



HIGH COURT OF SIKKIM, GANGTOK
(Civil Extra Ordinary Jurisdiction)

D.B. : HON'BLE SHRI SUNIL KUMAR SINHA, C.J. &
HON'BLE MRS. MEENAKSHI MADAN RAI, J.

W.P. (PIL) No. 39/2012

Shri Rinzing Chewang Kazi,
Son of Late Rinzing Namgyal Kazi,
Permanent resident of Lachen, North Sikkim,
P.O. & P.S. Lachen, North Sikkim.

Versus

... **PETITIONER**

1. The State of Sikkim,
Through the Chief Secretary,
Government of Sikkim,
Gangtok.
2. The Secretary,
Health & Family Welfare Department,
Government of Sikkim,
Gangtok, East Sikkim.
3. Union of India,
Through its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, Maulana-Azad Road,
New Delhi – 110 001.

... **RESPONDENTS**

Petition under Article 226 of the Constitution of India

Appearance :

Dr. Doma T. Bhutia and Ms. Mina Bhusal, Advocates for
the Petitioner.

Mr. J. B. Pradhan, Addl. Advocate General with Mr.
Santosh Kr. Chettri, Asstt. Govt. Advocate for State-
Respondents 1 and 2.

None for Respondent No. 3/Union of India.




J U D G M E N T

(05.04.2016)

Following Judgment of the Court was delivered by
SUNIL KUMAR SINHA, CJ.

1. By way of introduction, it may be stated here that this is a Public Interest Litigation seeking effective implementation of the National Rural Health Mission (for short NRHM) in the State of Sikkim by issuing appropriate orders to provide for required facilities and personnel in remote rural villages of the State, focussing in particular on the health of Women, Children and Senior Citizens being Marginalised Groups of society. It is also concerned with the violation of Articles 14, 15 and 21 of the Constitution alleging failure on the part of the Respondents to provide adequate facilities to women in terms of reproductive and child health services.

2. Before proceeding further, it may be elucidated here that the National Health Mission (NHM), whose vision is the "Attainment of Universal Access to Equitable, Affordable and Quality health care services, accountable and responsive to people's needs, with effective inter-sectoral convergent action to address the wider social determinants of health." (See Framework for Implementation, National Health Mission, 2012-17), encompasses two Sub-Missions being the National Rural Health Mission (NRHM) which was launched on 12.4.2005 and the National Urban Health Mission (NUHM). The NHM aims at guiding states towards achieving health care through strengthening of health



systems, institutions and capabilities. The objective of the NRHM, *inter alia*, is to reduce maternal mortality rate, infant mortality rate and total fertility rate. Within the ambit of the NRHM is the Janani Suraksha Yojana (JSY), a scheme, which is a 100% Centrally Sponsored and *".....integrates the cash assistance with antenatal care during the pregnancy period, institutional care during delivery and immediate post partum period in a health centre by establishing a system of coordinated care by field level health workers."* (See Janani Suraksha Yojana Guidelines for Implementation, Ministry of Health and Family Welfare, Government of India)." The vision of the scheme besides being to reduce maternal mortality and the infant mortality rate, seeks to increase institutional deliveries in women belonging to the Below Poverty Line (BPL) households of the age of 19 years or above, up to two live births. Along with the Scheme of Janani Suraksha Yojana, is the Janani-Shishu Suraksha Karyakram (JSSK) which assures that pregnant women and new borns do not have to incur pocket expenses in all Government institutions and lays down the entitlements for pregnant women and sick new born till 30 days of the birth.

3. Under the NRHM, Accredited Social Health Activists (ASHA) are to be appointed in each village and trained to act as an interface between the community and the public health systems. They are to assist the pregnant women belonging to households Below Poverty Line (BPL) in obtaining the use of health services by *inter alia* undertaking certain responsibilities, which include



identifying pregnant women, providing them with checkups, counseling them for institutional deliveries, etc.

4. This Writ Petition, as already stated has been filed seeking proper implementation of the NRHM.

5. In view of the facts put forth in the Writ Petition, this Court vide an Order on 24.8.2012, observed as follows: -

“...From the perusal of the averments made in the Writ Petition, we find that various Govt. Sponsored Schemes, namely, National Rural Health Mission (NRHM), Janani Suraksha Yojana (JSY) and other schemes have not been implemented in right spirit. There are also averments regarding non-availability of life saving drugs in most of the Government Hospitals/Health Centres both at District and Sub-Divisional level. State Respondents will furnish details of the facilities available at District and Sub-Divisional level Hospitals and Primary Health Centres including Dispensaries with details of the number of such Centres. The availability of life saving drugs with its names/brand and quantity with the expiry dates will also be disclosed in the Affidavit so filed.

