court in ***CRM-M-19820-2011, titled as Rajpal @ Labh Singh and another versus State of Haryana*** and in this regard various instructions have also been issued at different levels and there may be some isolated cases like the present case where still violations are being made. However, the challenge of illegible handwriting extends beyond MLRs, affecting prescriptions, diagnosis and other crucial medical records. While the issue of an illegible handwritten MLR is mostly resolved, the underlying problem of illegible handwriting on medical documents including prescriptions and diagnosis remains which could also be seen from a perusal of Annexure R-1 in *CRM-M-30302-2024* and Annexure P-3 and Annexure P-4 attached along with the petition filed in CRM-M-9887-2025 as reproduced above. Given its critical implications for patient care and legal adjudication, a broad, proactive stance is warranted to address the issue systemically.

19. In other words, the scope of the issue in the present cases would now only be pertaining to illegible handwriting in the medical prescriptions prescribing medicines and diagnosis by clinical establishments and individual doctors whether Government or Private.

E. ISSUE INVOLVED IN THE PRESENT CASE

20. An important and serious issue of larger importance involved in the present two petitions is as follows:-

Whether legible medical prescription and diagnosis is an integral part of Right to Health and therefore, a Fundamental Right under Articles 21 of the Constitution of India?

F. RELEVANCE OF THE ISSUE IN THE TECHNOLOGICAL ERA

21. The importance of legible and preferably digital/typed medical prescription has become important and indispensable especially in the present era of technological advancement where every information is accessible and available by a click on a screen. Everyone in today's time is well informed and aware of as to how technology can be put to use in their day to day lives. In such progression of informed citizens, it becomes likely for most of us to check the medical prescription/diagnosis which has been provided by the doctor in order to lookout for any relevant information which might be available regarding the same on digital platforms. This practice has been further aided by the introduction of Artificial Intelligence where all the curated information on any subject lies just a click away. The problem of illegible handwriting creates a gap resulting in inefficiencies and further limits the potential benefits of digital health innovations and technology which is readily available. Although accessibility of deep research information has been simplified with the advent of digital technology but the wisdom and professional skills of a qualified doctor cannot be matched or replaced. The issue involved herein is not an issue of substitution which otherwise could be counter productive to the health of patients but the issue involved is only a right to know about the treatment

being carried on towards him. Illegibility leads to ambiguity and confusion which can in turn take on a patient's life or health.

22. Another challenge that is posed by illegible handwritten prescriptions is that if prescriptions are unclear, it jeopardizes the quality and safety of patients, hindering broader access to care and patient's right to give free consent without having any knowledge as to what has been prescribed to them. Inaccurate or ambiguous prescriptions weaken the effectiveness of such safety nets which are result of technological advancements, increasing the likelihood of adverse impact on patients.

23. With the progress of transmission technology digitally, the medical details can be transmitted in seconds for seeking another opinion from specialists anywhere in the world. If the prescription and diagnosis is illegible, it will cause immense deprivation of optimum utilization of technology and may in turn cause irreversible damage and prejudice.

G. CONSTITUTIONAL SAFEGUARDS

24. Article 21 being a Fundamental Right and Article 47 being a Directive Principle of State Policy of the Constitution of India are reproduced as under:-

> "***21. Protection of life and personal liberty***
>
> *No person shall be deprived of his life or personal liberty except according to procedure established by law."*

> ***"47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health***
>
> *The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular,*

the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health."

H. INTERNATIONAL GUIDELINES

25. As per the WHO guidelines[1], essentials of a good medical record should be:

i. identify clearly the person about whom it is written;

ii. be legible and able to be understood by anyone likely to use it;

iii. be accurate, concise and logical in its organization;

iv. be consistent in lay-out and the size of papers used in it;

v. identify the people contributing to the record so that they can be asked for further information if necessary;

vi. be promptly retrievable when required.

26. The United Nations Committee on Economic, Social and Cultural Rights, while drafting the core legal obligations of the State Governments in respect of implementing the right to health, way back in the year 2000, pointed out that information accessibility is as an essential element of the right to health[2].

27. The Universal Declaration of Human Rights (1948) emphasizes the fundamental dignity and equality of all human beings. Based on this concept, the notion of Patient Rights has been developed across the globe in the last few decades. There is a growing consensus at international level that all patients must enjoy certain basic rights. The Charter of Patient's Rights

1 Guidelines for Medical Record Practice, WHO,1980 at 30.
2 CESCR General Comment No.14 at para 12.

adopted by the National Human Rights Commission draws upon all relevant provisions, inspired by international charters, universal declaration of human rights and guided by national level provisions. While not a direct part of the Act itself, this Charter is intended to be incorporated into the healthcare regulations including those under Clinical Establishment Act. This Charter explicitly states a "right to information" which includes the right to "adequate relevant information about the nature, cause of illness, provisional/confirmed diagnosis, proposed investigations and management and possible complications to be explained at their level of understanding in language known to them.

I. VARIOUS LEGISLATIONS, RULES AND REGULATIONS

Medical Council of India Act, 1956

28. Medical Council of India Act, 1956 was enacted with the objective to provide for the reconstitution of the Medical Council of India, and the maintenance of a Medical Register for India and for matters connected therewith. However, this Act has since been repealed and replaced by the National Medical Commission Act, 2019.

National Medical Commission Act, 2019

29. National Medical Commission Act, 2019 was enacted with the objective to provide for a medical education system that improves access to quality and affordable medical education, ensures availability of adequate and high quality medical professionals in all parts of the country; that promotes equitable and universal healthcare that encourages community health perspective and makes services of medical professionals accessible to

all the citizens; that promotes national health goals; that encourages medical professionals to adopt latest medical research in their work and to contribute to research; that has an objective periodic and transparent assessment of medical institutions and facilitates maintenance of a medical register for India and enforces high ethical standards in all aspects of medical services; that is flexible to adapt to changing needs and has an effective grievance redressal mechanism and for matters connected therewith or incidental thereto. Under Section 3 of the Act, National Medical Commission Act is constituted.

30. The Indian Medical Council Act, 1956 was repealed. However, Section 60 deals with repeal and saving clause and Section 61 provides for 'transitory provisions'. Section 61(2) contains a non-obstante clause, which provides that the repeal of the Indian Medical Council Act, 1956, the education standards, requirements and other provisions of the Indian Medical Council Act, 1956 and the rules and regulations made thereunder shall continue to be in force and operate till new standards or requirements are specified under this Act or the rules and regulations made thereunder.

