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

+ W.P.(C) 3903/2017 & CM APPL. 18718/2017, CM APPL. 19134/2017, CM APPL. 27526/2018

COURT ON ITS OWN MOTION

.....Petitioner

Through:

versus

UNION OF INDIA & ORS

.....Respondents

Through:

Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Mr. Ranjeev Khatana and Mr. Maulik Khurana, Advocates for UOI.

Ms. Arunima Dwivedi, CGSC with Ms. Pinky Pawar, Advocate for UOI.

Mr. Ajjay Aroraa, Mr. Kapil Dutta and Mr. Nitish Dubey, Advs. for R-2/MCD

Mrs. Avnish Ahlawat, Mr. Nishank Tripathi, Ms. Bani Dixit, Mr. Anirudh Sharma, Ms. Harshita Sukhija and Ms. Palak Jain, Advocates for Department of Health.

Mr. VSR Krishna, Advocate with Mr. V. Shashank Kumar, Advocate for AIIMS.

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC for GNCTD.

Mr. Ravinder Agarwal, Advocate



with Mr. Lekh Raj Singh, Advocate
for UPSC.

Mr. Sagar Saxena, Mr. Sarthak
Pandey and Mr. Parmeet Singh,
Advocates for JACSDO

Ms. Radhika Bishwajit Dubey, CGSC
with Ms. Gurleen Kaur Waraich and
Mr. Aviral Jain, Advocates for Delhi
Police.

Mr. Vishwajeet Singh Bhati, Adv. for
Mr. Siddharth Aggarwal, Sr. Adv.
(Amicus Curiae)

+ W.P.(C) 8548/2017 & CM APPL. 985/2024, CM APPL. 50101/2024
COURT ON ITS OWN MOTIONPetitioner

Through:

versus

UNION OF INDIA & ORS

.....Respondents

Through:

Mr. Ashok Agarwal, Advocate
(Amicus Curiae) with Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

Mrs. Avnish Ahlawat, Standing
Counsel GNCTD with Mr. Nitesh
Kumar Singh, Ms. Laavanya Kaushik,
Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advocates for GNCTD
with Mr. Tarun Kumar, Section
Officer

Mr. VSR Krishna, Advocate for
AIIMS.



Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Mr. Ranjeev Khatana and Mr. Maulik Khurana, Advocates for UOI.

Mr. Ravinder Agarwal and Mr. Lekh Raj Singh, Advocates for UPSC

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Advocate for GNCTD.

Mr. Siddharth Panda, Advocate with Mr. Anil Pandey, Advocate (ILBS).

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER
13.11.2024

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1. Mr. VSR Krishna, learned counsel appearing for Prof. M Srinivas, Director, AIIMS has submitted Minutes of Meeting dated 06th November, 2024 with respect to the meeting held on 05th November, 2024. The Minutes of Meeting record the discussions held between Prof. M Srinivas, officials of AIIMS and the officials of GNCTD for taking steps for implementation of the Dr. Sarin Committee Report. The Minutes of Meeting read as under:



“ALL INDIA INSTITUTE OF MEDICAL SCIENCES, NEW DELHI

Date: 06.11.2024

Subject: Minutes of the meeting held between officials of AIIMS New Delhi and GNCTD compliance to the orders of the Hon'ble High Court of Delhi dated 02.09.2024.-reg.

Ref. Order dated 02.09.2024 passed in WP(C) 8548 of 2017 titled as Court on its Own Motion Vs Union of India & Ors., the following is submitted for kind information of the Hon'ble Court:

In compliance with the orders of the Hon'ble High Court of Delhi dated 10.11.2024 passed in WP(C) 8548 of 2017 titled as Court on its Own Motion Vs Union of India & Ors., a meeting was convened under the Chairpersonship of the undersigned in Dr. Ramalingaswami Board Room on 05.11.2024 at 4:30 PM. The Chief Secretary and the other senior officials from GNCTD attended the meeting (list of attendees attached as Annexure-I).