In the meantime we further direct that the State will ensure availability of life saving drugs in all the Hospitals/Health Centres within a period of 2(two) weeks, if not already available...”

6. On 21.11.2012, Counter Affidavit was filed by the Respondents No.1 and 2, which was taken up on 23.11.2012 vide which “Details of Essential and Life Saving Drugs...” issued to the various hospitals and health centres were enumerated as follows: -

Sl. No.	District Hospitals	Sl. No.	Primary Health Centres (PHCs)	Sl. No.	Primary Sub Health Centres (PHSCs)
1	STNM on 5.9.2012 & 7.9.2012	1	Chungthang PHC during September 2012	1	Gor PHSC 2012
2	District Hospital Gyalshing on 5.9.2012	2	Dikchu PHC 2012-13	2	Lingdong PHSC 2012
3	District Hospital Singtam on 6.9.2012	3	Hee Gyathang PHC on 4.9.2012	3	Tingbong PHSC 2012

4	Namchi District Hospital on 5.9.2012	4	Passidong PHC during September, 2012	4	Sakyong Pentyong PHSC 2012
5	District Hospital Mangan on 6.9.2012	5	Phodong PHC on 27.9.2012	5	Lingthem PHSC 2012
				6	Lingdem PHSC 2012
				7	Phensong PHSC 2012
				8	Kabi PHSC 2012
				9	Ramthang PHSC 2012
				10	Namok PHSC 2012
				11	Loom PHSC 2012
				12	Tingchem PHSC 2012
				13	Naga PHSC 2012
				14	Salem Pockel PHSC 2012
				15	Singhik PHSC 2012
				16	Ship Ger PHSC 2012
				17	Lachen PHSC 2012
				18	Lachung PHSC 2012
		6	*22 PHC's of East, West & South Districts during September, 2012.	19	**128 PHSC's of East, West & South Districts during September, 2012.
			27 PHCs		146 PHSCs

(* & **: Names of 22 PHC's and 128 PHSC's are not mentioned)

7. The details *supra* reveal only a total of 4 (four) numbers of District Hospitals, 5 (five) numbers of Primary Health Centres (PHCs) and 18 (eighteen) numbers of Primary Health Sub Centres (PHSCs), while as per the Counter Affidavit, there is one Referral Hospital at STNM, four District Hospitals (Namchi, Gyalshing, Singtam and Mangan), a total of 26 Primary Health Centres and 146 Primary Health Sub Centres in the State, thus indicating that the required details have not been furnished for all the PHC's and PHSC's in the State.

8. It was also stated in the Affidavit of the Respondents that to facilitate better management and to ensure community participation in the daily working of the Primary Health Centres, "*Rogi Kalyan Samitis*" have been registered for the existing 24 (twenty-

four) Primary Health Centres, while for the 2 (two) newly notified Primary Health Centres (being Hee Gyathang in North District and Tokal Bermoik in South District) the matter is under process.

9. It has further informed that there is a proposal for reconstruction of the Lachen and Lachung Sub Centres with provision of a Doctor's Clinic and accommodation.

10. It was admitted that in terms of the population of Sikkim which stands at 6,07,000 as per the 2012 Census Report, the total requirement of beds in the hospitals and health centres is 1840, while at present there are 1440 beds only. That, this shortfall will be met up by construction of a 575 bedded Multi Specialty Hospital at Gangtok, which was to be completed by 10.9.2013. It was brought on record that, subsequently, the bed strength of the Multi Speciality Hospital was revised from 575 to 1000 and the date of completion was extended from 08.09.2013 to June, 2016. Status of the work as on 30.05.2015 was shown to be 86.50% completed.

11. On 23.11.2012, it was observed by this Court while referring to the Order dated 24.8.2012 that

"....One of the directions contained in the order was regarding availability of life saving drugs.

Though list of the life saving drugs has been appended with the affidavit as Annexure 1-3, however, in the affidavit no details are given about the availability of such life saving drugs in the hospitals and any health centres in the State of Sikkim.

