

SUPREME COURT OF INDIA

Aastha Diagnostic Clinical Lab.

Vs.

State of J&K

C.A.No.499 of 2009

(K.G. Balakrishnan CJI., P. Sathasivam and J.M. Panchal JJ.)

29.01.2009

ORDER

1. Leave granted.

2. The appellants before us are running hospitals/clinics and diagnostic centres in the State of Jammu and Kashmir. In a public interest litigation filed before the High Court of Jammu & Kashmir, the Division Bench of the High Court gave certain directions regarding basic infrastructure facilities which are to be provided in the hospitals and other clinical establishments. The petitioner in the public interest litigation alleged that many of the hospitals in the State of Jammu and Kashmir are not having adequate facilities and State Authorities are not taking care to insist that basic facilities should be there in the hospitals. It is alleged that licenses are issued for running these type of institutions without being any proper guidelines and requested the High Court to issue appropriate guidelines. The High Court considered these matters and directed the Chief Secretary of the State of Jammu and Kashmir to constitute a committee to be headed by Principal Secretary to Government, Health and Medical Education Department and comprising of two Principals, Government Medical Colleges at Srinagar and Jammu; two Principals of Government Dental Colleges at Srinagar and Jammu; two Directors of Health Services of Kashmir and Jammu Provinces; Director, Sher-i-Kashmir Institute of Medical Sciences, Soura, Srinagar and Chief Engineer of UEED, and the committee was directed to evolve and formulate suitable criteria/norms for registration of private hospitals/nursing homes and clinical establishments/laboratories. The Committee submitted a report and also opined that the norms should be established for hospitals, clinics, nursing homes and diagnostic centres. This was approved by the Government and issued in the Form - Norms for Registration & Licensing of Nursing Homes and Clinical Establishments-2006. The hospitals were divided into two categories - nursing homes upto 25 beds and nursing homes above 25 beds. Detailed guidelines have been given regarding the various facilities that are to be made available to the patients. The present appellants before us who are running hospitals/nursing homes/clinics have already been given licenses by the Government.

3. The learned counsel appearing for the appellants contended before us that these appellants are running these institutions for the last several years and some of them are situated within

the city limits of Jammu and Srinagar and it is difficult for them to acquire more space to provide these facilities. It is also contended that if these additional facilities are provided, the expenses for health care itself will go up and ordinary citizens will not be able to avail the benefits of these private hospitals. It is also argued that these sophisticated facilities could be provided only by few private hospitals which has got enormous economic power and appellants would not be in a position to give all these facilities.

4. Learned counsel appearing for the State contended that these guidelines have been issued after considering all relevant facts and they are basically essential for providing the health care to the citizens of the State. It is also argued that if any of the hospitals/clinics or other centres do not have these facilities they can seek exemption upto 25% as provided in the guidelines.

5. Our attention was drawn to the various parameters which are laid down in the guidelines. Care has been taken to provide facilities to the patients by the health care units. We do not think that these norms are violative of any rights of the appellants. However, we have noticed that all these hospitals/clinics and other centres had been in existence for fairly a long period and they had started these units under proper license on the basis of the then existing rules. The hospitals owned by these appellants are lacking any of the facilities which are to be provided as per the new guidelines, they are to be given six months time to update the facilities in accordance with the norms laid down by the Government. If any structure or alteration is required for hospital/building, the appellants be given one year time to comply with it. If the appellants are seeking exemption of the guidelines or modification, they may file proper application to the Director of Health Services and it is for the Director of Health Services to consider the individual application and on hearing the appellants may pass appropriate orders regarding 25% exemption permissible as per the guidelines.

6. The appeals are disposed of accordingly.