

# **SUPREME COURT OF INDIA**

All India Drug Action Network

Vs.

Union of India (UOI)

W.P. (C) No. 423 of 2003

(G.S. Singhvi and Sudhansu Jyoti Mukhopadhaya JJ.)

11.10.2011

## **ORDER**

1. At the commencement of hearing Shri Colin Gonsalves, learned senior counsel appearing for the Petitioners read out portions of 45th Report of the Parliamentary Standing Committee on Health and Family Welfare and 7th Report of the Standing Committee on Chemicals and Fertilizers. Thereafter, Shri Doabia, learned senior counsel appearing for the Union of India placed before the Court a Photostat copy of the Office Memorandum dated 20.06.2011 sent by the Ministry of Health & Family Welfare to the Secretary, Department of Pharmaceuticals on the issue of revision of National List of Essential Medicines. Paragraph 2 of that memorandum reads thus:

2. In the above connection, it may be stated that the National List of Essential List (NLEM), 2003 has been revised. The revised list, the NLEM, 2011 contains 348 drugs. While approving the list, the Minister of Health & Family Welfare has also approved that if affordable healthcare has to become a reality, all the medicines included in the NLEM, 2011 should be brought within the ambit of price control under the DPCO, considering the fact that the cost of medicines in the overall cost of healthcare constitutes more than 60% and a large percentage of our people do not have access to affordable healthcare. If, at all, such medicines cannot be included under DPCO with, the same trade margins, there could be graded system of trade/profit margins for different categories and 348 medicines in NLEM, 2011 could be so categorized. This will ensure that reasonable margins and growth of Pharma industry also do not get adversely affected. The Minister Law Information Center 2 SpotLaw has, therefore, approved taking up the matter with the Department of Pharmaceuticals for further appropriate action.

3. Shri Ashok Bhan, learned senior counsel appearing for the Department of Chemicals and Fertilizers also placed before the Court a xerox copy of Office Memorandum dated 04/05.10.2011. In para 6 thereof, it is mentioned that the Department of Pharmaceuticals is examining all the possibilities of control and monitoring of prices of medicines including those covered under the NLEM, 2011.

4. Having perused the two Office Memorandums placed by the learned senior counsel for Union of India and Department of Chemicals and Fertilizers, we deem it proper to direct the Secretaries of two Ministries to file their affidavits within four weeks indicating therein as to within what time the revised list of National List of Essential Medicines (NLEM) will be added in Schedule-I of the Drugs (Price Control) order, 1995.
5. A comprehensive revised list of National List of Essential Medicines (NLEM) be also produced along with affidavit to be filed on behalf of the Ministry of Family & Welfare.
6. List the case on 17.11.2011 for further hearing.