Mr. J.B. Pradhan, learned Addl. Advocate General seeks one week's time to file additional affidavit regarding the availability of these drugs in the hospitals and various Public Health Centres in the State of Sikkim.

List on 10.12.2012."




12. This direction was complied in C.M. Appl. No. 160 of 2012. The said details are appended as Annexure A-1 from Page 264 to Page 300, being the same details as submitted in above Annexure A-3 (colly.).

13. The Respondent No. 3 chose not to file a Counter Affidavit as reflected in Order dated 30.4.2013.

14. In response to the Rejoinder filed by the Petitioner on 28.3.2013, the State Respondents filed a Counter Affidavit/Report on 29.5.2013 which dealt with "Lapses as Projected by the Petitioner in the Rejoinder" in one column and "Remedial Measures", ostensibly, taken by the Government in the next column.

15. To this Counter Affidavit/Report of the Respondents No.1 and 2, the Petitioner filed a Rejoinder on 26.6.2013 annexing Newspaper cuttings from local Newspapers indicating deficiencies in the STNM Hospital and the Namchi District Hospital. The attention of this Court was also drawn to the problem of Tuberculosis in Lachen village and the non availability of either doctors or medicines in the Primary Health Sub Centre. The Court consequently directed the Additional Advocate General to verify the correctness of the statements, as the Court *Prima facie* found the statements in the said Rejoinder to be correct.

16. A "Brief Fact Finding Report of the Ground" (sic) was filed by the Petitioner. In terms of the said Report, this Court vide its



Order dated 23.9.2013, observed that the Petitioner has *inter alia* pointed out the condition of Gynaecology Department, STNM Hospital at Gangtok, where the patients were facing great hardship on account of dearth of sufficient number of toilets. Admitting this in substance, the State Respondents undertook to explore possibilities to build new toilets for the OPD patients and attendants accompanying the ailing. The Court directed the State Respondents to expedite the construction of at least one more toilet on each of the floors of the building where Gynaecology Wards were situated, with a further direction that a report be submitted within 30 days regarding the progress. In compliance thereof, the State Respondents No. 1 and 2 informed that space had been identified for construction of 4 unit general toilet and for an additional toilet each on the first floor and ground floor of the Gynaecology block in addition of the existing 2 toilets on each floor.


17. In response to the Report of Tuberculosis in Lachen and Lachung, the Respondents informed the Court that 8 (eight) such patients were registered from Lachen of whom 2 (two) had completed treatment, while 5 (five) patients were found in the Lachung area and all were taking treatment as per the Revised National Tuberculosis Control Programme (RNTCP). The household survey conducted reveals no further case of Pulmonary Tuberculosis in the said area. That, medication for Tuberculosis at the DOTs Centre and Primary Health Centres were being assessed and patients also followed up on a regular basis.



18. In reply, it was contended by the Petitioner that besides medication for Tuberculosis, medicines for other diseases were not available. Learned Additional Advocate General sought a list of diseases and medicines which were not available, from the Petitioner. On the same date, Learned Additional Advocate General also informed that the construction of the toilets were in progress. This was on 12.12.2013.

19. On 14.3.2014, the Respondents informed the Court that the construction of the 4 unit toilet was to be completed by 20.3.2014. No final report in this regard was submitted. It is assumed that the construction is completed.

20. Reverting back to the Order dated 23.9.2013, this Court had directed that there should be construction of at least one more toilet on each of the floors of the building where the Gynaecology Wards are situated. Vide an Affidavit filed by the Respondents No.1 and 2 on 6.3.2014, it has been stated that so far as providing additional toilets on the first floor and the ground floor of the Gynaecology block, same have been completed and is being used by the patients. Photographs were submitted to substantiate this submission and have been marked as A-2 (colly.). However, while going through Annexure A-2 (colly.), it indicates that two toilets have been modified and opened at the ground level and two toilets have been made available at level-1 by modifying the existing toilets. Clearly, there has been no construction of an additional toilet each on




either floor as directed but only modification of the existing toilets have been carried out.

21. On 26.4.2014, the Petitioner filed an Affidavit furnishing details of medicines which are to be provided by the Respondents, which was accordingly taken on record on 2.5.2014.

