



2024 : DHC : 3852-DE



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5188/2014

SARVESH

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES & ORS.

..... Respondents

Through: Mr. Satya Ranajan Swain, Panel
Counsel, AIIMS with Mr. Kautilya
Birat, Advocate for R-1/AIIMS
Mr. Tushar Sannu, Mr. Karan Singh
and Mr. Manoviraj Singh, Advocates
for GNCTD
Ms. Monika Arora, CGSC with Mr.
Subhrodeep Saha, Advocate for UOI
Mr. T. Singhdev, Ms. Anum Hussain,
Mr. Tanishq, Mr. Abhijit
Chakravarty, Mr. Bhanu Gulati and
Mr. Aabhaas Sukhramani, Advocates
for Amicus Curiae

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Date of Decision: 10th May, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA



JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present writ petition has been filed by the Petitioner seeking a direction to the Respondents to perform the hip and knee replacement surgery on the Petitioner free of cost.
2. During the pendency of the present writ petition, the learned predecessor Division Bench had constituted a Committee to devise recommendations for alleviating and curing the defects in the current medical system to avail financial assistance. The terms of reference for the Committee as stipulated in the order dated 20th September, 2023 are reproduced hereinbelow: -

“(i) The procedure required for availing free medical treatment must be streamlined, including various surgeries, as well as surgeries for implants / devices and to put in place a single-window mechanism with designated nodal officers at each hospital in Delhi.

(ii) The hospitals must maintain a dynamic information list of drugs, implants and devices on the website of the concerned departments, which may be revised frequently, so that persons seeking treatment are aware of the availability of the same in real time. This may also assist concerned citizens to donate the required drugs / implants / devices as per the need of each hospital.

(iii) The Ministries of Health & Family Welfare at both levels as well as MCD should create revolving funds to cater to the recurring expenditure of patients suffering from chronic, rare, debilitating or lethal diseases, including all necessary forms of treatment such as surgeries and procurements of implants and devices. Funds / grants could be made available in the concerned hospitals expeditiously on the basis of demand. This will benefit hospitals established in the peripheral areas in reference with their unique issues and also hospitals established in the well habited areas in respect of their unique issues. Hospitals in rural areas of the State have distinct issues / ailments / diseases from hospitals in the densely populated areas.



(iv) The procedure for procuring financial assistance under the different schemes formulated by the MoHFW at both levels as well as MCD must be made less cumbersome so that the public could comprehend the same with little assistance. Instructions must be displayed prominently and clearly in accessible language. Emphasis must be on processing the applications quickly. All forms must be available in regional languages and the requirement of accompanying documents must be kept minimal, keeping in mind that these are for medical emergencies. The designated nodal officers must be adequately sensitized in view of the fact that usually persons belonging to socially and economically weaker sections of the society may not readily have all documents available and viable alternatives may be suggested.

(v) The process of forwarding applications within the hospitals must not involve the beneficiary, as far as practicable, as repeated appearances are extremely costly both in terms of direct costs as well as absence from employment, apart from general difficulties as a result of the medical condition which requires them to seek assistance. A similar methodology could be adopted by various government departments involved in ultimately approving the benefit of the grants.

(vi) The patients or their families must not be called upon to obtain quotations from different vendors in reference with drugs / medicines / implants / devices / procedures, in order to submit their applications seeking financial assistance.

(vii) The Committee may suggest specific methodology under which patients belonging to economically weaker sections of the society may continue to receive benefits of treatment / drugs till such time the financial assistance is finally disbursed. This may entail stop-gap arrangements at various hospitals so as to mitigate the pain and suffering till final treatment / surgery is implemented.

(viii) The hospital must become patient friendly and accessible to the society at large. All the various departments under the Ministries / MCD must work in close association with each other, with effective communication so that greater benefit can be made available to the patients belonging to economically weaker sections of the society.”