31. Thereafter, National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023 were made. However, vide Notification dated 23.08.2023, the aforesaid Regulations of 2023 were directed to be not operative and effective till further Gazette Notification is made and it was further notified that the National Medical Commission adopts and makes effective with immediate effect the "Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002" as

if the same were made. The aforesaid Notification is reproduced as under:-

> *"**NATIONAL MEDICAL COMMISSION***
> ***(Ethics and Medical Registration Board)***
> ***NOTIFICATION***
>
> *New Delhi, the 23rd August, 2023*
>
> *No. R-12013/01/2022/Ethics.— In exercise of the powers conferred by Section 27(1)(b), read with Sections 10(1)(b) & (f), 16(2), 57(2) (zd), (zh), (zi) and (zl), of the National Medical Commission Act, 2019, (Act No. 30 of 2019), the National Medical Commission hereby makes the following Regulations to further amend the "National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023" namely:*
>
> *1. These Regulations may be called the "National Medical Commission Registered Medical Practitioners (Professional Conduct) (Amendment) Regulations, 2023"*
>
> *2. These Regulations shall come into force from the date of their publication in the Official Gazette.*
>
> *3. That National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023, are hereby held in abeyance with immediate effect.*
>
> *4. That for removal of doubts, it is clarified that the National Medical Commission Registered Medical Practitioners (Professional Conduct) Regulations, 2023, shall not be operative and effective till further Gazette Notification on the subject by the National Medical Commission.*
>
> *5. That the National Medical Commission hereby adopts and makes effective with immediate effect the "Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002", as if the same have been made by*

the Commission by virtue of the powers vested under the National Medical Commission Act, 2019 (Act No. 30 of 2019).

6. That for removal of doubts, it is clarified that Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, shall come into force with immediate effect.

Dr. VIPUL AGGARWAL, Secy.
[ADVT.-III/4/Exty./378/2023-24]

Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002

32. These Regulations were framed in exercise of the powers conferred under Section 20A read with Section 33(m) of the Indian Medical Council Act, 1956. Regulations 1.1.1 and 1.5 as introduced in the year 2002 are reproduced as under:-

1.1.1 A physician shall uphold the dignity and honour of his profession.

xxx-xxx-xxx xxx-xxx-xxx

1.5 Use of Genric names of drugs:

Every physician should, as far as possible, prescribe drugs with generic names and he/she shall ensure that there is a rational prescription and use of drugs.

xxx-xxx-xxx xxx-xxx-xxx

33. A Notification was issued by the Medical Council of India dated 21.09.2016 in exercise of its powers under Section 33 of the Indian Medical Council Act, 1956. This notification was in the nature of Regulations to amend the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 and the aforestated Clause 1.5 was amended. It

now provided that every physician should prescribe drugs with generic names legibly and **preferably** in capital letters and he/she shall ensure that there is a rational prescription in use of drugs. The aforesaid Notification is reproduced as under:-

MEDICAL COUNCIL OF INDIA
NOTIFICATION
New Delhi, the 21st September, 2016

No.MCI-211(2)/2016(Ethics)/131118 *.– In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956 (102 of 1956), the Medical Council of India with the previous sanction of the Central Government, hereby makes the following Regulations to amend the "Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002: -*

Short Title and Commencement:-

1. (i) These Regulations may be called the "Indian Medical Council (Professional Conduct, Etiquette and Ethics) (Amendment) Regulations, 2016 – Part – I".

(ii) They shall come into force from the date of their publication in the Office Gazette.

2. In the "Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002", the following additions/modifications/deletions/substitutions, shall be, as indicated therein:-

3. In Chapter 1-B-Duties and responsibilities of the Physician in general, Clause – 1.5 under the heading – ***Use of Generic names of drugs****, the following shall be substituted : -*

"Every physician should prescribe drugs with generic names legibly and preferably in capital letters and he/she shall ensure that there is a rational prescription and use of drugs"

DR. REENA NAYYAR, Secy. I/c
[ADVT.-III/4/Exty./253(100)]

34. The aforesaid Notification is of high importance in view of the important change, wherein now instead of the expression 'as far as possible', expression 'should' has been used which makes it mandatory and compulsory. Not only this, it is made compulsory to prescribe the drugs with

generic names ‘legibly’. Furthermore, an expression ‘preferably’ has been used with regard to direction pertaining to using the same in capital letters. This Notification is still in operation, although issued under the Medical Council Act but by virtue of Section 61(2) of the National Medical Commission Act, 2019 and the National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023, the new Regulations after being kept in abeyance, the aforesaid Notification dated 21.09.2016 remains in operation till date.

35. In other words, the Notification reproduced above dated 21.09.2016 being a statutory notification is enforceable and in operation till date. 'Legibility' of prescription is mandatory under the law. Furthermore preference is to be given to 'Capital Letters'.

The Clinical Establishments (Registration and Regulation) Act, 2010

36. This Act came into force on 18.08.2010, which provides for the registration and regulation of clinical establishments in the country and for the matters connected therewith or incidental thereto. This Act was made considering the mandate of Article 47 of the Constitution of India for improvement in public health. Since health is a subject matter under the State List, various States were to adopt the same. However, at the first instance this Act had applied to the States of Arunachal Pradesh, Himachal Pradesh, Mizoram, Sikkim and Union Territories and with regard to the other States, it was made applicable to states whichever State adopted the same in accordance with law. The State of Haryana adopted the same, whereas the State of Punjab passed its own enactment namely Punjab Clinical Establishment Act, 2020. Section 2(c) of the Act of 2010, defines

clinical establishments which not only includes Government hospitals but also a trust, corporation, local authority and even a single doctor but excludes those clinical establishments which are owned, controlled and managed by the Armed Forces. Section 11 provides that no person shall run a clinical establishment unless it has been duly registered in accordance with the provisions of the Act. Section 12 provides for condition for registration. It provides that for registration and continuation, every clinical establishment shall fulfil the conditions, namely, the minimum standards of facilities and services as may be prescribed and also provisions for maintenance of records and reporting as may be prescribed. Section 32 provides that if at any time after a clinical establishment has been registered, the authority is satisfied that the conditions of the registration are not being complied with or the person entrusted with the management of the clinical establishment has been convicted of an offence punishable under the Act, it may issue a notice to the clinical establishment to show cause within three months as to why its registration under the Act should not be cancelled for the reasons to be mentioned in the notice. Section 43 provides for penalty for minor discrepancies. Section 52 provides for power of the Central Government to make rules and clause 52(2)(h) provides for the power to make rules for the maintenance of records and reporting by the clinical establishments under Clause 3 of Sub-Section 1 of Section 12 of the Act.

37. In exercise of the aforesaid powers under Section 52, the Ministry of Health and Family Welfare, Government of India made ‘Clinical Establishments (Central Government) Rules, 2012’. Rule 9 provides for other conditions for registration and continuation of clinical establishments.

Rule 9(iv) provides that the clinical establishments shall maintain and provide Electronic Medical Records or Electronic Health Records of every patient as may be determined and issued by the Central Government or the State Government as the case may be, from time to time. Rule 9(iv) is reproduced as under:-

> ***Rule 9(iv).*** *the clinical establishments shall maintain and provide Electronic Medical Records or Electronic Health Records of every patient as may be determined and issued by the Central Government or the State Government as the case may be, from time to time.*
>
> *(emphasis supplied).*

38. The Union Territory, Chandigarh framed Rules known as the Union Territory of Chandigarh Clinical Establishments (Registration and Regulation) Rules, 2013.

