Important Judgements on CEA

Amit Manilal Panchal vs. State Of Gujarat (C/WPPIL/118/2020), Order dated 26.02.2021

"20. At this stage, we would like to observe as regards the Clinical Establishments (Registration and Regulation) Act, 2010. In the past, on many occasions, we have tried to impress upon the State Government to adopt the Act 2010 and frame appropriate rules with a view to provide the minimum standards of medical facilities and services to the people at large. The Act 2010 has been enacted by the Parliament to provide for the registration and regulation of the clinical establishments in the country with a view to prescribe the minimum standards of facilities and services to be provided by them with a view to achieve the mandate of Article 47 of the Constitution of India. The said Act has been enacted by the Parliament in exercise of powers conferred under Article 252(1) of the Constitution of India pursuant to the resolutions passed C/WPPIL/118/2020 ORDER by the Houses of the Legislatures of the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim to regulate the aforesaid matter by the Parliament by law. The said Act has taken effect in the aforesaid four States and all the Union Territories (except the NCT of Delhi) since 1st March 2012 vide the Gazette Notification dated 28th February 2012. As per the provisions of Article 252(1) of the Constitution of India, even after the enactment of the Act by the Parliament, it is open for any of the other States to adopt the Act by merely passing a resolution to that effect in its Legislature.

21. We once again impress upon the State Government to look into this issue and see to it that the State of Gujarat also adopts the Act 2010 by passing an appropriate resolution to that effect in its Legislature and thereafter frame appropriate rules.

22. Since decades, the unorganized health sector has created major hurdles in the availability, accessibility and affordability of health-care to the common people. This Act would prove handy, as this would ensure the minimum standards to all the establishments providing health-care services. The mandatory registration of all types of health-care provisions will reduce quackery. There will be standardization of infrastructure, man power and working systems.

23. The pressure from the private health-care providers who deliver the bulk of the health-care may create hindrances in the way of the State Government in the implementation of the Act 2010. The push back, if any, from the private health-care should not deter the State Government in implementing and adopting the Act 2010 at the earliest in the larger interest of the people.

24. We expect the State Government to make an appropriate statement by the next date of hearing as regards adopting the Act 2010."

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D.Dharmabalan vs The Secretary W.P(MD)No.7496 of 2019, Order dated 18.12.2019

"10. The learned counsel for the petitioner argued with vehemence that the Doctors operating from small consulting rooms would have to take approval from the Pollution Control Board for having a proper biomedical disposal system. A perusal of the Annexure I to Rule 6 of the Rules, insofar as it applies to consulting rooms, does not prescribe such a requirement. On the other hand, the norms required for maintaining a clinical establishment specifies that there has to be facilities to segregate waste, dress etc. as per Government of India and Tamil Nadu Pollution Control Board norms, a condition, which is absent in the requirements made for consultation.

11. There is no challenge to the competence of the State Government to bring out these legislations. This Court is not able to accept the arguments of the petitioner that the provisions of this Act are violative of Article 19(1)(g) of the Constitution of India. The Regulations, which are meant to ensure that the various clinical establishments in the State are regulated in a proper manner and are supervised to ensure the safety and interest of the patients, cannot be said to be violative of Article 19 (1)(g) of the Constitution of India. There is nothing on record to show that the restrictions are violative on any of the rights provided under Part III of the Constitution of India. It cannot be said that the said Act is so manifestly arbitrary so as to be struck down."

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Dr. Ashwani Goyal vs Union Of India & Anr. W.P.(C) No. 3490 of 2012, Order dated 31.07.2012

"3. It is also argued that the unreasonable burden cast on clinical establishments by this requirement also amounts to an abridgment of the fundamental right of medical practitioners to carry on their profession. The provision is disguised as a prescription of standards, when in effect, it impermissibly takes away the fundamental right of medical practitioners. The Act creates a monopoly in favour of large medical hospitals, which alone would be in a position to comply with the expansive mandate cast by the Act. Therefore, though no monopoly has been expressly granted to any particular hospital, and while it is facially neutral, in applying unreasonable conditions to all —clinical establishments|| without distinction, it treats unequal equally, contrary to the mandate of Article 14 of the Constitution of India.

4. In support of this petition, the learned counsel for the petitioner also submitted that the medical profession is already subject to sufficient regulatory regime through other States and central enactments and there was hardly any need to provide this additional regulatory measure by this Act. It is also argued that the impugned Act gives uncanlized powers to the Central Government and the National Council inasmuch as, though, the Act purports —to prescribe minimum standards of facilities and services|| and to —determine the standards for clinical establishments||, no such prescription of any standards for facilities and services, are discernible from the text of the Act. Instead, the impugned Act delegates legislative power to the Central Government and the National Council, empowering them to prescribe the necessary standards which, the petitioner submits, is tantamount to an abdication by

parliament of its constitutional duty to lay down the law and constitutes an arbitrary, uncanlized excessive and unconstitutional delegation of non-delegable legislative power to the Executive Government and the National Council.

8. These salient features provide necessary guidelines to the Central Government. Therefore, it cannot be said that any uncanalized and unguided powers are conferred upon the Central Government. Even the main provisions of the Act provide adequate guidelines. Section 13 of the Act, which gives powers to the Central Government to classify clinical establishment of different systems into such categories as may be prescribed by the Central Government from time to time clearly mentions that while doing so —the Central Government shall have regard to the local conditions||.

9. We also do not agree with the contention of the petitioner that it infringes the right of the medical practitioners to carry on their occupation as provided under Article 19(1)(g) of the Constitution. It is the right of the Legislature to make regulatory framework in respect of health care delivery system and that is what is sought to be achieved. Therefore, the provisions are reasonable and protected under Article 19 (1) of the Constitution.

10. There is hardly any case of violation of Article 14 of the Constitution made out or was even argued.

11. We, thus, do not find any merit in this petition, which is dismissed in limine."

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