

ITEM NO.2

COURT NO.9

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION DIARY NO. 30408/2024

(Arising out of impugned final judgment and order dated 05-07-2024 in C.A. No. 8402/2016 passed by the Supreme Court Of India)

ASIT BARAN MONDAL & ANR.

PETITIONER(S)

VERSUS

DR. RITA SINHA MBBS MS (OBST. GYNAE) & ORS.

RESPONDENT(S)

Date : 23-07-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SANDEEP MEHTA

(Mr. Karan Bharihoke, *Amicus Curiae*)

For Petitioner(s)

By Courts Motion, AOR

For Respondent(s)

Mr. Shantanu Kumar, AOR
Mr. Ashish Batra, Adv.
Mr. Honey Jain, Adv.

Mrs. Aishwarya Bhati, A.S.G.
Mr. Amrish Kumar, AOR
Ms. Shivika Mehra, Adv.
Mr. Annirudh Sharma II, Adv.
Mr. Abhijeet Pandove, Adv.
Mrs. Seema Bengani, Adv.

Mr. Gaurav Sharma, AOR
Mr. Dhawal Mohan, Adv.
Mr. Paranjay Tripathi, Adv.
Mr. Rajesh Raj, Adv.
Ms. Ankita Dogra, Adv.

Mr. Santosh Krishnan, AOR

Mr. Mrinal Elkar Mazumdar, Adv.

Ms. Indira Bhakar, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Tadimalla Bhaskar Gowtham, Adv.
Mr. Krishna Kant Dubey, Adv.
Mr. Harish Pandey, Adv.
Mr. Shashwat Parihar, Adv.
Ms. Priyadarshni Priya, Adv.
Ms. Sansriti Pathak, Adv.
Mr. Shreekant Neelappa Terdal, AOR
Mr. Vineet Singh, Adv.*
Mr. Piyush Beriwal, Adv.*

Mr. Samir Ali Khan, AOR
Mr. Pranjal Sharma, Adv.
Mr. Abhimanyu Jhamba, Adv.
Ms. Thonpinao Thangal, Adv.
Mr. Kashif Irshad Khan, Adv.

Mr. Shree Pal Singh, AOR
Mr. Mukesh Kumar Maroria, AOR

Ms. Ankita Sharma, AOR
Mr. Arjun D Singh, Adv.

Mr. Sumeer Sodhi, AOR

Mr. Prashant Singh, AOR
Mr. Ravi Sharma, D.A.G.
Mrs. Prerna Dhall, Adv.
Mr. Piyush Yadav, Adv.
Mr. Alok Sahay, Adv.
Mr. Anjani Kumar Rai, Adv.

Ms. Supriya Juneja, AOR

Ms. Swati Ghildiyal, AOR
Ms. Devyani Bhatt, Adv.

Mr. Ajay Bansal, A.A.G.
Mr. Samar Vijay Singh, AOR
Mr. Gaurav Yadava, Adv.
Ms. Veena Bansal, Adv.
Mr. Sourav Jindal, Adv.
Ms. Sabarni Som, Adv.
Mr. Fateh Singh, Adv.
Mr. Aman Dev Sharma, Adv.

Mr. G.M. Kawoosa, Adv.
Mr. Pashupathi Nath Razdan, AOR

Ms. Yugandhara Pawar Jha, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Karun Sharma, Adv.
Ms. Anupama Ngangom, Adv.
Ms. Rajkumari Divyasana, Adv.

Ms. Anindita Pujari, AOR
Ms. Radhika Rani Mohapatra, Adv.
Mr. Shaileshwar Yadav, Adv.
Mrs. Bhumika Chouksey, Adv.

Mr. Siddhant Sharma, AOR
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Ms. Pragya Patel, Adv.

Mr. Milind Kumar, AOR

Mr. Raghvendra Kumar, AOR
Mr. Devvrat Singh, Adv.
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Mr. Anup Kumar Srivastava, Adv.