39. Similarly, the State of Haryana issued a Notification dated 13.07.2018 and framed the Haryana Clinical Establishments (Registration and Regulation) Rules, 2018.

40. So far as the State of Punjab is concerned, it enacted its own legislation, namely, 'The Punjab Clinical Establishments (Registration and Regulation) Act, 2020' and issued a Notification to this effect on 22.10.2020. Section 21 of the aforesaid Act provides for conditions for permanent registration. It provides that no permanent registration shall be granted in respect of clinical establishment unless various conditions are fulfilled. As per clause (f), it is mandatory to make provisions for the maintenance of such records and registers in such form and containing such particulars as may be prescribed and under clause (k), every clinical establishment

immediately after coming into force of the Act is to maintain comprehensive medical records and provide a set of all medical records and treatment details along with the discharge summary at the time of discharge of the service recipient.

J. ARGUMENTS ADVANCED BY LEARNED COUNSELS

Submissions made by the learned Amicus Curiae

41. Ms. Tanu Bedi, learned *Amicus Curiae* submitted that the intervention of this Court is required for mandating clear and legible prescriptions from doctors in both Government and private hospitals which is a dire necessity to safeguard public health and ensure patient safety. This is not merely about aesthetics or convenience but it is a crucial issue having far-reaching consequences effecting lives of people. She submitted that illegible or incomplete prescriptions are a leading cause of medication errors. Pharmacists may misinterpret drug names, dosages, routes of administration, frequencies and other medical related opinions, leading to patients receiving wrong medication, incorrect doses or improper instructions prejudicially affecting treatment plan. Such errors can also result in adverse drug reactions, therapeutic failures, prolonged hospital stays, increased healthcare costs and in severe cases even death. She submitted that when prescriptions are clear, patients can better understand their treatment regimen, including how and when to take their medications. This promotes adherence, reduces confusion, empowers patients to be active participants in their own care and ultimately leading to better health outcomes. She submitted that ambiguous prescriptions often necessitate time-consuming clarification calls between pharmacists and doctors which

delays dispensing and increasing workload for both. On the other hand, clear prescriptions streamline the process, reduce administrative burdens and ensure timely access to essential medicines.

42. It was submitted that the prescription can be a medico-legal document and illegible prescriptions can complicate medico-legal cases as well making it difficult to ascertain responsibility in instances of medical error. Mandating legibility provides a clear standard, enhancing accountability for healthcare providers. Clear prescriptions while adhering to essential drug lists can encourage more rational and cost-effective prescribing practices. This will benefit both the patients and the healthcare system by reducing unnecessary medication use. She submitted that despite existing guidelines and regulations by bodies like the Indian Medical Council (now National Medical Commission) encouraging legible prescriptions, the problem of illegible handwriting persists which indicates a need for stronger enforcement mechanisms and a more robust framework to ensure compliance. In essence, the absence of clear and legible prescriptions poses a systemic risk to patient well-being and therefore a strong directive is required from the Court to reinforce existing ethical and professional duties and also to provide the necessary impetus for a nationwide shift towards safer, more transparent and ultimately more effective healthcare delivery. She also referred to various provisions of the legislations and regulations applicable in the country. She referred to Clause 1.5 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 as well as the notification dated 21.09.2016 issued by the Indian Medical Council (Professional Conduct, Etiquette and Ethics)

Regulations, 2002 wherein earlier clause 1.5 was specifically modified and formalized the "preferably in capital letters" aspect. She while referring to Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 submitted that although the National Medical Commission temporarily put on hold its regulations to prescribe only generic drugs but the directive for legibility and the preference for capital letters/typed prescriptions remained part of the broader professional conduct guidelines as the NMC clarified that the 2002 MCI regulations which include the legibility clause would come into force again.

43. Learned Amicus Curiae also referred to a judgment passed by the Hon'ble Orrisa High Court as well as the Hon'ble Uttarakhand High Court highlighting the seriousness of the issue involved pertaining to the legibility of the handwriting used by the doctors while prescribing medicines.

44. Learned *Amicus Curiae* also heavily referred to the Constitutional provisions of Articles 21, 19(1)(a) and 47 of the Constitution of India and submitted that once right to health is an integral part of right to life, then right to know the medical prescriptions for a patient will not only be a part of Article 21 but will also be a part of Article 19(1)(a) of the Constitution of India and therefore, right know the prescription and diagnosis will be a part of the Fundamental Rights as aforesaid. She further submitted that right to know the prescription and diagnosis can be done only if the same is legible and can be read easily. She further referred to the Clinical Establishments (Registration and Regulation) Act, 2010 and submitted that this Regulation being a crucial piece of legislation

significantly supports the argument for clear and legible prescriptions and while the Act itself does not explicitly mention “legible prescriptions”, however, its core objective and provisions create a framework within which such a requirement naturally fits. She referred to Section 12 (1) (i) wherein the primary objective of the Clinical Establishment Act is to provide for registration and regulation of clinical establishments in the country with a view to prescribe the minimum standards of facilities and services provided by them. The purpose is to formulate minimum standards and these standards are not just about infrastructure but also encompass the quality of services and patient care. The implications for the purpose of prescriptions, a minimum standard of service inherently includes clear and safe communication of medical information. In other words, an illegible prescription directly compromises the standard of care and therefore, the National Council in its rules and guidelines can mandate for a clear and legible prescription as far as these minimum standards are concerned. She submitted that a clear and legible prescription should be a part of the minimum standard of service as contained under the aforesaid Act. She further submitted that the overarching goal of the Clinical Establishments Act is to improve the quality of public healthcare and patient safety is a cornerstone of quality care and since illegible prescriptions are a well-documented cause of medication errors, it is a major threat to patients’ safety. The aforesaid Act aims to minimize such errors by ensuring that all clinical establishments adhere to certain standards. She therefore urged that a directive be issued for legible prescriptions which aligns perfectly with the purpose of the Act for enhancing the safety of patient.

45. Learned *Amicus Curiae* submitted that chapter IV and V of the aforesaid Act mandates the registration of all clinical establishments whether government or private across all recognized systems of medicine and for an establishment to receive and maintain its registration, it must comply with the prescribed minimum standards. She submitted that if clear and legible prescriptions are included as a minimum standard under the aforesaid Act, then non-compliance could potentially lead to penalties, including fines or even cancellation of registration under the Act. She also referred to Section 12(1) (iii) and Rule 9(iv) and submitted that the Act mandates clinical establishments to maintain medical records of patients treated by it and health information and statistics and although the expression 'legible' has not been used but the very purpose of maintaining records is for clear, accurate and retrievable information. Illegible prescriptions defeat this purpose and therefore making records unreliable and difficult to use for subsequent treatment or medico-legal purposes.

