

Government Hospitals should have Charitable/ Donation Accounts

KK AGGARWAL*, IRA GUPTA†, SANCHITA SHARMA‡

The Hon'ble High Court of Delhi vide judgment dated 17.04.2014 in the matter titled as "**Mohd. Ahmed (minor) versus Union of India & Others, Writ petition (Civil) No. 7279/2013** gave suggestions and had held that:

"SUGGESTIONS BY THE COURT

81. This Court suggests that both the Central and State Governments should consider the following suggestions:

- i. All government hospitals could have a separate CSR/Charitable entity/account wherein donations can be received. The donations could be subject to an audit.
- ii. Each hospital could have a designated officer, to whom applications for assistance can be made by patients in need. The decision to whom financial assistance could be provided, be left to the Medical Superintendent/CEO of the Hospital along with Head of the Departments. Delhi could be adopted as the first model state.
- iii. The Ministries of Corporate Affairs and Finance could consider providing extra credit (for instance increased credit) for donations in certain sectors, such as health.
- iv. The Government could adopt a holistic approach to facilitate donations, so that the tax regime supports the said efforts.
- v. All donations in cash and kind must be accounted for, with complete transparency to ensure no misuse or misappropriation of donations.
- vi. Government hospitals could put up list on the State Department of Health website of the drugs, implants and devices they require for EWS/BPL patients. This way people would donate as per the need of each hospital. This could be revised on a monthly basis.
- vii. The State Government may put up a list of drugs, implants and devices which are excluded from its budget for which donations would be welcome.
- viii. Both the Central and State Governments could create a revolving fund to take care of recurring expenditure of patients suffering from chronic and rare diseases.
- ix. The Government could constitute a High Powered Inter-disciplinary Committee to:
 - Develop and update a list of guiding principles/best practices in the area of donations in health care.
 - Develop a policy for tackling rare diseases and promoting the development of orphan drugs.
 - Evolve new and innovative methods for attracting spending in the area of health care.
 - This Committee could have representatives from various State and Central Government departments, private and government hospitals, non-governmental organizations working in the area of health care, representatives of patients rights groups, representatives of pharmaceutical and other companies in the health care sector."

In view of the above suggestions as given by the Hon'ble High Court of Delhi in the matter titled as "**Mohd. Ahmed (minor) versus Union of India & Others, Writ petition (Civil) No. 7279/2013**", the Heart Care Foundation of India (HCFI) had sent one Right to Information (RTI) application dated 02.04.2018 to Ministry of Health and Family Welfare, Central Government of India and one RTI application dated 02.04.2018 to Ministry of Health and Family Welfare, Delhi Government thereby seeking following information:

- i. Whether all government hospitals have a separate CSR/Charitable entity/account wherein donations can be received? If yes, please provide the list of the hospitals having separate CSR/Charitable entity/account.
- ii. Who is the designated officer in each hospital to whom applications for assistance can be made by patients in need?
- iii. What steps/measures the Government has adopted to facilitate donations, so that the tax regime supports the said efforts?

*Group Editor-in-Chief, IJCP Group

†Advocate and Legal Advisor, HCFI

‡General Physician, New Delhi

- iv. Do Government hospitals put up list on the State Department of Health website of the drugs, implants and devices they require for EWS/BPL patients? If yes, please provide the list of all such hospitals.
- v. Does the State Government put up a list of drugs, implants and devices which are excluded from its budget for which donations would be welcome? If yes, please provide the list of drugs, implants and devices which are excluded from the budget for which donations are welcome.
- vi. Have the Central and State Governments created a revolving fund to take care of recurring expenditure of patients suffering from chronic and rare diseases? If yes, please provide the details of such revolving fund.
- vii. Has the Government constituted a High Powered Inter-disciplinary Committee to:
- Develop and update a list of guiding principles/best practices in the area of donations in health care.
 - Develop a policy for tackling rare diseases and promoting the development of orphan drugs.

- Evolve new and innovative methods for attracting spending in the area of health care.
- This Committee could have representatives from various State and Central Government departments, private and government hospitals, non-governmental organizations working in the area of health care, representatives of patients rights groups, representatives of pharmaceutical and other companies in the health care sector.