All the members were welcomed and briefed about the agenda of the meeting. The undersigned underscored the need for synergy between all stakeholders to cooperate and collaborate for better clinical services across NCT of Delhi to ensure the health and well-being of its population. A presentation was made by AIIMS, New Delhi highlighting the timelines, action points and future course of action. This was followed by a presentation by the officials of GNCTD (Annexure-II). The following issues were discussed during the presentation:

- A. Joining of Specialists (NT) on contract:** It was informed by GNCTD that *'The matter regarding filling up the vacant posts of Specialists by recruiting them on contractual/outsourced basis is completed on 29-10-24 and against vacancy of 231 specialists (in 17 specialties) 117 specialists have been selected (vacancies due to non-availability of candidate as per the reservation roster). Posting has been given to all the selected candidates.'* Further it was informed that the regular recruitment through UPSC is likely to be completed within 2-3 months. Considering that the contractual appointment is a stop-gap arrangement, it was decided that they must undergo a short one-week orientation programme at Department of Emergency Medicine, AIIMS New Delhi. The regular doctors will subsequently be posted at AIIMS New Delhi for a one-month orientation programme. It was observed that as discussed in the meeting held on 04.10.2024, the GNCTD has completed the task within the defined timeline.
- B. Engagement of paramedics and nursing staff on outsourcing basis:** It was informed that *'After all concurrences/clearances the file has been submitted to the competent authority for approval.'* It was further discussed that subject to the approval of the competent authority, the candidates are likely to join within 6 weeks.



C. Procurement of radiological diagnostic services through PPP: The GNCTD officials informed that '*Draft Cabinet Note for this, as approved Hon'ble MoH, has been circulated to all requisite Departments*' and the cabinet approval is expected within a week's time. The GNCTD further informed during the meeting that the engagement of a PSU for outsourcing of radiological services on PPP mode is being explored which will greatly reduce the lead time. The services are expected to be rolled out by January 2025. AIIMS further suggested that the manpower must be mapped to existing resources in the interim period and newly appointed radiology specialists must be posted in hospitals that have CT/ MRI machines at least till the time the radiological diagnostic services are rolled out through PPP mode. In addition, tele-radiology must be utilized for reporting of CT/ MRI scans from other hospitals to cope up with the shortage of doctors in radiology.

D. Rate Contract of Drugs and Consumables: In this regard, the officials of GNCTD submitted the following report:

a) *Central Procurement agency (CPA):*

*Total Rate Contracts: 116 drugs**

** 31 drugs are in process of consent for extension of tender*

b) *Rate Contracts of eight hospitals has been shared by CPA, DGHS on their website for transparency and ready reference to all, for procurement of drugs directly by the hospitals.*

| <i>S. No.</i> | <i>Name of Hospital</i> | <i>Number of Drugs</i> |
|---------------|------------------------------------------------------|------------------------|
| 1 | <i>IHBAS</i> | <i>124</i> |
| 2 | <i>Dr. Baba Saheb Ambedkar Hospital (Dr.BSAH)</i> | <i>221</i> |
| 3 | <i>Guru Govind Singh Government Hospital(GGSGH)</i> | <i>257</i> |
| 4 | <i>Indira Gandhi Hospital (IGH)</i> | <i>285</i> |
| 5 | <i>Rajiv Gandhi Super Speciality Hospital RGSSH)</i> | <i>376</i> |
| 6 | <i>Chacha Nehru Bal Chikitsalaya (CNBC)</i> | <i>314</i> |
| 7 | <i>Deen Dayal Upadhayay Hospital (DDUH)</i> | <i>165</i> |
| 8. | <i>AIIMS, New Delhi</i> | <i>774</i> |

c) *The new tender for 764 drugs for hospitals, dispensaries and AAMCs is already under process by CPA, DGHS and is likely to be finalised within next two to three weeks.*

It was further informed that the Medical Directors/ Medical Superintendents of various hospitals have already been delegated powers to procure any of these drugs on basis of RC for other hospitals and AIIMS vide circular dated 25.10.2024 (Annexure-III).