46. While referring to Rule 9(iv), she submitted that it provides that the clinical establishment shall maintain and provide electronic medical records or electronic health records of every patient as may be determined and issued by the Central Government or the State Government as the case may be from time to time and therefore directions can be issued in this regard as well for ensuring the maintenance and providing of electronic medical records and electronic health records of every patient by every clinical establishment. She also submitted that U.T Chandigarh has framed its Rules of 2013 and as per Rule 14, the District Registering Authority has the functions to enforce compliance of the provisions and rules of Clinical

Establishment Act, 2010. Similarly, State of Haryana also has its rules of the year 2018 under the aforesaid Act of 2010. However, Punjab has its own Punjab Clinical Establishment Act, 2020 and Section 21(1) (f) provides for provisions for maintenance of such records and registers in such forms and containing such particulars as may be prescribed under sub rule (i). She submitted that in this way, there are provisions for maintenance of medical records under the aforesaid enactments and a direction can be issued in this regard for enforceability of the same. She further submitted that in nutshell, while the Clinical Establishments Act does not use the specific phrase "legible prescription", its broad mandate is to regulate clinical establishments, ensure minimum standards of care, promote patient safety and mandate proper record-keeping. If the rules and guidelines formulated under this Act explicitly incorporate the requirement for legible prescriptions as a "minimum standard of service", then it would provide a powerful legal tool to enforce this crucial aspect of patient care in both government and private hospitals across the States where the Act is applicable. However, still so far as the issue of legibility is concerned, the same is expressly so provided in the notification under the Medical Council Act, 1956 dated 21.09.2016 as reproduced above which provides that the prescription has to be legible and preferably in capital letters and therefore, the aforesaid notification dated 21.09.2016 should be implemented in letter and spirit and in a strong manner.

47. Learned *Amicus Curiae* further submitted that it is necessary to issue various guidelines to rectify and cure the aforesaid problem of illegible prescriptions. For the government hospitals, she submitted that there may be

customized software with drop-down menus for easy and quick prescriptions by doctors and for this purpose, each doctor should be provided with adequate infrastructure of computer/laptop etc. However, till the software is developed or the computers are purchased, prescriptions of medicines and diagnosis can be made in Capital letters so as to avoid any ambiguity in reading. So far as the private hospitals are concerned, a computer with printer should be made mandatory for all private hospitals/clinics and either the doctor himself should type the prescription or delegate to someone else in the hospital to give the printed prescription to the patient. However, this exercise can be undertaken in a time phased manner and need not be made compulsory with immediate effect. But in any case, in the meantime the private establishments can be directed to use capital letters for prescriptions of medicines and diagnosis.

Stand taken by the State of Haryana

48. An affidavit was filed by the Additional Director General, Health Services, Haryana dated 28.05.2025 by annexing the instructions issued by the Director General of Health Services, Haryana to all the Civil Surgeons of the State dated 27.05.2025 which is reproduced as under:-

> *"From,*
>
> *Director General Health Services,*
> *Swasthya Bhawan, Sec-6, Panchkula*
>
> *To,*
> *All Civil Surgeons of the state.*
>
> *Memo No.3PM2/2025/5699-5720 Dated 27.05.25*
>
> ***Sub: Regarding legible prescription in capital/bold letters**.*

Kindly refer to the subject cited above and earlier directions issued videoffice letter no. 3PM2/2025/3201-22 dated 17.03.2025. Further, as per fresh directions issued by the Hon'ble Punjab & Haryana High Court in CRM 30302 of 2024 ***it is intimated that all diagnosis/prescriptions shall be written in capital/bold letters by all doctors.***

These instructions shall be applicable only in case of handwritten diagnosis/prescriptions. These instructions shall cease to apply once computerized/typed prescriptions are adopted. Therefore, you are directed to ensure that all doctors under your jurisdiction implement these instructions in letter and spirit.

Sd/-
Nodal Officer (PM)
for Director General Health Services"

(emphasis supplied).

49. A perusal of the aforesaid would show that it has now been decided by the State of Haryana that all diagnosis/prescriptions shall be written in capital/bold letters by all doctors till the time computerized/typed prescriptions are adopted with a further direction to all the Civil Surgeons to ensure that all the doctors under their jurisdiction implement these instructions in letter and spirit.

Stand taken by the State of Punjab

50. Similarly an additional affidavit has been filed by the Director, Health Service (Family Welfare), Punjab dated 29.05.2025 by annexing instructions issued vide Annexure R-2 which is reproduced as under:-

" DIRECTORATE OF HEALTH AND FAMILY WELFARE, PUNJAB
PARIWAR KALYAN BHAWAN, PLOT NO-5, SECTOR-34-A,
CHANDIGARH (PMH BRANCH)

To,

1.*Director, Research & Medical Education Department, Medical Education Bhawan, Sector-69, SAS Nagar.*

2.*Director, Mental Hospital, Amritsar.*

3.*All the Civil Surgeons of Punjab.*

4.*Principals of Government Medical/Dental Colleges Amritsar, Patiala, SAS Nagar & Faridkot.*

5.*Medical Superintendent, Mata Kaushalya Hospital, E.S.I Hospital, Amritsar/Jalandhar/Ludhiana.*

6.*Principal, Medical Officer, B.B.M.B Hospital, Nangal & Talwara.*

No. Medical (12)-Pb-2025/13841-75
Dated, Chandigarh the 28th May, 2025.

Subject: - Regarding Legible prescription in Capital/Bold Letters.

In the subject sited above.

Kindly refer to the subject cited above and earlier directions issued vide office letter no. CC(2)-Pb-2025/938-1000, dated 19.02.2025. Further, as per Fresh Directions issued by the Hon'ble Punjab and Haryana High Court on dated 26.05.2025 in CRM-M-30302 of 2024, ***it is submitted that all prescription slips and diagnosis shall be written in Capital/Bold letters by all doctors.***

These instructions shall be applicable only in case of handwritten prescription slips and diagnosis. These instructions shall cease to apply once computerized/typed prescriptions are adopted. Therefore, you are directed to ensure that all doctors under your jurisdiction implement these instructions in letter and spirit.

Sd/-
Nodal Officer (MLR/PMR)
For, Director, Health & Family Welfare, Punjab"

(emphasis supplied).

51. A perusal of the aforesaid would show that the instructions are on similar lines with that of the State of Haryana.

Stand taken by the Government of India

52. Learned Central Government Counsel, Government of India supplied a copy of letter issued by the Under Secretary to the Government of India Mark-X by enclosing the inputs regarding the steps taken in the form of guidelines, instructions and Standard Operating Procedures (SOPs) to comply with Rules 9(iv) and 9(v) of the Clinical Establishments (Central Government) Rules, 2012. He submitted that the Ministry of Health and Family Welfare is considering the aforesaid issue and the following is the extract of the inputs concerning the same.