3. Today's, learned counsel for the GNCTD has handed over the recommendation of the said Committee. The same is taken on record. The summary of the recommendations of the Committee is reproduced



hereinbelow: -

“7. Recommendation sum-up

i. Website for each and every Government hospital of Delhi may be upgraded as dynamic website for real time updates on available medicine, implants and devices with the help of NIC/selected vendors Similarly All Public hospitals must ensure the Electronic Display System accessible to visitors/patients for the dynamic information of list of drugs, implants and devices on the website of concerned departments, which may be revised frequently.

ii. Nodal Officer shall be appointed by all Public hospitals - Delhi government hospitals/Central Government hospitals/MCD hospitals/ Autonomous hospitals including AIIMS situated in NCT of Delhi for all the schemes (DAK, RAN & HMCPF) who will ensure all the due requisite required for availing financial assistance.

iii. Single window mechanism for the convenience of patients shall be implemented/enhanced in all Hospitals-Delhi Government hospitals/Central Government hospitals/MCD hospitals/ Autonomous hospitals including AIIMS situated in NCT of Delhi.

iv. The software may be developed with help of NIC (as recommended above) for Delhi Arogya kosh also so that details will be available and repeated patient/beneficiary appearance can be avoided. Similarly RAN IT platform shall be extended to Delhi Government hospitals and MCD hospitals.

v. Till the time the software is developed, E-office can be utilised by all the hospitals and E-file for the concerned patient can be prepared from the hospital itself with all the requisites as per schemes and transferred to concerned DAK/RAN offices. This will expedite the process and also help in maintain transparency.

vi. The process of preparing rate card through CPA for fixing of rates of all types of equipment's (including implants, medicines) must start immediately (through Government procurement system) for the diseases covered under scheme as well as for all types of treatment. The process may be completed in 3 months.

There may still be certain medicines/consumables etc which are not part of Essential drug list and rate card is not available for these, hospital/institute shall continue to procure these locally through their procurement system following the GFR guidelines and funds can be obtain from their own allocated budget for EWS patients or funds can be taken from the DAK/RAN.

As there is no role of patient/ its relative in the procurement, they shall not be called upon to do under any circumstances.



The Medical Directors of the Govt. Hospitals have been conferred the powers of H.O.D who may be authorized to pass the application for emergency treatment. Patient will not be asked to get the quotation for estimated treatment cost and genuineness of estimate & cost of implants etc. will be responsibility of H.O.D(MS/MD of concerned Hospital).

vii. The hospitals be advised to be more proactive for treatment of such patients and expedite the process for approval preferable within 7 days and DAK should also sanction such case preferably within 7 days. Till such time hospitals may continue to take care of these patients through available resources with them.

viii. The hospital staff responsible for implementation of these scheme may be sensitized on creating a patient friendly environment and shall be trained in communication skills.

**DGHS, GNCTD
(Member-Secretary)**

**Secretary (IT),GNCTD
(Member)**

**Secretary (H&FW),
GNCTD
(Member)**

**CMO, DGHS,
(H&FW, Uol)
(Member)**

**Jt. Secretary
(H&FW, Uol)
(Member)**

**Addl. Commissioner,
(Health, MCD)
(Member)**

**Secretary (Finance),
GNCTD
(Member)**

**Chief Secretary,
GNCTD
(Chairman)”**

4. In view of the aforesaid report, learned counsel for the Petitioner prays that the present writ petition be closed. Consequently, this Court accepts the recommendations made by the Committee constituted by this Court in the present writ petition and directs the Chief Secretary, GNCTD to oversee the implementation of the recommendations by the said Committee.

5. To ensure the implementation of the said recommendations, this Court directs the Chief Secretary, GNCTD to convene monthly meetings till all the



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recommendations get implemented and action taken report shall be filed by the Chief Secretary, GNCTD on or before 15th October, 2024.

6. List the matter for compliance on 22nd October, 2024.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 10, 2024/rhc