Mr. Rajiv Kumar Choudhry , AOR

Mr. Sravan Kumar Karanam, AOR
Ms. Shireesh Tyagi, Adv.
Mr. Aniket Singh, Adv.
Ms. Tayade Pranali Govardhan, Adv.
Ms. Jayashree PK, Adv.

Mr. Shivam Singh, Adv.
Mr. Gopal Singh, AOR

Ms. Rachna Gandhi, Adv.
Mr. Manan Verma, AOR
Mr. Ankit Shah, Adv.

Mr. Saurabh Trivedi, AOR

Mr. Srisatya Mohanty, Adv.
Ms. Astha Sharma, AOR
Mr. Shreyas Awasthi, Adv.

Ms. K. Enatoli Sema, AOR
Ms. Limayinla Jamir, Adv.
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmai, Adv.

**UPON hearing the counsel, the Court made the following
O R D E R**

1. A note of hearing has been filed by the learned *Amicus Curiae*. He submits that so far, replies have been filed by the Union Territory of Andaman and Nicobar, Chandigarh, States Chhattisgarh, Goa, Gujarat, Haryana, Odisha, Rajasthan and Uttarakhand.

2. Ms. Aishwarya Bhati, learned Additional Solicitor General who appears for the Union of India submits that her briefing counsel has moved an application (IA No. 230456/2023) wherein, it has been stated that *vide* order dated 17th August, 2016, this Court had issued notice on the aspect of complete absence of prescribed guidelines for treatment of patients in the Intensive Care Unit¹ or Critical Care Unit² and the lack of proper care at the stage of the operation or post operational stage. The Union of India had constituted a Committee under the Chairmanship of the Director General of Health Services on 14th September, 2023, to address the aforesaid issue.

The Terms of Reference of the said Committee were to prepare guidelines

1 For short the 'ICU'
2 For short the 'CCU'

for admission to ICUs, CCUs and palliative care required for non salvageable patients if removed from the ventilator and criteria for withdrawal of treatment. The Committee has devised a comprehensive set of guidelines that could be made applicable to the functioning of the all ICUs/CCUs across the country.

3. The recommendations of the Committee relating to ICU admission and discharge criteria is two fold. One is on the nature of training, certification and experience of the specialist in managing critically ill patients in an ICU. The Committee has suggested that the specialists (Intensivists) should have postgraduate qualification in Internal Medicine, Anaesthesia, Pulmonary Medicine or Surgery combined with additional qualification in intensive care and at least, one year training in a reputed ICU abroad. Some of the candidates who have been certified with a three years' training programme in intensive care after MBBS and are recognized as intensivists must have at least two years' experience in ICU with 50% time spent in the ICU. In case the Doctors do not have either of the qualifications as mentioned by the Committee or training, then they should have extensive experience in Intensive Care in India after MBBS i.e., at least three years' experience in ICU with at least 50% time spent in ICU.
4. The second recommendation of the Committee relates to the criteria for admitting a patient to ICU and such of the cases where critically ill patients

ought not to be admitted to ICU. The Criteria for ICU discharge has been recommended. Minimum patients monitoring required while awaiting an ICU bed, has also been mentioned. Minimum stabilisation required before transferring a patient to ICU and a minimum monitoring required for transferring a critically ill patients have been set out separately.

5. All the six recommendations as made by the Committee are extracted hereinbelow:

"2. ICU Admission Criteria:

- Altered level of consciousness of recent onset
- Hemodynamic instability (e.g., clinical features of shock, arrhythmias)
- Need for respiratory support (e.g. escalating oxygen requirement, de-novo respiratory failure requiring non-invasive ventilation, invasive mechanical ventilation, etc.)
- Patients with severe acute (or acute-on-chronic) illness requiring intensive monitoring and/or organ support
- Any medical condition or disease with anticipation of deterioration
- Patients who have experienced any major intraoperative complication (e.g. cardiovascular or respiratory instability)
- Patients who have undergone major surgery; (e.g. thoracic, thoraco-abdominal, upper abdominal operations, trauma who require intensive monitoring or at a high risk of developing postoperative complications)