> *"2)* ***Inputs from Ministry of Health and Family Welfare:***
>
> *i) The Act mandates that all clinical establishments, whether in the public or private sector (excluding those run by the Armed Forces), comply with minimum standards of healthcare delivery. The section 12 specifies the conditions for registration.The Section 12(1) of the Act mandates that every clinical establishment, in order to be registered must fulfil certain essential conditions. Further the clause (i) of this section explicitly calls for compliance with "minimum standards of facilities and services as may be prescribed". The essential parts of Rules 9 (iv) & 9 (v) are covered in the minimum standards.*
>
> *ii) In compliance with this provision, the National Council for Clinical Establishments is in the process of considering and approving minimum standards covering a broad spectrum of clinical establishment. The Legislative Department of Ministry of Law and Justice is being consulted for notification of these minimum standards in the Gazette of India".*

53. A perusal of the aforesaid would show that the Government of India is also considering the aforesaid issue with regard to minimum standards of facilities and services by considering issuing of necessary guidelines pertaining to minimum standards covering a broad spectrum.

Stand taken by the Union Territory, Chandigarh

54. An affidavit has been filed by Director, Health and Family Welfare, Chandigarh Administration on behalf of the U.T, Chandigarh. Para No.3 of the aforesaid is reproduced as under:-

> *"3. That it is further submitted that the deponent vide letter No.MS-III-2025/2606 dated 28/02/2025 issued directions to all Private Establishments (Hospitals, Nursing Homes, Clinics) registered under Clinical Establishment Act, 2010 in U.T Chandigarh and also to vide letter dated FW/CEA/2025/1398-1400 dated 27/03/2025 issued directions to the President, Indian Medical Association, Chandigarh Branch for compliance of the order dated 28/02/2025 issued by the deponent which is reproduced as under:-*
>
> > *"All Doctors should prescribe drugs with generic names legible in capital letters with rational prescription of use of drugs as per standard treatment guidelines".*
>
> *Copies of letter dated 28/02/2025 and 27/03/2025 are annexed at Annexure R-3 and R-4 respectively."*

55. A perusal of the aforesaid would show that on 27.03.2025 instructions have been issued by the District Registering Authority to all the private hospitals, nursing homes, clinics registered under Clinical

Establishment Act, 2010 in U.T, Chandigarh for prescribing medicines legible in capital letters.

Stand taken by the PGI, Chandigarh

56. An affidavit has been filed by the Acting Medical Superintendent, PGIMER, Chandigarh wherein it has been so stated that one of the modules of of HIS-II (Hospital Information System-II Software) is "Doctor Desk", which is a module for the convenience of the doctors within PGI and is further for the better management and patient health care services available to the patients. Medical e-prescription is a part of the Doctor Desk Module for HIS-II. As and when the HIS-II is developed by CDAC Noida the same shall be subject to trials in PGI and subject to successful trials, the same shall be made operational to the medical and Non-medical staff of PGIMER and also to the patients for the purpose of better health care services. Further, the HIS-II will be available in the form of Mobile Application, wherein both the doctors and patients will be able to access the online medical e-prescription which shall be in the form of typed legible medical e-prescription.

Stand taken by National Medical Commission

57. An affidavit has been filed by the National Medical Commission wherein it has been stated that the State Medical Councils are empowered to take appropriate action against the Registered Medical Practitioner which includes the power to remove the name of the Registered Medical Practitioner from its register, if found guilty of professional misconduct in terms of the Indian Medical Council (Professional Conduct,

Etiquette and Ethics Regulation, 2002 and National Medical Commission Act, 2019. Para No.6(c) of the aforesaid affidavit is reproduced as under:-

> *"6(c) That the State Medical Councils are empowered to take appropriate action against the Registered Medical Practitioner at first instance, who are practicing within their respective jurisdiction, which include even the power to remove the name of the Registered Medical Practitioner from it is register, if found guilty of professional misconduct in terms of the Indian Medical Council (Professional Conduct, Etiquette and Ethics Regulation, 2002 and National Medical Commission Act, 2019 and there is provision for appeal to the National Medical Commission presently. Even the "National Medical Commission" "Registered Medical Practitioner) (Professional Conduct) Regulations 2023(Annexure R-c) provides for the similar power."*

K. ANALYSIS

Constitution of India: Grundnorm of the legal system

58. The Constitution of India is the supreme law of the land and operates as the *Grundnorm* of the legal system. All Statutes, Legislations, Rules and Executive actions derive their validity and sanctity from the Constitution of India. The Constitution being a living document is capable of adaptation and transformation in response to the evolving needs of society and the progressive development of law. Law and society are never static and they change each other being dynamic. The Hon'ble Supreme Court in the ***Chief Justice of Andhra Pradesh and others v. L.V.A. Dixitulu and others***[3] recognizing the Constitution as a living, integrated organism that requires a balanced and holistic approach to interpretation observed that:

3 1979(2) SCC 34

> "*67. Where two alternative constructions are possible, the Court must choose the one which will be in accord with the other parts of the statute and ensure its smooth, harmonious working, and eschew the other which leads to absurdity, confusion, or friction, contradiction and conflict between its various provisions, or undermines, or tends to defeat or destroy the basic scheme and purpose of the enactment. These canons of construction apply to the interpretation of our Constitution with greater force, because the Constitution is a living integrated organism , having a soul and consciousness of its own. The pulse beats emanating from the spinal cord of the basic framework can be felt all over its body, even in the extremities of its limbs. Constitutional exposition is not mere literary garniture, nor a mere exercise in grammar. As one of us (Chandrachud J. as he then was) put it in Kesavananda Bharati case.*
>
> *"while interpreting words in a solemn document like the Constitution, one must look at them not in a school masterly fashion, not with the cold eye of a lexicographer, but with the realisation that they occur in 'a single complex instrument in which one part may throw light on the others' so that the construction must hold a balance between all its parts".*"
>
> *(Emphasis supplied)*

59. In ***Saurabh Chaudri and others v. Union of India and others***[4], the court observed:

> "71...*our constitution is organic in nature. Being a living organ, it is ongoing and with the passage of time, law must change. Horizons of constitutional law are expanding.*"

Scope of Article 21

60. In the early stages of constitutional interpretation, Fundamental Rights were construed as distinct and isolated guarantees, which led to apparent conflicts amongst them. However in ***Maneka Gandhi v. Union of***

4 (2003) 11 SCC 146

India and another[5] the Hon'ble Supreme Court clarified that each article within Part III of the Constitution does not exist in isolation but is an integral component of a cohesive constitutional scheme. The same is reproduced as under:

> "*96. A thorny problem debated recurrently at the bar, turning on Article 19 demands some juristic response although avoidance of overlap persuades me to drop all other questions canvassed before us. The Gopalan verdict with the cocooning of Article 22 into a self-contained code, has suffered suppression at the hands of R. C. Cooper . By way of aside, the fluctuating fortunes of fundamental rights, when the prolatarist and the proprietarist have asserted them in Court, partially provoke sociological research and hesitantly project the Cardozo thesis of sub -conscious forces in judicial noesis when the cycloramic review starts from Gopalan, moves on to in re Kerala Education Bill and then on to All-India Bank Employees Association, next to Sakal Newspapers crowning in Cooper and followed by Bennett Coleman and Shambu Nath Sarkar . Be that as it may, the law is now settled as I apprehend it, that no article in Part III is an island but part of a continent, and the conspectus of the whole part gives the direction and correction needed for interpretation of these basic provisions. Man is not dissectible into separate limbs and, likewise, cardinal rights in an organic constitution, which make man human, have a synthesis. The proposition is indubitable that Article 21 does not, in a given situation, exclude Article 19 if both rights are breached."*
>
> *(Emphasis supplied)*