22. On 7.8.2014, a second "Fact finding Report" was filed by the Petitioner, which dealt with a fact finding conducted by Advocate, Sarita Bhusal and one Maya Sikan (Health Right Activist from Delhi) on 20-21 May, 2014 concerning the implementation of the NRHM on the ground in the State, wherein it was alleged that most pregnant and lactating women were made to purchase basic medicines like Iron, Folic Acid, Calcium Pills and necessities, such as cotton, gloves, etc. That, basic instruments like ECGs were not available either in the Primary Health Centres of District Hospitals. Pregnant women were made to sleep in the corridors near the toilet, new born babies were kept in rooms without proper ventilation. No incubator facilities were available for new born children, neither was there an Operation Theatre in the District Hospital at Mangan, while both Hospitals at Mangan and Singtam had no Blood Banks and that there was lack of proper sanitation and toilet facilities in Primary Health Centres, hence the NRHM Scheme is not being implemented as envisaged.

23. A response to the Fact Finding Report was filed by the State. Learned Counsel for the Petitioner, thereafter, on 13.10.2014, prayed that she may be granted some time to go through the




response to the Fact Finding Report and find out remaining core issues, on which, directions may be required from this Court.

24. The Petitioner then filed CMA No.387/2014 and CMA No.251/2015 by which core issues were identified and directions from this Court were required.

25. It is thus clear that this Court had issued various directions in public interest on different dates and had monitored and compliance reports were filed by the State.

26. Now, we would like to concentrate on the core issues highlighted by the Petitioner in CMA No.387/2014 and CMA No.251/2015.

27. Dr. Doma T. Bhutia, learned Counsel appearing on behalf of the Petitioner, has firstly contended that Maternal Death Reviews (MDRs), as per the Government of India Guidance Manual on maternal death, are not being regularly done and the reviews are not being published in the website of the National Health Mission (NHM) of Sikkim, therefore, immediate directions should be issued. She has also argued that immediate steps be taken to ensure accountability for inadequate services and decentralization of health services and direction may be issued to publish community reports in the website of the NHM. Mr. J. B. Pradhan, learned Additional Advocate General appearing on behalf of the State, has argued that Maternal Death Reviews, as per the Government of India Guidance Manual on




maternal death are being done regularly. However, the material is not being uploaded in the website which the State is inclined to do.

28. Having heard Counsel for both the parties, we are of the view that there is no harm if the above materials are uploaded in the website. On the contrary, they would be helpful for awareness as also leading to transparency and would further show the real picture at a glance for self evaluation. The Maternal Death Reviews and Community based monitoring should be done regularly in the larger public interest and necessary materials should be uploaded in the website of the NHM and we direct accordingly.

29. Dr. Bhutia then contended that the State be directed to create blood banks and blood storage facilities as also arrange sufficient number of oxygen cylinders in every district to prevent maternal deaths related to bleedings. Let us firstly see what is the contention of the State regarding blood banks and blood storage facilities. It has been stated by the Additional Advocate General that blood bank facilities are available in the STNM Hospital at Gangtok and District Hospital at Namchi, whereas blood storage facilities are available in District Hospitals at Gyalshing and Singtam. It was contended vide affidavit dated 30.03.2015 that blood storage facility has also been put in place in District Hospital at Mangan, which would be operationlised by April, 2015. To provide health care to the people, the State Government has 147 Primary Health Sub-Centres (PHSCs) at the village level, 24 Primary Health Centres (PHCs) at the




block level, 4 district hospitals at each of the District Headquarters and a State level Referral Hospital at Gangtok (see p.3 of the comprehensive report issued by the Government). Besides the above health infrastructure, we find from Table-1 of the reply to CMA No.251/2015 that two Community Health Centres (CHCs) are also there in South District and East District. The State has a long term goal to update all 4 district hospitals to Indian Public Health Standards (IPHS). However, it requires that these institutions have to first function as First Referral Units (FRUs) with a minimum provision of facilities for Emergency Obstetric Care including surgical interventions like Caesarean Sections, New-born Care and Emergency Care of sick children and blood storage facility. This, we also get from the comprehensive report. Leaving it apart, if we go through the service guarantees for health care under NRHM, we would find that various topics have been covered to be given as facilities in PHSCs, PHCs and CHCs. In CHCs, apart from various facilities guaranteed, it has also been shown that there should be blood storage facilities, essential laboratory services and referral (transport) services. Thus, even according to the NRHM, blood storage facility should be there in a CHC. Apart from the above, if we look into the services guaranteed for the health care, it is a matter of common knowledge that blood transfusion would be necessary in many health services proposed. Thus, taking guidelines from the NRHM, we are of the view that there should be a blood bank in every district hospital and there should also be blood storage facility at least in CHCs. We are conscious that we are not experts, however, the view which we have taken, is based



upon the documents of NRHM as also the comprehensive report issued by the State Government. We, therefore, direct that the State Government shall make all endeavour to establish a blood bank in each district and also to establish blood storage facility in each CHC in near future.