- E. System for emergency purchases of medicines and consumables:** The GNCTD informed that *'A circular dated 25.10.2024 (refer Annexure—III) has been issued for emergency purchase of medicine and consumable wherein all MS/MD can procure medicines for next 3-4 months on the basis of rate contract of Delhi Government hospitals and AIIMS. Consumables are being procured by the Hospitals on their own.'* It was decided to review the progress in this regard after 4 weeks.
- F. HMIS:** The GNCTD submitted that *'A meeting was held on 10-10-24, at AIIMS with Health Department's HIMS and IT branch officials to discuss implementation of HIMS in Delhi Govt Health Facilities with emphasis on Hospitals providing emergency services. The minutes of meeting are still awaited.'*
- It was discussed that the Coordinator for IT for networking & referral shall deliberate on the said matter along with the officials of GNCTD to carefully draft a plan for implementation of a robust system.
- G. Dedicated full time MS/Director for all Hospitals:** The GNCTD informed that *'The agenda has been put up before National Capital Civil Services Authority. No Decision has been conveyed till date.'* It was further informed that the recruitment of full time MS/ Director can only be started after approval. AIIMS directed the officials concerned to expedite the process of approvals as far as possible.
- H. Open Jan Aushadhi Kendras in each Hospital:** It was submitted by GNCTD that *'The recommendations of the committee regarding opening Jan Aushadhi Kendras in hospitals has not been accepted in principle by HM (H&FW) but he directed that hospitals may be mapped with present kendras. This is not in accordance with the recommendation of the committee. Hon'ble Court has already directed that final decision of the measures to be adopted for implementation of the recommendations of Sarin Committee will rest with Director AIIMS.'*
- It was further informed that GNCTD has decided to map all existing Jan Aushadi kendras to the hospitals and will consider opening a Jan Aushadhi Kendra in hospitals that do not have one within a radius of 500 metres. It was suggested by AIIMS that the process must be expedited.
- I. Expansion of Delhi Arogya Kosh to non-trauma emergencies:** It was informed by GNCTD that the DAK scheme is implemented through a society, with the Minister of Health, GNCTD as the society's Chairperson. It was informed that the expansion of services needs approval from the General Body of the society. AIIMS suggested that the decision must be taken by the General Body in consultation with all stakeholders considering the reimbursement criteria & mechanism, financial implications, etc. Further, it was also informed that the GNCTD is considering adoption of PM-ABHIM scheme in 2 hospitals and around 15 wellness centres on a pilot basis.



J. Training:

- i. **Emergency Medicine:** It was decided that the GNCTD must submit assessments in the attached proformas (Annexure-IV & VI) **by 12 noon on 11.11.2024** for drafting a programme for structured training in batches.
- ii. **Quality & Patient Safety:** AIIMS Delhi requested the GNCTD to nominate nodal persons from each hospital for training on quality and patient safety and share their names, phone numbers and email address **by 12 noon on 11.11.2024.**

The Chief Secretary, GNCTD and the undersigned noted that satisfactory progress has been made in all action points identified in the meeting held on 04.10.2024 and desired that the officials of GNCTD must endeavour to complete all tasks within the agreed timelines.

**Prof. M Srinivas
Director, AIIMS”**

2. Mr. VSR Krishna, learned counsel has taken this Court through each of the issues discussed during the aforesaid presentation on 05th November, 2024.
3. With respect to the issue pertaining to recruitment of specialists at agenda point (A), Mrs. Avnish Ahlawat, learned standing counsel states that against the vacancy of 231 specialists (in 17 specialties’), 117 specialists have joined. She states that steps will be taken expeditiously to fill up the balance vacancies. After hearing the parties, this Court hereby directs the Government of National Capital Territory of Delhi (‘GNCTD’) to ensure that the remaining 114 vacancies are filled up within two (2) weeks.
4. With respect to the issue pertaining to the engagement of paramedics and nursing staff on outsourcing basis at agenda point (B), Mrs. Avnish Ahlawat states that the competent authority has granted approval for the engagement of 762 paramedics and 701 nursing staff.
5. This Court directs that GNCTD shall ensure that the approved candidates join services expeditiously and no later than the next date of



hearing before this Court.

6. With respect to the issue pertaining to procurement of radiological diagnostic services through PPP at agenda point (C), Mr. Rahul Mehra, learned senior counsel appearing for GNCTD states that GNCTD is agreeable to this proposal and the cabinet approval shall be granted within two (2) weeks.

7. This Court directs that given the criticality of this issue GNCTD shall ensure that the approval is granted within two (2) weeks, failing which there will be deemed approval of this proposal.