5 1978(1) SCC 248

61. The Right to Life must be interpreted in such a manner as to enhance human dignity and realize human worth. Life is not restricted to a mere animal existence, rather it has facets beyond physical existence.[6] It is therefore the duty of the courts to realize constitutional vision of equal rights in harmony with changing social norms and society. In ***NALSA V. Union of India***[7] the Hon'ble Supreme Court held that Constitution is of living character and it must be interpreted dynamically. It must be understood in changing modern reality and enable society to instil humanely feelings. The court further stated:

> *"128. It is now very well recognised that the Constitution is a living character; its interpretation must be dynamic. It must be understood in a way (sic) that intricate and advances modern realty. The judiciary is the guardian of the Constitution and by ensuring to grant legitimate right that is due to TGs, we are simply protecting the Constitution and the democracy inasmuch as judicial protection and democracy in general and of human rights in particular is a characteristic of our vibrant democracy."*

Article 21 and Right to Health

62. It is well established that the Right to life under Article 21 of the Constitution includes the right to lead a dignified and meaningful life and the right to health is an integral facet of this right.

63. Hon'ble Supreme Court in ***Pt. Parmanand Katara v. Union of India,***[8], while interpreting Article 21 of the Constitution held that Right to

6 *Francis Coralie Mullin v The Administrator, Union Territory of Delhi,* 1981(1) SCC 608.
7 2014(5) SCC 438
8 1989 (4) SCC 286

Life includes Right to Health, Relevant paragraphs of this judgment is reproduced as under:

> *"7. There can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond 'the capacity of man. The patient whether he be an innocent person or be a criminal liable to punishment under the laws of the society, it is the obligation of those who are in charge of the health of the community to preserve, life so that the innocent may be protected and the guilty may be punished. Social laws do not contemplate death by negligence to tantamount to legal punishment.*
>
> *8. Article 21 of the Constitution casts the obligation on the State to preserve life. The provision as explained by this Court in scores of decisions has emphasised and reiterated with gradually increasing emphasis on that position. A doctor at the Government hospital positioned to meet this State obligation is, therefore, duty-bound to extend medical assistance for preserving life. Every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute -and paramount, laws of procedure whether in statutes or otherwise, which would interfere with the discharge of this obligation cannot be sustained and must therefore, give way. On this basis, we have not issued notices to the States and Union Territories for affording them an opportunity, of being heard before we accepted the statement made in the affidavit of the Union of India that*

there is no impediment in the law. The matter is extremely urgent and in our view, brooks no delay to remind every doctor of his total obligation and assure him of the position that he does not contravene the law of the land by proceeding to treat the injured victim on his appearance before him either by himself or being carried by others. We must make it clear that zonal regulations and classifications cannot also operate as fetters in the process of discharge of the obligation and irrespective of the fact whether under instructions or rules, the victim has to be sent elsewhere or how the police shall be contacted, the guideline indicated in the 1985 decision of the Committee, as extracted above, is to become operative. We order accordingly.

xxxxxxxxx

15. Medical profession is a very respectable profession. Doctor is looked upon by common man as the only hope when a person is hanging between life and death but they avoid their duty to help a person when he is facing death when they know that it is a medico-legal case. To know the response of the medical profession the Medical Council of India and also the All India Medical Association were noticed and were requested to put up their cases."

64. Further Hon'ble Supreme court in ***Paschim Banga Khet Mazdoor Samity v. State of West Bengal,***[9], observed as under:

"9. The Constitution envisages the establishment of a welfare state at the federal level as well as at the state level. In a welfare state the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The

9 1996(4) SCC 37

*Government discharges this obligation by running hospitals and health centres which provide medical care to the persons seeking to avail those facilities. Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance. The Government hospitals run by the State and the medical officers employed therein are duty bound of extend medical assistance for preserving human life. Failure on the part of a Government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21. In the present case there was breach of the said right of Hakim Seikh guaranteed under Article 21 when he was denied treatment at the various Government hospitals which were approached even though his condition was very serious at that time and he was in need of immediate medical attention. Since the said denial of the right of Hakim Seikh guaranteed under Article 21 was by officers of the State in hospitals run by the State the State cannot avoid its responsibility for such denial of the constitutional right of Hakim Seikh. In respect of deprivation of the constitutional right guaranteed under Part III of the Constitutions the position is well settled that adequate compensation can be awarded by the court for such violation by way of redress in proceedings under Articles 32 and 226 of the Constitution. [See : **Rudal Sah v. State of Bihar, 1983(3) SCR 508**, **Nilabati Behara v. State of Orissa, 1994(1) RCR (Criminal) 18 : 1993(2) SCC 746**; **Consumer Education and Research Center v. Union of India, 1995(4) S.C.T. 631 : 1995(3) SCC 42].** Hakim Seikh should, therefore, be suitably compensated for the breach of his right guarantee under Article 21 of the Constitution. Having regard to the facts and circumstances of the case, we fix the amount of*

such compensation at Rs. 25,000/-. A sum of Rs. 15,000/- was directed to be paid to Hakim Seikh as interim compensation under the order of this Court dated April 22, 1994. The balance amount should be paid by respondent No. 1 to Hakim Seikh within one month.

10. We may now come to the remedial measures to rule out recurrence of such incidents in future and to ensure immediate medical attention and treatment to persons in real need. The Committee has made the following recommendations in this regard:

i) The Primary Health Centres should attend the patient and give proper medical aid, if equipped.

ii) At the hospitals the Emergency Medical Officer, in consultation with the Specialist concerned on duty in the Emergency Department, should admit a patient whose condition is moribund/serious. If necessary the patient concerned may be kept on the floor or on the trolley beds and then loan can be taken from the cold ward. Subsequent necessary adjustment should be made by the hospital authorities by way of transfer/discharge.

iii) A Central Bed Bureau should be set up which should be equipped with wireless or other communication facilities to find out where a particular emergency patient can be accommodated when a particular hospital finds itself absolutely helpless to admit a patient because of physical limitations. In such cases the hospital concerned should contact immediately the Central Bed Bureau which will communicate with the other hospitals and decide in which hospital an emergency moribund/serious patient is to be admitted.

iv) Some casualty hospital or Traumatology Units should be set up at some points on regional basis.