30. Dr. Bhutia has also contended that enough number of oxygen cylinders should be available in the hospitals. She quoted example that many times only one cylinder caters the need of entire ward where number of patients/new-born children are very high. We have no data about the number of oxygen cylinders usually deployed in different hospitals. Mr. Pradhan has contended that sufficient number of oxygen cylinders have been put in all the district hospitals, which we also find in reply to CMA No.387/2014. We trust that there would not be any crisis in this regard and the things would go smoothly.

31. Dr. Bhutia then contended that the State should initiate a free emergency transport system for referrals in compliance with Janani Sishu Surakshya Karyakram (JSSK). Mr. Pradhan has contended that JSSK was started since the year 2011 and under the JSSK, free transport, free drugs and diet for pregnant mothers and infants are provided. The IPHS guidelines would show that JSSK was an initiative to assure free services to all pregnant women and sick neonates accessing public health institutions. The scheme envisages free and cashless services to pregnant women including normal deliveries and caesarean section operations and also treatment of



sick new-born (up to 30 days after birth) in all Government health institutions across the States. This initiative supplements the cash assistance given to pregnant women under the Janani Surakshya Yojana (JSY) and is aimed at mitigating the burden of out of pocket expenditure incurred by pregnant women and sick newborns. (see p.9 of the IPHS guidelines). Under various entitlements for pregnant women, one is free transport from home to health institutions, between facilities in case of referrals and drop back from institutions to home. The State has filed two quarterly status reports regarding implementation of JSSK (April to June, 2014 and July to September, 2014). In the said reports, it has been mentioned that there are 34 ambulances/referral vehicles in the State, which are also fitted with GPS. It is thus clear that the State has already initiated free emergency transport system for referrals under the JSSK and no directions are required to be issued in this regard.

32. Dr. Bhutia next contended that a Committee should be constituted to investigate, report and find out solutions for poor implementation of JSY. We find that there is no pleading in the Writ Petition making ground for constitution of such a Committee and direct investigation, as prayed for. Even, the Petitioner has never sought any relief in this regard. It appears that while the Counsel for the Petitioner expressed to sort out remaining core issues after various interim directions, the said point was taken up in CMA No.387/2014 and a direction was sought.

33. In ***State of Madhya Pradesh vs. Narmada Bachao Andolan & other connected matters* : (2011) 7 SCC 639**, after referring to many earlier judgments, it was held vide paragraph 13 that strict rules of pleading may not apply in PIL, however, there must be sufficient material in the petition on the basis of which the court may proceed. The PIL litigant has to lay a factual foundation for his averments on the basis of which such a person claims the reliefs. The information furnished by him should not be vague and indefinite. Proper pleadings are necessary to meet the requirements of the principles of natural justice. Even in PIL, the litigant cannot approach the court to have a fishing or roving enquiry. He cannot claim to have a chance to establish his claim. However, the technicalities of the rules of pleading cannot be made applicable vigorously. Pleadings prepared by a layman must be construed generously as he lacks the standard of accuracy and precision particularly when a legal wrong is caused to a determinate class. (Vide ***A. Hamsaveni v. State of T.N.* : (1994) 6 SCC 51**; ***Ashok Kumar Pandey v. State of W.B.* : (2004) 3 SCC 349**; ***Prabir Kumar Das v. State of Orissa* : (2005) 13 SCC 452** and ***A. Abdul Farook v. Municipal Council, Perambalur* : (2009) 15 SCC 351**.). We have scrutinized various documents filed along with the Writ Petition and we do not find that the Petitioner even has made a foundation to show that there was poor implementation of JSY. The State has brought on record various facts with relation to its implementation which would show that the scheme has been implemented and the persons are getting benefits thereof. JSY has





been implemented in the State since 2005 to promote preference for institutional delivery over home deliveries. There has been increase in the institutional deliveries. The disbursal of JSY funds is also occurring on large scale. The funds are disbursed at all level of facilities, i.e. Urban Family Welfare Centre (UFWC), District Hospitals, PHCs and PHSCs. Awareness regarding the promotion of scheme is done through IEC (publicity) wing of the Department. ASHA is the key person to implement the scheme effectively with support of AWWs, ANMs and Medical Officers of the PHCs. Village Health Nutrition Days (VHNDs) are used as the main platform to disseminate information about JSY. Following is the table showing number of JSY Beneficiaries year wise from 2005-2006: -

