Received on 05-12-2018

भारतीय आयुर्विज्ञान परिषद के अधिक्रमण में शासी बोर्ड
BOARD OF GOVERNORS
IN SUPERSESSION OF MEDICAL COUNCIL OF INDIA

पॉकेट-१४ सेक्टर-८ द्वारका नई दिल्ली -110 077
Pocket-14, Sector-8, Dwarka, New Delhi-110 077

No. MCI - 211(2)(Gen.)/2018-Ethics/ 144828 Date: 06/11/18

To,

The Registrar,
All the State Medical Councils.

Kiran to hold the order in website. Reporting format also be hosted 24/11/18

Subject:- Order of the Hon'ble Supreme Court in WP No. 535/1998 titled Sahara House Vs. UOI & Other connected petitions dated 01.10.2010.

Sir,

This is in continuation to our letter dated 10.10.2010 circulated to Registrars of all the State Medical Councils in pursuance to the Supreme Court order in WP No. 535/1998 titled Sahara House Vs. UOI & Other connected petitions dated 01.10.2010.

The Council office vide letter dated 10.10.2010 directed the State Council to circulate among all the private doctors who are treating HIV patients to furnish the information in the prescribed format to NACO.

Further, in this regard a meeting was convened at Ministry of Health & Family Welfare, New Delhi, on 16/08/2018 whereby it was noted that the reporting of HIV cases from the private doctor was initiated, carried out for few months but could not pick up as expected. In the said meeting the Council office was directed to reiterate the previous order.

The direction of the Hon'ble Supreme Court order dated 01.10.2010 are reproduced below:-

"As far as private Doctors treating HIV patients are concerned, we hereby direct Medical Council of India [for short, the MCI], to implement our above directions within two weeks from the Reporting Format being put on the Website. The MCI, in turn will issue appropriate directions to the private Doctors, to furnish the requisite information in the ART Reporting Format to NACO....."

In view of the above, directions are to be issued by you to the medical practioners registered with your Council to ensure that there is mandatory reporting of HIV patients from private doctors. Further any violation of the above direction shall be considered as breach of directions of Hon'ble Supreme Court. The format for the same is available at the website of NACO.

A compliance report on the same may kindly be sent to the office of the Councils.

Yours Faithfully,

06.11.18

(Dr. Sanjay Shrivastava)
Secretary General

Dedicated Lemma for information

24/11/18

KARNATAKA MEDICAL COUNCIL

\206>ITEM NOS.31 & 40 COURT NO.1 SECTION PIL

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

WRIT PETITION (CIVIL) NO.535 OF 1998

SAHARA HOUSE ... Petitioner(s)

VERSUS

U.O.I. & ORS ... Respondent(s)

(With office report)

With W.P. (C) No.512 of 1999
(With applr(s) for amendment of the petition, directions, impleading party and ad-interim orders)

W.P. (C) No.61 of 2003
(With office report)

W.P. (C) No.311 of 2003
(With applr(s) for directions, permission to file additional documents and office report)

Date: 01/10/2010 These Matters were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Petitioner(s)
In WP 535/1998: Mr. Naveen R. Nath,Adv.(A.C.)

In WP 512/1999: Mr. Chander Uday Singh,Sr.Adv.
Ms. Shivangi,Adv.
Mr. Naveen R. Nath,Adv.

In WP 61/2003: Ms. Kamini Jaiswal,Adv.
Mr. Sandeep S. Parekh,Adv.
Mr. Abhimanue Shrestha,Adv.
Mr. D.P. Singh,Adv.

In WP 311/2003: Mr. Colin Gonsalves,Sr.Adv.
Mr. Tariq Abeed,Adv.
Ms. Jyoti Mendiratta,Adv.

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- 2 -

For Respondent(s) Mr. Ashok Bhan,Adv.
Mr. Subhash Kaushik,Adv.
Mr. Arvind Kumar Sharma,Adv.

Mr. Sudhir Kumar Gupta,Adv.

Mr. Abhinav Mukerji,Adv.

Mr. T.S. Doabia,Sr.Adv.
Mr. Aman Ahluwalia,Adv.
Mr. Manpreet Singh Doabia,Adv.
Mr. Vikas Bansal,Adv.
Ms. Sadhana Sandhu,Adv.
Ms. Pia Singh,Adv.

Mr. D.S. Mahra,Adv.
Ms. Sunita Sharma,Adv.
Mr. Aman Verma,Adv.

Mr. Janaranjan Das,Adv.

Mr. Ranjan Mukherjee,Adv.
Mr. S. Bhowmick,Adv.
Mr. S.C. Ghosh,Adv.

Mr. T.V.George,Adv.

Mr. G. Prakash,Adv.
Ms. Beena Prakash,Adv.
Mr. V. Senthil,Adv.

Ms. Sushma Suri,Adv.

Mr. Anuvrat Sharma,Adv.
Ms. Alka Sinha,Adv.