> *v) The intermediate group of hospitals, viz., the district, the sub-division and the State General Hospitals should be upgraded so that a patient in a serious condition may get treatment locally."*
>
> *(Emphasis supplied)*

65. A Constitution Bench of Hon'ble Supreme Court in ***Navtej Singh Johar v. Union of India thr. Secretary***,[10]discussed the law with regard to Right to Health being Fundamental Right, covered under Article 21 of the Constitution of India. The relevant portion of the said judgment is reproduced as under:

> "*483..... In the evolution of its jurisprudence on the constitutional right to life under Article 21, this Court has consistently held that the right to life is meaningless unless accompanied by the guarantee of certain concomitant rights including, but not limited to, the right to health. The right to health is understood to be indispensable to a life of dignity and well-being, and includes, for instance, the right to emergency medical care and the right to the maintenance and improvement of public health.*
>
> *484. It would be useful to refer to judgments of this Court which have recognised the right to health.*
>
> *484.1 In Bandhua Mukti Morcha v. Union of India, a three-judge Bench identified the right to health within the right to life and dignity. In doing so, this Court drew on the Directive Principles of State Policy:*
>
> *"10...It is the fundamental right of every one in this country ... to live with human dignity, free from exploitation. This right to live with human dignity*

10 2018(10) SCC 1

enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly Clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity and no State neither the Central Government nor any State Government-has the right to take any action which will deprive a person of the enjoyment of these basic essentials." (Emphasis supplied)

484.2 In Consumer Education & Research Centre v. Union of India ("CERC"), a Bench of three judges dealt with the right to health of workers in asbestos industries. While laying down mandatory guidelines to be followed for the well-being of workers, the Court held that:

"The right to health to a worker is an integral facet of meaningful right to life to have not only a meaningful existence but also robust health and vigour without which worker would lead life of misery. Lack of health denudes his livelihood...Therefore, it must be held that the right to health and medical care is a fundamental right under Article 21 read with Articles 39(c), 41 and 43 of the Constitution and makes the life of the workman meaningful and purposeful with dignity of person. Right to life includes protection of the health and strength of the worker and is a minimum requirement to enable a person to live with human dignity." (Emphasis supplied)

484.3 In a dissenting judgment in C.E.S.C. Limited v. Subhash Chandra Bose, K Ramaswamy J observed that:

"Health is thus a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. In the light of Articles. 22 to 25 of the Universal Declaration of Human Rights, International Convention on Economic, Social and Cultural Rights, and in the light of socio-economic justice assured in our constitution, right to health is a fundamental human right to workmen. The maintenance of health is a most imperative constitutional goal whose realisation requires interaction by many social and economic factors" (Emphasis supplied)

484.4 In Kirloskar Brothers Ltd. v. Employees' State Insurance Corporation, a three-judge Bench of this Court considered the applicability of the Employees' State Insurance Act, 1948 to the regional offices of the Appellant, observing that:

"Health is thus a state of complete physical, mental and social well-being. Right to health, therefore, is a fundamental and human right to the workmen. The maintenance of health is the most imperative constitutional goal whose realisation requires interaction of many social and economic factors."

484.5 In State of Punjab v. Ram Lubhaya Bagga,a three-judge Bench of this Court considered a challenge to the State of Punjab's medical reimbursement policy. A.P. Mishra J, speaking for the Bench, observed that: "Pith and substance of life is the health, which is the nucleus of all activities of life including that of an employee or other viz. the physical, social, spiritual or any conceivable human activities. If this is denied, it is said everything crumbles.

This Court has time and again emphasised to the Government and other authorities for focussing and giving priority and other authorities for focussing and giving priority to the health of its, citizen, which not only makes one's life meaningful, improves one's efficiency, but in turn gives optimum out put."

484.6 In Smt M Vijaya v. The Chairman and Managing Director Singareni Collieries Co. Ltd., a five judge Bench of the Andhra Pradesh High Court considered a case where a girl was infected with HIV due to the negligence of hospital authorities. The Court observed that:

"Article 21 of the Constitution of India provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. By reason of numerous judgments of the Apex Court the horizons of Article 21 of the Constitution have been expanded recognising various rights of the citizens i.e...right to health...

It is well settled that right to life guaranteed under Article 21 is not mere animal existence. It is a right to enjoy all faculties of life. As a necessary corollary, right to life includes right to healthy life."

484.7 In Devika Biswas v. Union of India, while hearing a public interest petition concerning several deaths that had taken place due to unsanitary conditions in sterilization camps across the country, a two judge Bench of this Court held that:

"107. It is well established that the right to life under Article 21 of the Constitution includes the right to lead a dignified and meaningful life and the right to health is an integral facet of this right...

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109. That the right to health is an integral part of the right to life does not need any repetition."

484.8 In his concurring judgment in Common Cause v. Union of India , Sikri J, noted the inextricable link between the right to health and dignity:

"304. There is a related, but interesting, aspect of this dignity which needs to be emphasised. Right to health is a part of Article 21 of the Constitution. At the same time, it is also a harsh reality that everybody is not able to enjoy that right because of poverty etc. The State is not in a position to translate into reality this right to health for all citizens. Thus, when citizens are not guaranteed the right to health, can they be denied right to die in dignity?" (Emphasis supplied)

485. In addition to the constitutional recognition granted to the right to health, the right to health is also recognised in international treaties, covenants, and agreements which India has ratified, including the International Covenant on Economic, Social and Cultural Rights, 1966 ("ICESCR") and the Universal Declaration of Human Rights, 1948 ("UDHR"). Article 25 of the UDHR recognizes the right to health:

"25. 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 and medical care and necessary social services."

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495. The jurisprudence of this Court, in recognizing the right to health and access to medical care, demonstrates the crucial distinction between negative and positive obligations. Article 21 does not impose upon the State only negative obligations not to act in such a way as to interfere with the right to health. This Court also has the

> *power to impose positive obligations upon the State to take measures to provide adequate resources or access to treatment facilities to secure effective enjoyment of the right to health."*
>
> (Emphasis supplied)

66. Further Hon'ble Supreme court in recent judgment of ***K. Umadevi v. Government of Tamil Nadu***[11], observed as under:

> *"13. Article 21 of the Constitution of India though at first blush appears to be a colourless article, it is a potent provision pregnant with wide width and scope having received extensive and liberal construction at the hands of this Court. Article 21 reads thus:*
>
> ***21. Protection of life and personal liberty**. - No person shall be deprived of his life or personal liberty except according to procedure established by law.*
>
> *13.1. By judicial interpretation, it has been held that life under Article 21 means life in its fullest sense; all that which makes life more meaningful, worth living like a human being. Right to life includes all the finer graces of human civilization, thus rendering this fundamental right a repository of various human rights. Right to life also includes the right to health. Right to live with human dignity and the right to privacy are now acknowledged facets of Article 21."*

67. Therefore, in the light of the aforesaid judgments, this court is of the considered view that Right to Life and Personal Liberty guaranteed under Article 21 of the Constitution of India encompasses the Right to Health, which further includes the Right to Know one's legible Medical Prescription/Diagnosis/Medical documents and Treatment.