Year	Home delivery	Institutional delivery	Total
2005-06	591	537	1128
2006-07	682	1059	1741
2007-08	902	1826	2728
2008-09	841	2765	3606
2009-10	306	1919	2225
2010-11	364	3167	3531
2011-12	249	3036	3285
2012-13 up to 1 st Ort.	34	291	325

(see p.11 of the comprehensive report referred to above)

34. It is, therefore, clear that there are no sufficient reasons before us to constitute a Committee for the above purposes and to take a view that there is poor implementation of JSY and a Committee is immediately required to be constituted to investigate all these. We, accordingly, reject the said argument advanced by Dr. Bhutia.

35. Dr. Bhutia then contended that all vacant posts of Doctors and Staff Nurses be directed to be filled up immediately.



Mr. Pradhan has contended that process for filling of vacancies is already going on. He referred to the Orders recorded by this Court on 20.05.2015, 01.06.2015, 26.06.2015 and 28.07.2015. These orders would show that 64 posts of Medical Officers and 428 posts of Staff Nurses (GNM) under the State Health Department are lying vacant. We were informed that files for filling up these vacancies, i.e. 64 posts of Medical Officers and 32 posts of Staff Nurses (in phase manner) were already moved and were pending with the Sikkim Public Service Commission and Law Department, Government of Sikkim and later on advertisement No.5/2015 dated 24.07.2015 in relation to appointment of 73 posts of General Duty Medical Officers (Junior Grade) was issued by the Sikkim Public Service Commission and applications were invited. For Staff Nurses, advertisement No.6/2015 dated 05.08.2015 was also issued later on. It is, thus, clear that the Government has already taken steps to fill up the existing vacancies in the above manner when it was being monitored by this Court. Dr. Bhutia has also argued that Doctors and Nurses posted in rural areas should be given incentives. About the incentives of the Doctors and Nurses posted in the rural areas, statement has been made in CMA No.387/2014 that the Doctors and Nurses appointed under NHM posted in difficult areas are paid higher remuneration as compared to the others. As such, no further directions are required in these matters.

36. Dr. Bhutia then contended that directions may be issued for improved hygiene, increased staff and increased bed capacity in



STNM Hospital, Gangtok. It was brought to our notice that additional room with 10 beds was established for post natal care mother at the ground floor of Gynae building and ill-hygienic conditions which were on account of over-crowding have now improved. It was also brought to our notice that Department is creating 10 bedded post natal ward within 2-3 months by shifting School Health and National Blindness Control Programme Room situated at ground floor of Gynae complex. This will further improve the ill- hygienic situation. Additional toilet has also been constructed near Gynae complex. Additional two staff nurses from NHM have also been deployed. Besides the above, vide Affidavit dated 30.05.2015, it was stated by the Additional Secretary that construction of a Multi Speciality Hospital at Sichey, Gangtok is under progress and its bed strength was revised from 575 to 1000. It was also stated that date of completion of the Multi Speciality Hospital for the above reason was extended from 08.09.2013 to June, 2016 and the status of the work as on 22.05.2015 was 86.50% completed. It is, thus, clear that after the aforesaid Multi Speciality Hospital becomes operational, the scenario would be quite different and the position regarding scarcity of beds would be quite improved. We are of the view that when a 1000 bedded Multi Speciality Hospital is coming up in June, 2016, no further direction is required so far as increase of bed strength in STNM Hospital is concerned. We also trust that the hygienic condition in the newly constructed hospital would be up to the mark.