8. With respect to issues enlisted at agenda points (D) and (E), Mr. Rahul Mehra, learned senior counsel states that necessary orders delegating requisite powers to the Medical Directors (MD) and/or Medical Superintendents (MS) stand issued.

9. With respect to the issue of setting up of Health Management Information System (HMIS) enlisted at agenda point (F), Mrs. Avnish Ahlawat, learned standing counsel states that due to the unavailability of the doctors, the meeting could not be held on 10th October, 2024. She states that a meeting will be held soon, and effective steps will be taken for implementation of HMIS. Mr. Ashok Agarwal, learned Amicus states that there are various patient friendly measures which need to be incorporated and the existence of the said system needs to be suitably advertised. Mr. Rahul Mehra, learned senior counsel states that progressive steps have been taken and information with respect to the availability of beds on real time basis is being made available in the hospitals. He states that learned Amicus's suggestions can also be considered by the Committee.

10. This Court directs that a meeting for implementation of HMIS be held



within two (2) weeks on an urgent basis, as setting up of the HMIS is one of the critical issues highlighted in Dr. Sarin Committee's Report. The learned Amicus Curiae shall address his suggestions in writing to GNCTD within two (2) weeks and the same shall be placed before the said Committee for consideration.

11. With respect to the issue of appointment of full time Medical Superintendent (MS) and/or Director for all the hospitals enlisted at agenda point (G), Mrs. Avnish Ahlawat, learned standing counsel states that National Capital Civil Services Authority has not held a meeting till date and therefore, the approval could not be obtained. She states that there are existing rules governing the post of MS, common to all the hospitals in GNCTD. Mrs. Avnish Ahlawat and Mr. Rahul Mehra state that in principle, GNCTD has no objection to the appointment of a full-time MS and/or Director for all hospitals.

12. This Court is of the opinion that appointment of a full time MS and/or Director is essential, and it cannot await bureaucratic delays. This Court, accordingly, directs National Capital Service Authority and GNCTD to take immediate steps within two (2) weeks for appointment of a full-time MS/MD/Director/HOD for all the hospitals in accordance with law.

13. With respect to the issue of opening of Jan Aushadhi Kendras in each hospital enlisted at agenda point (H), this Court has perused the discussion recorded under this agenda and heard Mr. Rahul Mehra, learned senior counsel and Mr. Satyakam, learned Additional Standing Counsel on this issue. We are of the considered opinion that the recommendation of Dr. Sarin Committee for opening a Jan Aushadhi Kendra in each hospital has a sound basis. There is no reasonable ground submitted for objecting to



opening a Jan Aushadhi Kendra in each hospital. The convenience of having a Jan Aushadhi Kendra in each hospital for the patients and their caregivers, requires no reiteration. This issue is also connected with the object of agenda points (D) and (E) i.e., to ensure ready availability of medicines in the hospitals. We reiterate that GNCTD should not re-open the finality of the decision to implement the Dr. Sarin Committee recommendations as this delays the process of implementation. GNCTD is accordingly, directed to ensure that Jan Aushadhi Kendras are opened inside each hospital within four (4) weeks.

14. With respect to the issue of expansion of Delhi Aarogya Kosh (DAK) to non-trauma agencies enlisted at agenda point (I), Mr. Rahul Mehra, Senior Advocate and Mr. Satyakam, learned Additional Standing Counsel state that GNCTD has accepted the suggestions in-principle and will take steps for approving and implementing in due course.

15. This Court is not satisfied with the reasons for delay on part of GNCTD in implementation of the Dr. Sarin Committee's suggestion of extending DAK to non-trauma emergency. This issue has been pending for a while. GNCTD is directed to ensure that all necessary approvals along with criteria for availing the DAK are documented within a period of two (2) weeks and submitted to Prof. M. Srinivas, Director, AIIMS.

16. Within agenda point (I), there is also a reference to adoption of PM-ABHIM Scheme. Mr. Rahul Mehra, Senior Advocate and Mr. Satyakam, learned Additional Standing Counsel state that GNCTD has agreed to adopt PM-ABHIM scheme in two (2) hospitals and fifteen (15) wellness centres on a pilot basis. The learned counsel states that presently GNCTD has hired services of private parties to provide diagnostic services in the government



hospitals. Mrs. Avnish Ahlawat, learned standing counsel submits that till date no decision to implement the scheme on any pilot basis has been taken. She further submits that PM-ABHIM Scheme has various infrastructure components which should be implemented in its entirety as the last financial year for implementation of the Scheme is ending in 2025-2026 and four (4) years have already passed (i.e., a total of five (5), 2021-2022 to 2025-2026 years were given to implement the scheme).