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L. VIEW TAKEN BY OTHER HIGH COURTS ON THE ISSUE OF ILLEGIBILITY

68. High Court of Orissa in ***Krishna Pad Mandal versus State of Orissa,***[12] while looking at the medical reports concerning the health status and other clinical details of the wife of the petitioner observed that the prescription by the doctor is of pathetically poor legibility and is far beyond the comprehension of any common man or even for the Court dealing with the matter and such illegible handwriting in medical records has the propensity to have adverse medico-legal implications. It was further observed that one issue which the Court is constrained to articulate was that of considerable time and frustration associated with detective work in so far as medical reports/doctors' prescriptions are concerned. Such illegible scrawls composed by doctors creates unnecessary nuisance at the end of the patients, pharmacists, police, prosecutors, Judges who are bound to deal with such medical reports. Prescriptions of physicians, OPD slips, post-mortem reports, injury reports etc. written, perforce are required to be legible and fully comprehensible. A medical prescription ought not to leave any room for ambiguity or interpretation. The High Court also recorded its highest regards for the professionalism of doctors and recorded its appreciation for them for their exemplary and untiring service during COVID-19 pandemic at different levels and also observed that the entire nation salutes their professionalism and supreme sacrifice during the pandemic. It was thereafter observed that the physicians working in Government or Private or medical setups are suggested to write the name of drugs in CAPITAL LETTERS or

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in a legible manner and the CAPITAL LETTERS could perhaps ensure a proper visibility to the prescriptions and will remove the guess work and related inconveniences completely. Thereafter, the High Court observed that in view of the growing concerns in this regard, especially in view of the fact that illegible handwriting could have life threatening consequences, it requested the Chief Secretary, Government of Odisha to examine the feasibility of issuing appropriate circulars in consultation with the Medical Council of India and the Central Government to implement the earlier directions issued and also to create awareness among the medical professionals involved in medico-legal cases to record their observations and comments in a legible manner.

69. In another judgment of High Court of Orissa at Cuttack in ***Rasa @ Rasananda Bhoi Versus State of Odisha and others, W.P (C) No.38461 of 2023, decided on 04.01.2024***, the Chief Secretary, State of Odisha was directed to issue directions to all the doctors of the State to write the post-mortem report and prescription in capital letters or in legible handwriting. It further observed that the tendency of writing such zig zag handwriting which cannot be read by any common man or by judicial officers, has become a fashion among the doctors of the State and substantial number of doctors in the State resort to such handwriting which cannot be read by any ordinary person and therefore, the Chief Secretary of the State was directed to issue a circular to all the medical centres, private clinics and medical colleges and hospitals directing them to write in proper handwriting or in a typed form when they are prescribing medicine or writing medico-legal reports. Immediately thereafter an order was passed by the Government

of Odisha, Health and Family Welfare Department on 11.01.2024. The operative of the aforesaid order is reproduced as under:-

> *"In view of the above backdrop, all concerned both in Government & Private Health sectors are instructed to ensure the following directions while writing prescription and medico legal reports.*
>
> *a. All Registered Medical Practitioners / Medical Officers of Govt. Peripheral health care facilities/ Medical College Hospitals, Private Clinics and Pvt. Medical Colleges are to write prescription in proper legible handwriting or in typed form as per guideline of NMC(Chapter 2-4B / Notification No 12013 Dt 23.05.2022).*
>
> *b. The medico legal reports &post-mortem reports are to be written either in capital letter or in a typed form or in good legible handwriting to ensure appreciation of evidence in the judicial system and to be uploaded in MLOS.*
>
> *This will come into force with immediate effect.*
>
> *sd/-*
> *Chief Secretary, Odisha"*

70. A Division Bench of High Court of Uttrakhand while deciding review application No.1240 of 2018 in WPPIL No. 120 of 2016 observed as follows:-

> *"Accordingly, the Review Application is dismissed; but, in the larger public interest, we direct all the doctors throughout the State of Uttarakhand in Government Sector, Public Sector and Private Clinic establishments that all the prescriptions / medical reports should be computer-generated in order to enable the ordinary patients and their attendants to read the same. As far as the Government Doctors are concerned, the State Government is requested to provide necessary*

infrastructure to the doctors and, in the meantime, Government Doctors shall prescribe the medicines in legible bold letters."

M. CONCLUSION & DIRECTIONS

71. In view of the above, it is hereby held that 'Legible medical prescription and diagnosis' is an integral part of 'Right to Health' and is thus a Fundamental Right under Article 21 of the Constitution of India.

Directions

72. Consequently, this Court deems it fit to issue the following directions:

(i) Considering the Affidavits and instructions issued by States of Haryana, Punjab and Union Territory of Chandigarh as reproduced above, that advisory/directions have been issued to all the doctors of their respective State/UT that in case of handwritten prescription slips and diagnosis, all medical prescriptions/diagnosis shall be written in CAPITAL letters by all doctors till the time computerized/typed prescriptions are adopted, the three States (Haryana, Punjab and UT Chandigarh) are directed to meticulously comply with their own instructions and affidavits submitted in this Court and ensure that the same are complied with in letter and spirit. In furtherance of the same, the States of Punjab, Haryana and the Union Territory, Chandigarh shall in coordination with the State Medical Commission, if any, make endeavours to inform and sensitize all the doctors within their respective jurisdictions by holding

periodic meetings at district level under the supervision of Civil Surgeon.

(ii) The Union of India shall comply with the inputs enclosed with the letter dated 28.05.2025 (Mark-'X') issued by the Under Secretary to the Government of India as reproduced above for issuing appropriate Notification for Minimum Standards in the Gazette of India as expeditiously as possible.

(iii) PGIMER is already under the process of implementation of a medical software HIS-II wherein Medical e-prescription is a part of the Doctor Desk Module. In view of the same, PGI shall ensure its implementation as expeditiously as possible and preferably within two years.

(iv) Considering the stand taken by the States of Punjab and Haryana that the doctors will be required to write the medical prescription and diagnosis in Capital Letters till the time computerization of the same is done, it is directed that in order to achieve the objective of computerization/typed prescriptions, sincere efforts be made for framing a comprehensive policy in this regard with due emphasis on providing financial assistance, if so required by Clinical Establishments/doctors. The aforesaid exercise be completed within two years.

(v) U.T Chandigarh shall also make sincere efforts to frame policy on similar lines as aforesaid.

(vi) National Medical Commission is requested to take effective steps to introduce and inculcate the importance of legible and

clear handwriting in medical prescription as a part of curriculum in all the Medical Colleges/Institutions in India in view of the fact that Right to legible Medical Prescription /Diagnosis/Medical documents and Treatment is an integral part of Right to Health which is a Fundamental Right vested under Article 21 of the Constitution of India.

73. The aforesaid conclusion and directions shall operate prospectively.

74. This Court holds highest respect and regard for doctors and the medical profession, acknowledging their dedication to national service but at the same time, it is equally important to ensure that the Fundamental Rights of the people of India are duly safeguarded.

75. Before parting with this judgment, this Court records its appreciation towards Ms. Tanu Bedi, Advocate, learned Amicus Curiae, Ms. Shreya Singh and Ms. Surpreet Kaur, Law Researchers of this Court for their valuable assistance.

76. Registry is directed to list this case after one year for compliance purposes.

27.08.2025 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No