That after sending the said RTI applications, HCFI had received reply dated 02.05.2018 from the Ministry of Health and Family Welfare, Government of India (PH Division).

Further, HCFI had received reply dated 18.05.2018 from the Directorate General of Health Services, Government of NCT of Delhi.

Also, in reply to the aforementioned RTI applications, HCFI had also received replies from various Government Hospitals of Delhi. The details of the hospitals from where replies have been received are as follows:

Sr. No.	Hospital name	Date of reply
1.	Aruna Asaf Ali Government Hospital	10.04.2018
2.	Deep Chand Bandhu Hospital	16.04.2018
3.	Sardar Vallabh Bhai Patel Hospital	16.04.2018
4.	Guru Nanak Eye Centre	18.04.2018
5.	Maharishi Valmiki Hospital	24.04.2018
6.	Babu Jagjivan Ram Memorial Hospital	25.04.2018
7.	Maulana Azad Institute of Dental Sciences	26.04.2018
8.	Ch. Brahm Prakash Ayurved Charak Sansthan (under Government of NCT Delhi)	28.04.2018
9.	Dr. Hedgewar Arogya Sansthan	01.05.2018
10.	Janakpuri Super Speciality Hospital Society	01.05.2018
11.	Lal Bahadur Shastri Hospital	02.05.2018
12.	Institute of Liver & Biliary Sciences	04.05.2018
13.	Nehru Homoeopathic Medical College & Hospital	04.05.2018
14.	Guru Govind Singh Government Hospital	04.05.2018
15.	Acharya Shree Bhikshu Government Hospital	05.05.2018
16.	Jag Prवेश Chandra Hospital	07.05.2018
17.	Rao Tula Ram Memorial Hospital	08.05.2018
18.	Satyawadi Raja Harish Chandra Hospital	08.05.2018
19.	Sanjay Gandhi Memorial Hospital	08.05.2018

Sr. No.	Hospital name	Date of reply
20.	Chacha Nehru Bal Chikitsalaya	09.05.2018
21.	A & U Tibbia College and Hospital	09.05.2018
22.	Institute of Human Behaviour & Allied Sciences	10.05.2018
23.	Dr. Baba Saheb Ambedkar Hospital	10.05.2018
24.	Govind Ballabh Pant Institute of Post Graduate Medical Education & Research	11.05.2018
25.	Attar Sain Jain Eye & General Hospital	11.05.2018
26.	Deen Dayal Upadhyay Hospital	14.05.2018
27.	Shri Dada Dev Matri Avum Shishu Chikitsalaya	15.05.2018
28.	Lok Nayak Hospital	16.05.2018
29.	Safdurjung Hospital & VMMC	25.05.2018

It is very shocking to learn that none of the government hospitals in the capital state of the country, Delhi, have a separate corporate social responsibility (CSR)/Charitable entity/account wherein donations can be received by the government hospitals.

Out of 29 hospitals, only 10 hospitals have appointed a designated officer to whom applications can be made by patients for assistance.

None of the Government hospitals have put up the list of the drugs, implants and devices they require for economically weaker sections (EWS)/below poverty line (BPL) patients on their websites.

The State Government does not put up a list of drugs, implants and devices, which are excluded from its budget for which donations would be welcome.

Vide reply dated 02.05.2018, the Ministry of Health and Family Welfare, Government of India (PH Division) has stated that as per the National Policy for Treatment of Rare Diseases, a corpus has to be created under National Health Mission as Central assistance to the States with an initial amount of Rs. 100 crore for funding treatment of rare and genetic diseases. The States also have to create a similar corpus at State level for part funding for treatment of rare diseases.

Vide reply dated 18.05.2018, the Directorate General of Health Services (DGHS), Government of NCT of Delhi has stated that a cabinet note is being prepared with respect to the creation of a revolving fund to take care of recurring expenditure of patients suffering from chronic and rare diseases.

Vide reply dated 02.05.2018, the Ministry of Health and Family Welfare, Government of India (PH Division)

has stated that Government of India has formulated a National Policy for treatment of rare diseases in 2017. The Department of Industrial Policy and Promotion and the Department of Pharmaceuticals have been requested to take up with the manufactures of orphan drugs to explore possibilities for manufacturing these drugs domestically.

