

Court No. - 3

Case :- WRIT - C No. - 8258 of 2023

Petitioner :- Sanjay Gandhi Hospital, Amethi Thru. Chief Operation Officer, Shri Avadhesh Sharma

Respondent :- State Of U.P. Thru. Prin. Secy. Medical And Health, U.P. Lucknow And Others

Counsel for Petitioner :- Anuj Kudesia, Nalin Arora, Satendra Kumar (Singh)

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

Heard Shri J.N. Mathur, learned Senior Advocate, assisted by Shri Anuj Kdesia, learned counsel for the petitioner and learned Standing Counsel for the State.

Petitioner has approached this Court challenging the order dated 18.09.2023, whereby the registration of the petitioner's hospital to run the hospital is suspended and is directed not to admit any further patient and treat only the patients which are in the hospital.

Learned counsel for the petitioner submits that the petitioner's hospital is running for last 40 years in District - Amethi and providing all types of hospital services. Unfortunately, one untoward incidence has happened on the basis of which registration of hospital of the petitioner is suspended and petitioner's hospital is stopped from running its operations. He further submits that the petitioner's hospital is having a unblemished history for last 40 years. Earlier no such incident has occurred.

Learned counsel for the petitioner further submits that Amethi is a small place where the petitioner's hospital is the main hospital for providing such services and in case registration of same is suspended the patients would suffer.

Learned Standing Counsel on the basis of instructions states that allegation against the petitioner is that in a serious improper treatment a patient lost his life, and hence petitioner's hospital

registration has been suspended, pending inquiry.

The allegation against the petitioner is that due to negligence, the patient has expired in the hospital. No doubt the same is a serious matter and should be inquired into by the concerned authorities but equally important is of medical service in small cities of the State.

This Court can take judicial notice of the fact that medical services in small cities are required major push up as there are limited number of hospitals and doctors available.

In the given circumstances, keeping a hospital dysfunctional during pendency of an inquiry in case of single incidence of medical negligence also goes against the interest of the public at large. This is not a case where large number of patients were suffered and negligence had occurred repeatedly. Therefore, to balance the interest of public at large and also maintain fairness in inquiry, the impugned orders whereby the suspension is ordered bearing order No.3808 dated 18.09.2023 and order of suspension No.3813 dated 18.09.2023 are stayed.

The CMO/ CMS concerned is permitted to lay down any further guidelines to the petitioner's hospital for its proper running to avoid re-occurrence of such incident in future. The inquiry pending against the petitioner shall be continued by the respondents / appropriate authorities in accordance with law and would not be impacted by the pendency of the present writ petition.

The petitioner is permitted to provide hospital services as per its registration conditions as well as further directions / guidelines provided by CMO/ CMS concerned in furtherance of this order.

Let counter affidavit be filed by the respondents within four weeks. One week thereafter shall be available to the petitioner to file rejoinder affidavit.

List this case after five weeks.

[Manish Kumar,J.] [Vivek Chaudhary,J.]

Order Date :- 4.10.2023

S. Kumar