

प्रेषक,

महानिदेशक,
चिकित्सा एवं स्वास्थ्य सेवायें,
उ०प्र०, लखनऊ।

सेवा में,

समस्त मुख्य चिकित्सा अधिकारी,
उत्तर प्रदेश।

पत्रांक:-11फ/2018-19/केएस-1680

लखनऊ: दिनांक 15 मार्च, 2019

विषय:- पी०आई०एल० संख्या-5025/2018 विकास सिंह चकवर्ती बनाम उ०प्र० राज्य व अन्य में मा० उच्च न्यायालय, इलाहाबाद द्वारा पारित आदेश दिनांक 08.03.2019 के अनुपालन के संबंध में।

महोदय,

उपरोक्त विषयक कृपया स्थायी अधिवक्ता, मा० उच्च न्यायालय, इलाहाबाद के पत्र दिनांक 12.03.2019 के साथ प्राप्त पी०आई०एल० संख्या-5025/2018 विकास सिंह चकवर्ती बनाम उ०प्र० राज्य व अन्य में मा० उच्च न्यायालय, इलाहाबाद द्वारा पारित आदेश दिनांक 08.03.2019 (छायाप्रति संलग्न) का संदर्भ ग्रहण करने का कष्ट करें।

उक्त के अनुपालन में मा० न्यायालय के आदेश दिनांक 08.03.2019 को संलग्न कर प्रेषित करते हुए निर्देशित किया जाता है कि प्रश्नगत प्रकरण में मुख्य रूप से महानिदेशक, चिकित्सा एवं स्वास्थ्य सेवायें, उ०प्र० के स्तर से की जाने वाली कार्यवाही हेतु निम्नवत् निर्देश निर्गत किये गये हैं:-

Accordingly, the Director General, Department of Health Services, Government of U.P. is directed to constitute a Special Cell to inquire into the operation of different pathological Laboratories in the State to ensure compliance of the provisions of the Act, 2010 and the Rules framed thereunder. The inquiry is required to be made about having registration under the Act, 2010 and also the genuineness of the registration made by adhering to necessary conditions prescribed under the Act, 2010 and the Rules framed thereunder. The Director General, Department of Health Services shall also instruct the authorities competent to take appropriate action against the Pathological Laboratories, if they are not adhering to the requirements of law. Such Pathological Laboratories deserve to be subjected to penalties as per section 40 of the Act 2010. A complete report with regard to steps taken in pursuance of the directions given by this Court is required to be placed on record by the Director General (respondent no 3) on next date of listing.

मा० उच्च न्यायालय के उक्त आदेश के अनुपालन में जिला स्तर पर स्पेशल सेल का गठन निम्नवत् किया जाता है:-

- | | | |
|---|---|---------|
| 1. मुख्य चिकित्सा अधिकारी | - | अध्यक्ष |
| 2. मुख्य चिकित्सा अधिकारी द्वारा नामित 02 अपर/उप मुख्य चिकित्सा अधिकारी | - | सदस्य |

उक्त के साथ ही यह भी उल्लेखनीय है कि प्रश्नगत वाद में आगामी सुनवाई की तिथि 10.05.2019 को निर्धारित है।

अतः आपको निर्देशित किया जाता है कि उक्त सेल का तत्काल गठन करते हुए गठित स्पेशल सेल जनपद के समस्त अपंजीकृत चिकित्सा संस्थानों/चिकित्सा इकाईयों पर क्लिनिकल स्टैब्लिसमेंट एक्ट, 2010 में निहित प्राविधानों एवं दिशा-निर्देशों के अनुसार नियमानुसार तत्काल कार्यवाही करना सुनिश्चित करें तथा एक्ट में दिये गये आर्थिक दण्ड के अन्तर्गत भी कार्यवाही की जाय एवं कृत कार्यवाही से दिनांक 30.04.2019 से पूर्व सूचना प्रेषित करना अनिवार्य है, जिसमें शून्य सूचना भी प्रेषित करना आवश्यक है।

प्रकरण मा० उच्च न्यायालय से आच्छादित है, कृपया इसे शीघ्र प्राथमिकता प्रदान करें।

संलग्नक:-उपरोक्तानुसार।

भवदीय,
(पद्मकर सिंह)
महानिदेशक

पत्रांक:-11फ/2018-19/

तददिनांक:

प्रतिलिपि:-निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. स्थायी अधिवक्ता, मा० उच्च न्यायालय, इलाहाबाद के पत्र दिनांक 12.03.2019 के क्रम में।
2. विशेष सचिव, उ०प्र० शासन, चिकित्सा अनुभाग-6
3. स्टाफ आफिसर, महानिदेशक, चिकित्सा एवं स्वास्थ्य सेवायें, उ०प्र०, स्वास्थ्य भवन, लखनऊ।
4. समस्त मण्डलीय अपर निदेशक, चिकित्सा, स्वास्थ्य एवं परिवार कल्याण, उ०प्र० को इस आशय से प्रेषित अपने स्तर से भी उक्त का अनुपालन कराते हुए कृत कार्यवाही की संकलित सूचना निर्धारित समयावधि में महानिदेशालय को उपलब्ध कराने का कष्ट करें।

निदेशक(चिकित्सा उपचार)

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 5025 of 2018

Petitioner :- Vivek Singh Chakravarti

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Vivek Singh Chakravarti (In Person)

Counsel for Respondent :- C.S.C.

Hon'ble Govind Mathur, Chief Justice

Hon'ble Saurabh Shyam Shamsbery, J.

This petition for writ has been preferred to have an appropriate direction for respondents to inquire against the unregistered clinical establishments in the state of Uttar Pradesh.

It is submitted that for registration and regulation of Clinical establishments and for matter connected there-with or incidental thereto, the Parliament enacted "Clinical Establishment (Registration and Regulations) Act 2010. The Act requires establishment of State Council of Clinical Establishment, having wide powers with regard to administration and to regulate Clinics, Pathology as well as Laboratories in a State. He further stated that as per section 10 of the Act 2010, the State Government is required to set up a authority to be called District Registering Authority for each district for registration of clinical establishment. Such Registering Authority has already been notified by the State of U.P.. However, there are several clinical establishments including the Pathological Laboratories which are either having no registration or are having registration, though not fulfilling the requisite conditions required for such establishment.

Specific allegations about certain Pathological Laboratories are made by the petitioner in para 7 onwards in the petition.

This Court vide order dated 4th Jan 2019 directed the Standing Counsel to complete instructions and also to file a counter affidavit to the petition for writ. A counter affidavit, as such, has been filed on behalf of respondent no. 3. From a perusal of the averments contained in counter affidavit, it appears that the State too intended to have an inquiry in the matter but no final conclusion is yet arrived at.

It is also relevant to note that one Pathkind Diagnostics Pvt Ltd approached this Court by way of filing a writ petition being Writ Petition No 31948 of 2018 challenging the action taken by the State Authorities on 20th June 2018 with allegation of certain deficiencies in operation of the Laboratories aforesaid. In the petition aforesaid, A Division Bench of this Court by

order dated 11.10.2018, directed the Chief Medical Officer Kanpur Nagar to reconsider the matter of the petitioner of that petition afresh by keeping in mind the provisions of Act 2010 and the Rules framed thereunder.

Looking into the nature of the writ petition No. 31948 of 2018, we are of the view that the petition aforesaid also requires consideration alongwith the instant petition for writ.

Let the writ petition no. 31948 of 2019 be tagged alongwith this petition for writ for hearing.

On going through all the details given in the petition, counter affidavit and rejoinder affidavit, we are of the view that the necessary steps are certainly required to be taken by the competent authority of the Government of U.P. to ensure absolute compliance of the provisions of the Act, 2010 and the Rules framed thereunder.

Pathological Laboratories are having great importance for diagnosis of all medical ills and as such such Laboratories must fulfill all the requirements of law and the norms necessary to maintain hygenical efficacy and diagnostic system.

Accordingly, the Director General, Department of Health Services, Government of U.P. is directed to constitute a Special Cell to inquire into the operation of different pathological Laboratories in the State to ensure compliance of the provisions of the Act, 2010 and the Rules framed thereunder. The inquiry is required to be made about having registration under the Act, 2010 and also the genuineness of the registration made by adhering to necessary conditions prescribed under the Act, 2010 and the Rules framed thereunder. The Director General, Department of Health Services shall also instruct the authorities competent to take appropriate action against the Pathological Laboratories, if they are not adhering to the requirements of law. Such Pathological Laboratories deserve to be subjected to penalties as per section 40 of the Act 2010. A complete report with regard to steps taken in pursuance of the directions given by this Court is required to be placed on record by the Director General (respondent no 3) on next date of listing.