Vide reply dated 18.05.2018, the Directorate General of Health Services, Government of NCT of Delhi has stated that 'yes', that means, government has constituted a High Powered Interdisciplinary Committee.

From all the replies received by HCFI, it was evident that neither the Central Government nor the State Government has followed the suggestions/directions as given by the Hon'ble High Court of Delhi in the judgment dated 17.04.2014 in the matter titled as "Mohd. Ahmed (minor) versus Union of India & Others, Writ petition (Civil) No. 7279/2013."

Accordingly, HCFI requested the Government to consider the suggestions as given by the Hon'ble High Court of Delhi but the same was in vain.

Finally, HCFI filed a representation before the Hon'ble Chief Justice of Delhi High Court thereby requesting the Hon'ble High Court to consider the said representation as public interest litigation (PIL) since the compliance of the judgment dated 17.04.2014 in the matter titled as "Mohd. Ahmed (minor) versus Union of India & Others, Writ petition (Civil) No. 7279/2013", is imperative as many poor patients are not able to afford the medical expenses and they are also not aware as to from where they can get financial assistance for their medical expenses.

After considering the said representation of HCFI, Hon'ble High Court accepted and converted the said

representation into PIL being titled as **“Court on its own Motion versus Union of India & Others, Writ Petition (Civil) No. 2513/2019”**

In the said writ petition, after hearing the arguments, the Hon’ble Chief Justice of Delhi High Court was pleased to allow the request of HCFI and pass order dated 15th July, 2019. The order dated 15th July, 2019 is reproduced hereunder:

- “1. This Court received a letter from Dr KK Aggarwal, dated 14th November, 2018 and the same has been treated as a writ petition.
2. Having heard learned counsel for Respondent Nos. 1 to 4 and also having heard learned counsel for the petitioner, it appears that Dr KK Aggarwal seeks directions upon respondents that all government hospitals should have a separate CSR/Charitable entity/account wherein donations can be received.
3. It appears that in an earlier case i.e., W.P. (C) 7279/2013, this Court, vide its judgment and order dated 17th April, 2014, made the following suggestions in para 81 thereof as under:

“SUGGESTIONS BY THE COURT

81. This Court suggests that both the Central and State Governments should consider the following suggestions:

- i. All government hospitals could have a separate CSR/Charitable entity/account wherein donations can be received. The donations could be subject to an audit.
- ii. Each hospital could have a designated officer, to whom applications for assistance can be made by patients in need. The decision to whom financial assistance could be provided, be left to the Medical Superintendent/CEO of the Hospital along with Head of the Departments. Delhi could be adopted as the first model state.
- iii. The Ministries of Corporate Affairs and Finance could consider providing extra credit (for instance increased credit) for donations in certain sectors, such as health.
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- v. All donations, in cash and kind must be accounted for, with complete transparency to ensure no misuse or misappropriation of donations.
- vi. Government hospitals could put up list on the State Department of Health website of the drugs, implants and devices they require for EWS/BPL patients. This way people would donate as per the need of each hospital. This could be revised on a monthly basis.
- vii. The State Government may put up a list of drugs, implants and devices which are excluded from its budget for which donations would be welcome.
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- ix. The Government could constitute a High Powered Interdisciplinary Committee to; - Develop and update a list of guiding principles/best practices in the area of donations in health care. - Develop a policy for tackling rare diseases and promoting the development of orphan drugs. - Evolve new and innovative methods for attracting spending in the area of health care. - This Committee could have representatives from various State and Central Government departments, private and government hospitals, non-governmental organizations working in the area of health care, representatives of patients rights groups, representatives of pharmaceutical and other companies in the health care sector.”

- 4 Thus, it appears that suggestions have already been given by this Court to the respondents for having a separate CSR/Charitable entity/account and also other suggestions have been given.
5. We, therefore, once again request the respondents to look into all these suggestions given by this Court in W.P. (C) 7279/2013 vide its judgment and order dated 17th April, 2014 and as far as possible the same will be implemented by the respondents in accordance with rules/regulations and the applicable policy to the facts of this case.”

We hope the Government will take immediate action and will consider all the suggestions as mentioned above.