

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

Pronounced on: October 09 , 2015

+ W.P.(C) No.9058/2015 & CM No.20486/2015 (directions)

AJAY MAKEN

..... Petitioner

Through: Mr. Aman Panwar with Mr.
Mudit Gupta, Advocates

Versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: Mr.Rahul Mehra, Sr. Standing
Counsel (Crl.) with Mr. Sanjoy Ghose, ASC
for GNCTD

Mr. Anil Grover, Standing counsel for NDMC
with Ms.Divya Jain, Adv.

Ms. Monika Arora, Adv. for UOI

Mr. Parvinder Chauhan, Adv. for R-3
(DUSIB)

Mr. Gaurang Kanth, Adv. with Ms. Biji
Rajesh, Adv. for EDMC

Mr. Mukesh Gupta, Standing Counsel for
SDMC

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

J U D G M E N T

G.ROHINI, CHIEF JUSTICE:

1. This petition, by way of Public Interest Litigation, is filed seeking a direction to the Government of NCTD to release the budgetary allocations made for Malaria and Dengue Control Programmes to the Municipal Corporations of Delhi, namely, SDMC, EDMC and NDMC and to ensure that all hospitals in NCTD, public or private, do not refuse

treatment to any patient with symptoms of dengue and to ensure that all hospitals in NCTD are duly equipped with dengue testing kits, platelet transfusion machines and ancillary medicines. The petitioner also seeks a direction to the Union of India to depute additional strength of doctors from the Central Pool in all Government hospitals, GNCTD and municipal bodies in order to control the spread of dengue in Delhi. Various other directions are also sought to GNCTD and Union of India to tackle the menace of dengue in NCTD.

2. A preliminary objection has been raised by the learned Standing Counsel for GNCTD as to the maintainability of the writ petition as a PIL contending that the Petitioner who is a former Member of Parliament and former Member of the Delhi Legislative Assembly and presently the President of Delhi Pradesh Congress Committee, has filed the petition with ulterior motive. Bringing to the notice of this court that in response to the letter dated 14.09.2015 addressed by the Petitioner, though a prompt reply was given by the Chief Minister proposing to have joint discussions so as to plan out a strategy to fight dengue, without responding to the same the petitioner has rushed to this Court with undue haste, it is contended by the learned Standing Counsel that under the garb of PIL, in fact, the petition is intended to gain political objectives.

3. We do not wish to enter into the issue whether the petitioner is acting bona fide or not in approaching this court since we are satisfied that the cause sought to be espoused is in public interest and deserves to be taken cognizance under Article 226 of the Constitution of India.

4. It may be added that the same issue relating to the steps required to be taken by the Union of India, GNCTD and Municipal Corporations to control and prevent dengue cases in Delhi has also been raised in two other petitions filed as Public Interest Litigation, namely, W.P.(C) No. No.8917/2015 and W.P.(C) 9006/2015. By order dated 21.09.2015, we directed GNCTD to file a comprehensive affidavit meeting the issues raised in all the writ petitions and in compliance with the same, the Additional Director (Public Health-IV), Directorate of Health Services, GNCTD filed a detailed counter affidavit dated 23.09.2015.

5. The said counter affidavit reflects that GNCTD has undertaken several initiatives to control the growing incidents of dengue in Delhi which included providing toll free dengue helpline, fever clinics at 55 Delhi Government dispensaries which are working in double shifts even on Sundays and holidays, temporary registration of certain private nursing homes to cope up with the increase of number of cases of dengue, awareness programmes through advertisements broadcasting through radio, house-wise awareness campaign with the help of volunteers, deputation of additional manpower, additional mechanism for dengue diagnosis through testing and monitoring of platelet counts, preventive measures for controlling the mosquito breeding and etc. The counter affidavit also reflects the strategic initiatives taken by GNCTD to manage the crisis and to ensure better coordination and management amongst the authorities of various departments, training programmes to better equip the volunteers, officers and inspectors to fight the rising crisis of dengue, surveillance activities by forming Dengue Surveillance Committees for monitoring and control of mosquito breeding, ensuring preparedness of blood banks by directing the blood banks to keep

adequate amount of blood bags, logistics, screening kits, adequate number of single donor platelets by organising more and more blood donation camps during peak dengue season. It has also been explained in the counter affidavit that GNCTD is in the process of undertaking legislative measures to combat any future contingencies arising out of failure to meet the necessary health standards by hospitals and clinical establishments after consultation with all the affected parties apart from compiling the data of the patients of economically weaker sections and the identified private hospitals for provision of medical services to EWS patients. So far as the release of funds to municipal corporations is concerned, it is explained that under the Budget of 2015-2016, the total amount that has been allocated for the malaria and dengue control programme is Rs.81.52 Crores out of which a grant-in-aid of Rs.15.88 Crores had been allocated to EDMC, Rs.28.42 Crores to SDMC and Rs.37.22 Crores to NDMC. It is further explained that the Department of Health & Family Welfare, GNTCD has already released the first instalment of grant-in-aid allocated to the municipal corporations for the current Financial Year and in the normal course, the further instalments would be released on receipt of scheme-wise utilization certificates from the municipal corporations. However, considering the grave crisis and emergent situation posed by the rising cases of dengue, GNCTD has initiated the process for release of the second instalment of grant-in-aid to the Municipal Corporations without waiting for such utilization certificates. While furnishing the details of the funds allocated and released under various sanitation plan schemes to Municipals Corporations for the year 2015-2016, it is stated that all the Municipal

Corporations were permitted to utilize unspent balance of previous financial year under various sanitation plan schemes.

6. In the additional counter affidavit dated 24.09.2015 filed by the Additional Director, Directorate of Health Services, it is further stated that on 22.09.2015 the Competent Authority has sanctioned the release of the second instalment of the Grant-in-Aid under the Dengue and Malaria Control Programme, subject to certain conditions, to all the Municipal Corporations and the release of the second instalment of amounts of Rs.1421 lakhs, Rs.1861 lakhs and Rs.794 lakhs has been sanctioned for the SDMC, NDMC and EDMC respectively. This has been done despite the fact that the NDMC and the EDMC have not produced scheme-wise Utilization Certificate as was required to be furnished, and has been done as an exceptional measure in the light of the gravity of the situation.

7. We have heard the learned counsel for both the parties. Since the learned counsel for the Petitioners in W.P.(C) No.8917/2015 and 9006/2015 desired to make further submissions with regard to certain other ancillary issues, while keeping the said writ petitions pending, we have proceeded to decide the present petition in the light of the detailed counter affidavit filed on behalf of GNCTD.

8. We have already referred to the contents of the counter affidavit filed on behalf of GNCTD explaining the steps that have already been taken and steps proposed to be taken to control/prevent the steep rise in dengue cases in Delhi. We are hence satisfied that no purpose would be served by keeping the present petition pending. We also found that

almost all the measures that have been suggested in the petition have already been taken care by the respondents.

9. Therefore, the only direction needs to be issued is that the first Respondent shall ensure that the grant-in-aid released is properly utilized by the Respondents No.4 to 6 Corporations for taking all the necessary measures for controlling and prevention of the dengue cases. There shall also be a direction to the first Respondent to constantly monitor the steps that are being taken by various Departments in coordination with the Committee constituted under the “National Vector Borne Disease Control Programme”.

10. The writ petition is accordingly disposed of. No costs.

CHIEF JUSTICE

JAYANT NATH, J.

OCTOBER 09, 2015

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