Mr. Naresh K. Sharma,Adv.

Mr. T. Harish Kumar,Adv.
Mr. P. Prasanth,Adv.
Mr. V. Vasudevan,Adv.

Mr. Pragyan P. Sharma,Adv.
Mr. P.V. Yogeswaran,Adv.

Mr. Gopal Subramaniam,SG.
Mr. T.S. Doabia,Sr.Adv.
Mr. Aman Ahluwalia,Adv.
Ms. Sadhana Sandhu,Adv.
Mr. Manpreet Singh Doabia,Adv.
Ms. Pia,Adv.
Mr. Vikas Bansal,Adv.
Mr. D.S. Mahra,Adv.

Ms. A. Subhashini,Adv.

Mr. Ansar Ahmad Chaudhary,Adv.

Mr. Khwairakpam Nobin Singh,Adv.
Mr. Sapam Biswajit Meitei,Adv.

Mr. T.C. Sharma,Adv.

Mr. V.G. Pragasam,Adv.
Mr. S.J. Aristotle,adv.
Mr. Pracy Ramasubramanian,Adv.
Mr. L.A.C. Selvam,Adv.

Mr. Edward Belho,Adv.
Ms. K. Enatoli Sema,Adv.
Mr. Rituraj Biswas,Adv.

Mr. Sanjay V. Kharde,Adv.
Ms Asha G. Nair,Adv.

Mr. Janaranjan Das,Adv.

Mr. P.N. Ramalingam,Adv.

Mr. Ravindra Keshavrao Adsure,Adv.

Mr. Sanjay R. Hegde,Adv.
Mr. Ramesh Kumar Mishra,Adv.

Mr. Krutin Joshi,Adv.
Mr. Abhishek Malviya,Adv.

Mr. Tara Chandra Sharma,Adv.
Ms. Neelam Sharma,Adv.

Mr. Gopal Singh,Adv.
Mr. Manish Kumar,Adv.

Mr. Gopal Singh,Adv.
Mr. Rituraj Biswas,Adv.

Mr. P.P. Malhotra,ASG.
Ms. Vimla Sinha,Adv.
Mr. Shailendra Sharma,Adv.
Ms. Anil Katiyar,Adv.

Mr. Navneet Kumar,Adv.
for M/s. Corporate Law Group,Advs.

....4/-

Ms. Vibha Datta Makhija,Adv.
Mr. Saurabh Mishra,Adv.

Mr. Ramesh Babu M.R.,Adv.

Ms. Hemantika Wahi,Adv.
Ms. Nupur Kanungo,Adv.

Mr. A. Mariarputham,AG., Sikkim
Ms. Aruna Mathur,Adv.
Mr. Amarjeet Singh Girsa,Adv.
for M/s. Arputham, Aruna & Co.,Advs.

Mr. Anil Shrivastav,Adv.
Mr. Ritu Raj,Adv.

Mr. Guntur Prabhakar,Adv.

Mr. Naresh K. Sharma,Adv.

Mr. Anjani Kumar Jha,Adv.

Mr. T.S. Doabia,Sr.Adv.
Mr. Manpreet Singh Doabia,Adv.
Ms. Sushma Suri,Adv.

Mr. Pragyan P. Sharma,Adv.
Mr. P.V. Yogeswaran,Adv.

Mr. Arun K. Sinha,Adv.

Mr. Atul Jha,Adv.
Mr. D.K. Sinha,Adv.

Mr. Anil K. Jha,Adv.
Mr. Santosh Kumar,Adv.

Mr. Manjit Singh,Adv.
Mr. Kamal Mohan Gupta,Adv.

Dr. Manish Singhvi,AAG
Mr. Devanshu Kumar Devesh,Adv.
Mr. Sanjil S. Chauhan,Adv.
Mr. Milind Kumar,Adv.

Mr. Amit Kumar, Adv.
Mr. Somesh Chandra Jha, Adv.
Ms. Rekha Bakshi, Adv.
Mr. Manoj Pant, Adv.
Mr. Ashish Kumar, Adv.

....5/-

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Mr. R. Nedumaran, Adv.
Mr. Vimal Dubey, Adv.

Mr. D. Mahesh Babu, Adv.
Mr. Ramesh Allanki, Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A. No.4 in W.P. (C) No.512 of 1999:

By the present Interlocutory Application, the petitioners herein have challenged the National AIDS Control Organisation's [for short, 'the NACO'] Directives by which the Second Line treatment is made available only to certain specified categories of persons based on identified and specified criteria. The Interlocutory Application has been moved also for a further direction from this Court that all those who are clinically evaluated to be in need of Second Line Anti-Retroviral [for short, 'the ART'] drugs are provided such treatment free of cost without regard to geographical location, current registration with ART Centres, length of time on first line ART or any other condition.