17. This Court has considered the submissions of the parties and is of the opinion that the availability of efficient diagnostic services within the hospital is in the best interest of the patients and ensures better medical services. Keeping in view the said object and submissions of Mrs. Avnish Ahlawat, GNCTD ought not to delay implementation of PM-ABHIM Scheme on pilot basis and subsequently scaling it up to all the hospitals. It should be the ultimate goal of every hospital to have these services in-house. Accordingly, GNCTD is directed to implement PM-ABHIM Scheme on pilot basis within four (4) weeks.

18. GNCTD shall ensure that all action taken reports are submitted to Director, AIIMS within four (4) weeks. Director AIIMS is directed to hold a meeting with all the concerned prior to the next date of hearing to evaluate the compliances. Director AIIMS is directed to review the compliances of GNCTD and file its status report two (2) days before the next date of hearing.

19. This Court would like to record its appreciation for the steps being taken by the Director, AIIMS to oversee the implementation of the Dr. Sarin Committee Report.



Status Report dated 11th November, 2024 filed on behalf of GNCTD

20. Mrs. Avnish Ahlawat, learned standing counsel and Mr. Rahul Mehra, learned senior counsel have addressed submissions on the status report dated 11th November, 2024 filed by Deputy Secretary, Department of Health & Family Welfare, GNCTD.

21. GNCTD undertakes that with respect to the Brownfield hospitals wherein the progress of the work completed is above 80%, the remaining work will be completed within the timelines set out in the said report and no later than three (3) months from today. Mr. Rahul Mehra, learned senior counsel assures that all funds required for completing the aforesaid projects will be sanctioned and provided to the concerned department. It is directed that GNCTD shall ensure that these Brownfield projects should be commissioned within three (3) months.

22. With respect to the said Brownfield projects where a work completed is above 80%, the Administrative Reforms Department (ARD) is directed to immediately initiate steps for recruitment of manpower in anticipation of the completion of the project. ARD will ensure that all proposals received are considered within four (4) weeks and no delay is caused in deciding the proposals.

23. It is clarified that for the new posts created, until the same are filled in by regular appointments the Medical Superintendent (MS) or Medical Director (MD) will be authorised to fill up the posts on contractual basis through GeM Portal or through HLL Lifecare Ltd (a Govt. of India enterprise) as per the discretion of the MS and/or MD.

24. Similarly, with respect to Greenfield projects enlisted in this report,



wherever, the progress achieved is above 80%, GNCTD is directed to ensure that necessary funds and budgets are sanctioned for the completion of these projects. This direction is necessary as non-completion of these projects which are at an advanced stage would lead to wastage of funds already invested.

25. Learned counsel states that GNCTD has set up a committee vide office order dated 06th November, 2024 for the models to be adopted for operation of all Greenfield and Brownfield projects; and a separate committee vide office order dated 04th November, 2024 to deliberate and decide the changes required in the design and construction of the 24 hospital buildings.

26. With respect to all Greenfield and Brownfield projects where the progress achieved is more than 80%, the committee appointed by GNCTD vide office order dated 06th November, 2024 will take a decision within two (2) weeks on the issue of the model to be followed for operations of these projects i.e., through a society or PPP model etc. Committee/GNCTD can however, not permit a stalemate on this issue as the public funds already invested in these projects are at stake.

27. Similarly, the Committee appointed vide office order dated 04th November, 2024 will ensure that its mandate to take decisions within one (1) month is completed in a time bound manner and placed before this Court prior to the next date of hearing. The next date of hearing in this matter is being fixed accordingly.

28. GNCTD will file a fresh status report two (2) days before the next date of hearing.

29. List on 11th December, 2024. The present matters shall henceforth be



heard by a Division Bench comprising Hon'ble Ms. Justice Prathiba M. Singh and Hon'ble Ms. Justice Manmeet Pritam Singh Arora.

MANMOHAN, CJ

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 13, 2024/msh/MG