

**IOIN-CRM-M-19820-2011 in
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Rajpal alias Labh Singh and another

vs.

State of Haryana

Present: Mr. Sukant Gupta, Addl. P.P. for U.T., Chandigarh.

Mr. A.P.S. Gill, D.A.G., Punjab.

Mr. D.K. Mittal, D.A.G., Haryana.

**Mr. Vikrant Sharma, Advocate,
for PGIMER, Chandigarh.**

1. Pursuant to the order dated 28.01.2020, a short affidavit of Sh. Anurag Agarwal, Principal Secretary, Department of Health and Family Welfare, Punjab, dated 16.03.2020, has been filed by Mr. Gill, learned D.A.G., Punjab, in court today, with him submitting that the Principal Secretary could not be present in court as directed vide that order, in view of the fact that due to the current situation a meeting is being taken by the Chief Minister of Punjab, in which naturally the Health Secretary was required to be present.

It has been stated in the affidavit that upon a meeting having been taken by the Principal Secretary, eventually an undertaking has been given by all Civil Surgeons in the State of Punjab that no hand-written Medico-Legal Reports and Post-Mortem Reports would now be written, and that the Medical Officer concerned would dictate the data to a data entry operator, who would immediately thereafter upload the same onto the MedLEaPR Software (under the supervision

and signatures of the Medical Officer).

The affidavit further states that in fact all Civil Surgeons have reported that since 02.03.2020 (as is also confirmed by Dr. Paramvir Singh, Assistant Director in the Directorate of Health and Family Welfare, Punjab, who is present in court). He also reiterates that such recording is now done only through computer by Data Entry Operators.

However, it has not been made clear that as to how if there is no immediate internet connectivity with any hospital/health centre, the MedLEaPR Software would be available, which otherwise is not stated to be available on 'stand-alone computers'.

It has next been stated that uptill 04.03.2020, 10098 MLRs and PMRs have been uploaded and 'frozen', out of a total of 114911, which works out to a percentage of 90.28%.

Last, it has been stated in the affidavit that a payment of Rs. 21,00,000/- has been made to the NIC on 03.03.2020 (in response to the problem aired by Mr. Rahul Jain, Scientist-E NIC, who was present in court on 28.01.2020).

2. Though obviously adequate work has been done by the State of Punjab also now, as regards the aforesaid issues, what only now needs to be clarified is that with the MedLEaPR Software not always available at every Civil Hospital and Health Centre due to a possible lack of internet connectivity at all points of time, it will still be ensured that the data dictated by the Medical Officer concerned is saved even on a stand-alone computer at all points of time, after which it would be uploaded immediately onto the MedLEaPR Software the moment internet connectivity becomes available, or by any alternative method

such as sending a compact disc etc. to wherever the server is located.

(It is to be noticed here that Dr. Yashpal, State Nodal Officer from the State of Haryana, has informed this court that even in the absence of MedLEaPR Software being immediately available, the data can be uploaded onto a 'Word file' and saved to any computer, after which it can be uploaded to the MedLEaPR Software).

3. Consequently, in view of the aforesaid direction given, it is made clear that any report to this court by any person in any case whatsoever, or to any court falling within the jurisdiction of this court, to the effect that either the MLR or PMR was not made immediately available with it not having been duly fed into the computer immediately, or that it was not uploaded very soon thereafter onto the MedLEaPR Software, would be taken by this court to be a contempt of the orders issued, and proceedings accordingly would be initiated against the person concerned, which is to say the Civil Surgeon concerned, and if necessary even the Additional Chief Secretary/Principal Secretary concerned.

This direction would be applicable in the cases of the States of Haryana, Punjab and the U.T., Chandigarh.

4. Coming to the State of Haryana, Mr. Mittal, learned D.A.G., Haryana, has filed in court today an affidavit of Sh. Rajeev Arora, Additional Chief Secretary, Government of Haryana, Department of Health, dated 16.03.2020.

A perusal thereof shows that it has been stated in paragraph 4 that Rs. 15,05,000/- were released to the NIC, with Dr. Yashpal stating that the said amount was in fact released on 26.03.2019, for the financial year 2019-20.

It has been further stated that during the calendar year 2019, NIC did not submit the required explanatory memorandum about the mode of expenditure

and the requirement of funds to be allocated by the State of Haryana.

However, on 28.01.2020, NIC communicated a demand of Rs. 44,39,993/- to the Health Department, Haryana, and as per an invoice request raised by the NIC on 20.01.2020 and in view of the fact that no explanatory memorandum had been received from the NIC, a Programmer from the IT Cell in the office of the DGHS, Haryana, had been deputed to the NIC to ensure smooth functioning of the MedLEaPR Software, on 15.01.2020.

Eventually, it has been stated that the NIC may be directed to send a utilization certificate in respect of the amount of Rs. 15,05,000/- released to them on 26.03.2019.

5. Dr. Sukant Gupta, learned Addl. P.P., U.T., Chandigarh, would take instructions with regard to the aforesaid contention raised in the affidavit of the Additional Chief Secretary to the Government of Haryana, as also in relation to the State of Punjab, and where such certificates have not been sent, utilization certificates as regards the funds released by those States for the financial year 2019-20, be duly sent immediately, within two weeks, to the States.

6. After that, an officer of the rank of at least a Joint Secretary in each of the two Governments would file an affidavit before this court by the next date of hearing, as to whether such utilization certificates have been received and consequently whether funds as are to be released to the NIC as per the share of each State have been released or not, for the year 2020-21, and if not, the reasons thereof, specifically in view of the order of this court dated 01.02.2019.

Needless to say, if no valid explanation is coming as to why the funds for the next year have not been released on time, in terms of the aforesaid order, obviously necessary action shall be taken by this court by summoning whosoever

is responsible for not taking action on time.

For that purpose, adjourned to 01.04.2020, to be shown in the urgent motion list.

7. The affidavit of the Director Health Services, U.T., Chandigarh, in terms of the order of this court dated 28.01.2020 be also filed by that date (with Dr. Gupta submitting that the DHS being under the impression that the matter would not be taken up today due to the current situation, the affidavit has not been sent to him).

8. In view of the affidavit filed today, of the Principal Secretary to the Government of Punjab, Department of Health, his personal presence on the next date of hearing is not necessary.

9. The affidavits to be filed in terms of the directions given in paragraphs 6 & 7 hereinabove, be positively filed by 01.04.2020.

A copy of this order be given to all learned State counsel under the signatures of the Bench Secretary of this court, with the Additional Chief Secretary, Government of Haryana, the Principal Secretary, Government of Punjab and the Secretary, U.T., Chandigarh, in the Departments of Health of each State/U.T, to convey the directions of this court, as contained in paragraphs 2 & 3 hereinabove, to all Civil Surgeons and Medical Officers falling under their respective jurisdictions within 10 days of today. Compliance of this direction shall also be stated in the affidavits to be filed.

The Registrar (Judicial) is also directed to circulate a copy of this order to all learned District and Sessions Judges falling under the jurisdiction of this court, for onward transmission to all courts within their respective jurisdictions, and with a direction to such courts that if any Medico-Legal Reports

and Post-Mortem Reports (MLRs and PMRs) are shown to be hand-written, coming from either State or from the U.T., Chandigarh, the matter would be reported to this court immediately by the Judicial Officer concerned, for this court to initiate appropriate proceedings against the concerned person, if necessary.

March 17, 2020
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(AMOL RATTAN SINGH)
JUDGE



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