Application for Impleadment

An application for impleadment is preferred by M/S Pathkind Diagnostics Pvt Ltd 208, Okhla Industrial Estate, Phase-3, New Delhi to join proceeding as respondent. The Application aforesaid is accompanied with an affidavit sworn in by Shri Vishwanath Mishra, the authorized signatories of the Applicant.

The applicant is a company incorporated under the Companies Act and is engaged in the business of Pathological Laboratories for diagnosis of the illss.

It is stated that specific allegations against the applicant are made in paras 7 to 15, 20, 29 and 30 of the petition for writ for not adhering to the provisions of the Act, 2010 and the Rules framed thereunder. According to the learned counsel appearing on behalf of the applicant, in the event of issuance of any direction or order in the instant petition for writ as prayed by the petitioner, the applicant shall be adversely affected and as such it is a party necessary to the writ proceeding.

Having considered the contents of the application, we deem it appropriate to accept the same.

Accordingly, the application is allowed. M/S Pathkind Diagnosis Pvt Ltd with the address given in the application is allowed to join the proceeding as respondent no 4.

The amended cause title is required to be filed by the counsel for the applicant within three days from today.

The newly added respondent may also file a counter affidavit before the next date of listing after supplying a copy of the same to the petitioner who is appearing in person.

Let this petition for writ be listed on May 10,2019.

Order Date :- 8.3.2019

MH

(Saurabh Shyam Shamsbery,J.) (Govind Mathur,Chief Justice)

15.03.19

14.3.19
At 5:12 PM

दरिद्र वि. उ. न. क. (वि. उ.)
908
14.3.19

Akhileshwar Singh
Standing Counsel
High Court, Allahabad
Mob. No. 9415317475..

FAX/MOST URGENT/COURT CASE

To,
The Director General, Department of Medical Health Services Govt. of U.P.
Lucknow.

अहमदनगर शिविर
रसांक... 195
दिनांक... 14/3

No.:- _____ Dated 12.03.2019.
Subject:- For compliance of Hon'ble High Court's order dated 08.03.2019 passed in Civil Misc. Writ Petition (PIL) No. 5025 of 2018 (Vivek Singh Chakravarti Vs. State of U.P. and others) District-Etawah.

निदेशक चि० उपचार
आर्य निदेशक चि० उपचार

Dear Sir,
The abovementioned P.I.L. has been filed and argued by petitioner in person before Hon'ble High Court with the following prayer:-

encl
14/3/19

- a). Issue a writ, order or direction in the nature of mandamus directing the respondents to enquire against unregistered clinical establishment in Uttar Pradesh and take immediate action against him.
- b). Issue a writ, order of direction in the nature of mandamus directing the respondents to fix monetary penalty against the unregistered clinical establishment in Uttar Pradesh.

स्वाक अफिसर
आर्य निदेशक
चिकित्सा एवं स्वास्थ्य सेवार्थ
उ० प्र०, लखनऊ

In this matter counter affidavit has already been filed by the State authorities the affidavit has been shown by Dr. Virendra Singh Deputy Chief Medical Officer Etawah. Rejoinder Affidavit also has been filed by petitioner, both the affidavits are already on record.

निदेशक चि० उपचार
15.03.19

On 08.03.2019 when the matter was taken up Hon'ble Court or Hon'ble the Chief Justice after hearing the parties passed detailed order with a specific direction to D.G. Department or Medical Health Services to take certain steps. Kindly download the Judgment and order dated 08.03.2019 passed in the P.I.L. and ensure it's compliance.

The matter is again listed on 10.05.2019 in the cause list, kindly send some responsible officer much before 10.05.2019 with all details.

All comes
Do Hand to you
15/3/19
निदेशक चि० उपचार
चिकित्सा एवं स्वास्थ्य सेवार्थ
उ० प्र०, लखनऊ

Thanking you.

A.S.M.
Akhileshwar Singh
Standing Counsel
High Court, Allahabad

Kindly see the detail order dated 08.03.2019 on the official website on www.allahabadhighcourt.in of the Hon'ble High Court of Judicature at Allahabad.