Having heard arguments at length, we are of the view that, in the first instance, the Quarterly ART Reporting Format for private sector needs to be immediately supplied through NACO to all private hospitals who in turn will fill up the Reporting Format, which is annexed to the affidavit of Union of India dated 9th September, 2010. The ART Reporting Format will be posted on the Website of NACO within two days. The private hospitals would

....6/-

- 6 -

submit the data to NACO within two weeks after the Format is put on the Website. For further directions, let this matter stand over for four weeks.

As far as private Doctors treating HIV patients are concerned, we hereby direct Medical Council of India [for short, 'the MCI'], to implement our above directions within two weeks from the Reporting Format being put on the Website. The MCI, in turn will issue appropriate directions to the private Doctors, to furnish the requisite information in the ART Reporting Format to NACO. The guidelines will be issued by the MCI within a period of two weeks from today. We are informed that Ministry of Health and Family Welfare has issued appropriate directions vide communication dated 9th September, 2010..

[Alka Dudeja]
A.R.-cum-P.S.

[Madhu Saxena]
Assistant Registrar

भारतीय आयुर्विज्ञान परिषद्
MEDICAL COUNCIL OF INDIA
पॉकेट - 14, सेक्टर - 8, द्वारका, नई दिल्ली - 110 077
Pocket - 14, Sector - 8, Dwarka, New Delhi - 110 077
(1933 - 2008)

No. MCI - 211(2)/2010/Ethics/Gen./33690

Dated: 12/10/2010

To
The Registrar
All the State Medical Councils

Subject: Order of the Hon'ble Supreme Court in WP© No. 535/1998 titled Sahara House Vs. UOI & Other connected petitions dated 01.10.2010.

Sir,

This is to inform you that the Hon'ble Supreme Court of India has directed the MCI to issue following directions to private doctors treating HIV patients: -

> *"Furnish the information in respect of HIV patients who are clinically evaluated to be in need of second line – Anti Retro Viral Drug in format attached to the Guidelines for Prescription of Anti Retro Viral Therapy dated 09.09.2010 issued by the Government of India on 09.09.2010 to the National Aids Control Organization (NACO)."*

In pursuance to the order of the Hon'ble Supreme Court in the above referred case, you are hereby directed to circulate among all the private doctors treating HIV patients, the following information in the format enclosed with the Guidelines for Prescription of Anti Retro Viral Therapy dated 09.09.2010. Your attention is drawn to the Regulation 7.2 of the Indian Medical Council (Professional Conduct, Etiquette & Ethics) Regulations 2002 and the same is quoted hereunder for ready reference: -

> *7.2 If he/she does not maintain the medical records of his/her indoor patients for a period of three years as per regulation 1.3 and refuses to provide the same within 72 hours when the patient or his/her authorized representative makes a request for it as per the regulation 1.3.2."*

Your attention is also invited to the Regulation 1.3.1 and 1.3.2 which requires maintenance of medical records by every physician. Regulation 1.3.1 and 1.3.2 are relevant clauses and the same are being reproduced for the sake of ready reference: -

> *"1.3 Maintenance of medical records:*
>
> *1.3.1 Every physician shall maintain the medical records pertaining to his / her indoor patients for a period of 3 years from the date of commencement of the treatment in a standard proforma laid down by the Medical Council of India and attached as Appendix 3.*
>
> *1.3.2. If any request is made for medical records either by the patients / authorised attendant or legal authorities involved, the same may be duly acknowledged and documents shall be issued within the period of 72 hours."*

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ई-मेल / E-mail: mci@bol.net.in , contact@mciindia.org ● वेबसाईट / Website: www.mciindia.org

भारतीय आयुर्विज्ञान परिषद्
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75 YEARS
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In view of the directions of the Hon'ble Supreme Court, you are hereby directed to circulate among all the private doctors who are treating HIV patients, the Guidelines for Prescription of Anti Retro Viral Therapy alongwith the attached format and further direct the private doctors to furnish the information in requisite format immediately to NACO and every quarterly also.

You may also bring to the notice of the private doctors that breach of directions of the Hon'ble Supreme Court for the private doctors in furnishing the above said information would not only amount to violation of the order of the Hon'ble Supreme Court but also violation of the IMC Regulations as quoted above. You may also bring to the notice of the private doctors that they are required to follow the directions scrupulously and without breach. I may mention here that non-adherence of the above said directions by the private doctors may lead to initiation of appropriate proceedings under Indian Medical Council (Professional Conduct, Etiquette & Ethics) Regulations 2002.

A compliance report may kindly be sent to the office of the Council.

Thanking you

Yours faithfully

(Dr. Reena [illegible])
Deputy Secretary

Enclosures:

1. Supreme Court order dated 01.10.2010
2. Guidelines for Prescription of Anti Retro Viral Therapy dated 09.09.2010 and attached format.

दूरभाष : Phone: +91-11-25367033, 25367035, 25367036 ● फैक्स : Fax: +91-11-2536703[illegible]
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