37. Dr. Bhutia also contended that a direction should be issued to the State-Respondents to have emergency helpline numbers and emergency Doctors' cell numbers in all the four districts to address health related issues in distress/emergency situation. In reply to the above issue, it was submitted by Additional Advocate General that emergency helpline numbers are already there. The details of those numbers, as contained in reply to CMA No.387/2014, are as follows: -

" i. STNM hospita	03592-202944
ii. District Hospital, Mangan	234244
iii. District Hospital, Gyalshing	250632/251082
iv. District Hospital, Namchi	264890/263830
v. District Hospital, Singtam	235379"

Therefore, nothing is required to be done on the said aspect.


38. Dr. Bhutia lastly contended that directions may be issued to upgrade the PHSCs of Lachen and Lachung into PHCs. Indian Public Health Standard (IPHS) for PHCs, in its introduction, provides that there should be one PHC for every 30,000 rural population in the plains and one PHC for every 20,000 population in the hilly, tribal and desert areas for more effective coverage. However, as the population density in the Country is not uniform, the number of PHCs would depend upon the case load. We find from the record that this matter was taken up in an earlier PIL, i.e. W.P. (PIL) No. 47/2012 and by an Order dated 23.04.2013, a Division Bench of this Court made following directions: -

"We, therefore, direct the respondents No.1, 3 and 4 to take immediate steps for up-gradation of the Primary Health Sub-Centres at Lachung and Lachen immediately."



It appears that, thereafter, C M Appl. No.53/2013 was filed for modification of the Order dated 23.04.2013 passed in W.P. (PIL) No.47/2012 and some new facts were brought to the notice of this Court and this Court immediately directed the State to implement certain suggestions made in the CMA for the time being as a temporary measure. However, it was directed that for future, necessary steps be taken by the State Government to upgrade the PHSCs at Lachen and Lachung to full-fledged PHCs in terms of Order dated 23.04.2013 and some other directions were also issued. This shows that there is already a direction of the Division Bench in W.P. (PIL) No.47/2012 and C M Appl.No.53/2013 filed in the said PIL after its disposal and no further directions are required in this regard.

39. After conclusion of the arguments, on the last date, learned Additional Advocate General made some suggestions to be implemented immediately. They are (i) free medicine counter in all district hospitals/STNM; (ii) all free medicines as per the list provided to this Court to be made available in the said counter; (iii) separate OPD card centre at STNM Hospital, Gangtok viz. male, female and senior citizens; (iv) Out Patient Duty (OPD) morning and afternoon at STNM Hospital should be regular. Afternoon OPD should be maintained strictly and (v) an inquiry desk to be made available at STNM Hospital which should be easily visible to assist the patients/parties. PIL is not in the nature of adversary litigation but it is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and



vulnerable sections of the community and to assure them social and economic justice (vide *Bandhua Mukto Morcha v. Union of India*, AIR 1984 SC 802). Therefore, any good suggestions coming from either side can be taken up for consideration and if it appears to be permissible under the law, the same may be directed to be implemented. We are of the view that the above suggestions coming from the Additional Advocate General can be accepted for implementation and we do it accordingly.

40. On the discussions made above, we dispose of this PIL along with CMA Nos.387/2014 & 251/2015 on following terms: -

- (1) The State will ensure availability of life saving drugs in all the hospitals/health centres. Interim direction in this regard vide Order dated 24.08.2012 is made absolute.
(see Order dated 24.08.2012)
- (2) Other interim directions on which compliance reports have not been filed shall also be taken as absolute.
- (3) JSY and JSSK shall be implemented in their letter and spirit so that the eligible women and children derive proper benefits from these schemes.
- (4) The Maternal Death Reviews and Community Based Monitoring shall be done regularly and necessary materials shall be uploaded in the website of the NHM.
(see paragraph 28)
- (5) The State Government shall make all endeavour to establish a Blood Bank in each district and also to establish Blood Storage facility in each CHC in near future.
(see paragraph 29)



- (6) State will create a free medicine counter in all district hospitals. (see paragraph 39)
- (7) All free medicines, as per the list provided to this Court, shall be made available in the said counters. (see para 39)
- (8) There shall be separate OPD card centres at STNM Hospital, Gangtok viz. male, female and senior citizens. The Out Patient Duty (OPD) morning and afternoon at STNM Hospital shall be regular and afternoon OPD should be maintained strictly. (see paragraph 39)
- (9) An inquiry desk shall be made available at STNM Hospital, Gangtok, which would be easily visible to assist the patients/ their attendants. (see paragraph 39)

41. In the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Index : Yes/No.
Internet : Yes/No.

pm