

SUPREME COURT OF INDIA

Ambulance Access Foundation India

Vs.

Union of India

Writ Petition (Civil) No. 518 of 2008

(S. H. Kapadia CJI, K. S. Panicker Radhakrishnan and Swatanter Kumar JJ.)

18.11.2010

JUDGMENT

K.S.Panicker Radhakrishnan, J.

1. This public interest litigation petition has been filed under Article 32 of the Constitution of India seeking a writ of mandamus directing Respondent No.1, Respondent Nos.2 to 13 and Respondent Nos.27 to 44 to put in a place a transparent and fair process in awarding the contracts for running Ambulance/Emergency Response Service in their respective jurisdiction. Petitioners submit that some of the States have already entered into and/or are considering awarding the nominated contracts and /or 'tailor made' EOI process to Respondent No.14 to run Ambulance/Emergency Response Services in their respective jurisdictions in the name of saving human lives using funds under the National Rural Health Mission (NRHM) of the Union of India, which according to the petitioner will violate Article 14 of the Constitution of India.

2. Petitioners have stated that Respondent Nos.2 to 9 and 12 - States have already entered into MOU with Respondent No.14 for developing and operationalizing Ambulance/Emergency Response Service in their State. Further it is also stated that Respondent No.13, the State of Maharashtra has approved the MOU with Respondent No.14 without any formal competitive bidding process or any transparency whatsoever in the MOU signing process.

3. In response to the notice issued by this Court few States have already filed their counter affidavit/response giving reasons for entering into MOU with the 14th respondent.

4. Learned counsel appearing for the petitioner urged that Union of India should lay down some guidelines in the matter of awarding and administration of MOUs/Contracts for emergency medical services in various states in public interest. Learned counsel submitted that they have made some suggestions which do not meet with the approval of the 1st

respondent, fully. The stand of the counsel for the 1st respondent is that there are matters which are primarily to be considered by the respective State Governments.

5. Shri F.S. Nariman, learned senior counsel appearing for Respondent No.14 submitted that some of the States have already entered into MOU with Respondent No.14 and they have a well laid monitoring and review mechanism consisting of Advisory Council headed by the Chief Secretary and other senior secretary level officers of the State. Learned senior counsel also submitted that issues/grievances raised by the petitioners have to be addressed before the respective State Governments who are already seized of the matter. Learned counsel also submitted that there is no illegality in the process of entering into MOU by some of the States. For example, it was pointed that State of Gujarat has enacted the Gujarat Infrastructure Development Act 1999 as amended by Gujarat Infrastructure Development Act 2006 which permits selection by direct negotiations. Reference was also made to the Karnataka Transparency in Public Procurement Act 1999 under which there are provisions for selecting a particular person or group for implementing various government schemes without inviting tenders.

6. We are of the considered view that it would be appropriate that the various issues raised in this matter would be examined by the respective State Governments, who will be in a better position to examine and implement them depending upon the specific needs of those states like disease burden, health infrastructure, road connectivity etc. Further, petitioners have also contended that the awarding of contract to Respondent No.14 was discriminatory and contrary to the spirit of Article 14 of the Constitution of India since no open tender was invited before awarding the contract to Respondent No.14.

7. We are of the view that if there is any irregularity in the tendering process, already adopted by the various states, the same can be brought to the notice of the respective State Governments. Further, it is also open to the petitioners and other aggrieved persons to approach the respective High Courts, if found necessary, so that those courts would be in a better position to effectively supervise, taking into consideration, the local conditions and requirements. With the above observations the writ petition is disposed of.