

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Writ Petition (Civil) No. 209/ 2003

RAMAKANT RAI & ANR.

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

Date: 01.03.2005 This Petition was called on for hearing today.

CORUM:

HON'BLE MRS. JUSTICE RUMA PAL

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE C.K. THAKKER

UPON hearing counsel the Court made the following

ORDER

Several states have filed affidavits setting out the steps taken by them to regulate sterilization procedures with regard to the male and female patients in their respective states. However, it is apparent that there is no uniformity with regard to the procedures nor the norms followed for ensuring that the guidelines laid down by the Union of India in this regard are being followed. Taking the best of what is being followed by some states, we direct that the States shall:

- (1) Introduce a system of having an approved panel of doctors and limiting the persons entitled to carry on sterilization procedures in the State to those doctors whose names appear on the panel. The panel may be prepared either state-wise,

District-wise or Region-wise basis. The criteria for including the names of the doctors on such panel must be laid down by the Union of India as indicated subsequently. Until the Union of India lays down uniform qualification criterion for the empanelment of doctors, for the time being no doctor without gynecological training for at least 5 years post degree experience should be permitted to carry out the sterilization programmes.

- (2) The State Government shall also prepare and circulate a checklist which every doctor will be required to fill in before carrying out sterilization procedure in respect of each proposed patient. The checklist must contain items relating to (a) the age of the patient, (b) the health of the patient, (c) the number of children and (d) any further details that the State Government may require on the basis of the guidelines circulated by the Union of India. The doctors should be strictly informed that they should not perform any operation without filling in this check list
- (3) The state Governments shall also circulate uniform copies of the proforma of consent. Until the Union Government certifies such proforma, for the time being, the proforma as utilized in the State of U.P., shall be followed by all the States; and
- (4) Each States shall set up a Quality Assurance Committee which should, as being followed by the State of Goa, consist of the Director of Health Services, the Health Secretary and the Chief Medical officer, for the purpose of not only ensuring that the guidelines are followed in respect of pre-operative measures (for example, by way of pathological tests, etc.), operational facilities (for example,

- sufficient number of necessary equipment and aseptic conditions) and post-operative follow ups. It shall be the duty of the Quality Assurance Committee to collect and publish six monthly reports of the number of persons sterilized as well as the number of deaths or complications arising out of the sterilization.
- (5) Each State shall also maintain overall statistics giving a break up of the number of the sterilizations carried out, particulars of the procedure followed (since we are given to understand that there are different methods of sterilization), the age of the patients sterilized, the number of children of the persons sterilized, the number of deaths of the persons sterilized either during the operation or thereafter which is relatable to the sterilization, and the number of persons incapacitated by reason of the sterilization programmes.
- (6) The State Government shall not only hold an enquiry into every case of breach of the Union of India guidelines by any doctor or organization but also take punitive action against them. As far as the doctors are concerned, their names shall, pending enquiry, be removed from the list of empanelled doctors.
- (7) The state shall also bring into effect an insurance policy according to the format followed by the state of Tamil Nadu until such time the Union of India prescribes a standard format.
- (8) The Union of India shall lay down within a period of four weeks from date uniform standards to be followed by the State Governments with regard to the health of the proposed patients, the age, the norms for compensation, the format of the statistics, check list and consent proforma and insurance.

(9) The Union of India shall also lay down the norms of compensation which should be followed uniformly by all the states. For the time being until the Union Government formulates the norms of compensation, the States shall follow the practice of the State of Andhra Pradesh and shall pay Rs. 1 lakh in case of the death of the patient sterilized, Rs. 30,000/- in case of incapacity and in the case of post-operative complications, the actual cost of treatment being limited to a sum of Rs. 20,000/-.

All the States have responded except the State of Jammu and Kashmir. Needless to say that the State of Jammu and Kashmir will also follow this order.

Let the matter be placed eight weeks later by which time the Union Government and State Governments should indicate the steps taken by them in compliance of this order.

USHA BHADWAJ

MADHU SAXENA

COURT MASTER

P.S. TO REGISTRAR