3. The following Critically Ill Patients should not be admitted to ICU

- Patient's or next-of-kin informed refusal to be admitted in ICU
- Any disease with a treatment limitation plan
- Anyone with a living will or advanced directive against ICU care
- Terminally ill patients with a medical judgement of futility
- Low priority criteria in case of pandemic or disaster situation where there is resource-limitation (e.g. bed, workforce, equipment)

4. ICU Discharge Criteria

- Return of physiological aberrations to near normal or baseline status
- Reasonable resolution and stability of the acute illness that necessitated ICU admission
- Patient/family agrees for ICU discharge for a treatment-limiting decision or palliative care
- Based on lack of benefit from aggressive care (Should be a medical decision, not obligating family agreement and as far as possible should not be based on economic constraints).
- For infection control reasons with ensuring appropriate care of the given patient in a non ICU location
- Rationing (ie., prioritisation in the face of a resource crunch). In this event there should be an explicit and transparent written rationing policy that should be fair, consistent and reasonable'

5. The minimum patients monitoring required while awaiting an ICU bed include the following:

- Blood pressure (continuous/intermittent)
- Clinical monitoring (e.g., pulse rate, respiratory rate, breathing pattern, etc.)
- Heart rate (continuous/intermittent)
- SpO2 (continuous/intermittent)
- Capillary refill time
- Urine Output (continuous/intermittent)
- Neurological status (AVPU, GCS, etc.)
- Intermittent temperature monitoring
- Blood sugar

6. Minimum stabilisation required before transferring a patient to ICU include the following:

- Ensuring a secure airway (i.e., tracheal intubation if the patient has a GCS ≤ 8)
- Ensuring adequate oxygenation and ventilation
- Stable haemodynamics, either with or without vasoactive drug infusion
- Ongoing correction of hyperglycemia/hypoglycemia and other life-threatening electrolyte/metabolic disturbances
- Initiation of definitive therapy for life-threatening condition (e.g., external fixation of a fractured limb, administration of antiepileptics for recurrent seizures, antiarrhythmic drug infusion for unstable arrhythmias etc, IV antibiotics for sepsis)

7. Minimum monitoring required for transferring a critically ill patients (inter-facility transfer to hospital/ICU)

- Blood pressure (continuous/intermittent)
- Clinical monitoring (pulse rate, respiratory rate, breathing pattern, etc.)
- Continuous Heart rate
- Continuous SpO2
- Neurological status (AVPU, GCS, etc.)"

6. Learned ASG submits that the aforesaid criteria has been laid down by the Committee after obtaining inputs from various State Governments. However, it appears that all the State Governments have not responded to the Committee.

7. It is therefore, deemed appropriate to direct all the State Governments to respond to the recommendations made by the aforesaid Committee and file precise affidavits on any aspect that they suggest requires to be added to the criteria laid down or deleted from the said criteria.

8. Needful shall be done by all the State Governments through the respective Secretaries, Health & Family Welfare within three weeks from today with copies furnished to the learned *Amicus Curiae*, who shall then collate all the data and file a note for hearing before the next date of hearing.

9. In the event the affidavits are not filed within the time stipulated, then the Officer holding the aforesaid post in the respective State Governments/Union Territories shall be virtually present on the next date.

10. Learned *Amicus Curiae* submits that he has been facing difficulties in accessing the electronic file in the instant case because the category of “*Amicus Curiae*” has not been mentioned on the web portal of the Supreme Court which only recognizes those mentioned as “petitioners and respondents”. He submits that such a direction will enable all *Amicus Curiae* appointed by the Court in different matters to access the e-file with ease and to file documents/papers etc.

11. The Registrar (IT) is directed to examine the aforesaid issue and make the requisite changes on the web portal at the earliest. A copy of this order shall be forwarded by the Registry to the Registrar (IT) for his perusal and for a report to be submitted on the next date of hearing.

12. List on 23rd August, 2024.

(POOJA SHARMA)
COURT MASTER (SH)

(NAND KISHOR)
COURT MASTER (NSH)