IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

WRIT PETITION No. 5097 of 2011

DUNABAI
Versus
PRINCIPAL SECRETARY THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Ms. Shanno Shagufta Khan, learned counsel for the petitioner.

Shri Sudeep Bhargava, learned Deputy Advocate General for the respondents / State.

Reserved on : 06st August, 2025

Delivered on : 28th August, 2025

O R D E R

Per : Justice Vivek Rusia

This writ petition instituted in the nature of a Public Interest Litigation under Article 226 of the Constitution of India was filed in the year 2011 by the petitioner, a tribal woman and a ASHA worker residing in Village Van, Tehsil Pati, District Barwani seeking judicial intervention to put an end to the systemic failure of public health services in the tribal regions of Madhya Pradesh which had resulted in multiple preventable maternal deaths including that of her own daughter-in-law who died during pregnancy along with her unborn child at the district hospital, Barwani.

02. The petitioner through field study materials, affidavits and expert reports brought to the attention of this Court that between April

and December 2010 alone at least 25 maternal deaths occurred at the district hospital, Barwani and its nearby health institutions. The failure of the healthcare system in the region according to the petitioner was not limited to underfunding or logistical difficulties but was the consequence of structural deficiencies, non-implementation of statutory schemes such as Janani Suraksha Yojana (JSY) and Janani Shishu Suraksha Karyakram (JSSK) , lack of trained medical personnel/specialists in tribal areas, dysfunctional referral transport mechanisms, absence of institutional accountability and an overall failure to maintain even the minimum public health standards (IPHS). The petitioner further relied on the March 2011 report of the Advisory Group on Community Action (AGCA) made under NRHM which identified serious gaps in service delivery in Barwani and recommended urgent interventions.

03. The petitioner thus raised fundamental questions concerning the right to health and right to life under Article 21 of the Constitution and sought structural reforms in the healthcare delivery system particularly in relation to maternal and reproductive health services in tribal areas.

04. This Court upon taking cognizance of the petition in November 2011 issued notices to the respondents and directed them to submit affidavits explaining the lack of available maternal health infrastructure. Further this Court vide interim order dated 11.11.2011 directed the state government to examine the AGCA report dated 29–30 March 2011 titled “Maternal Deaths in Barwani District, Madhya Pradesh: Issues of Quality of Care and Referral Systems” and to prepare a plan of action for implementation of the accepted recommendations , also directed that immediate steps be taken to ensure access to essential maternal

healthcare in tribal area and further directed the respondents to strengthen grievance redressal mechanisms and conduct proper maternal death reviews to understand the cause and taken appropriate steps to prevent these deaths in future.

05. Pursuant to the order dated 11.11.2011, the respondent state authorities filed report which stated that a meeting with civil society stakeholders was convened on 06.02.2012 and measures such as Help Desks, grievance redressal mechanisms headed by a gynecologist, Monitoring Groups for Community Action (MGCA), and Jan Sunwais were initiated. A Sick Newborn Care Unit (SNCU) also was operational in the District Hospital from 14.03.2012 and further that staff recruitment as well as ASHA training was ongoing.

06. The petitioner filed rejoinder to this 2011 compliance report and contested the claims made by the state submitting that several health centres still lacked staff, and key recommendations remained unimplemented further specific instances of continued negligence were cited including the death of many other women which was caused allegedly due to lack of emergency response and proper care.

07. The respondent state authorities further filed a second report in 2012 outlining the expansion done for providing better health services, staffing done under NRHM to deal with lack of proper staff and further the infrastructure improvements made which included additional NRCs, operational mobile medical units and along with this report further submitted that progress is being made by ASHA outreach programs, construction of maternity wings and other facilities are being made available through Gram Aarogya Kendras.

08. This Court vide order dated 31.10.2012 observed that the report

filed by the respondent state authorities failed to specify the health facilities visited and lacked clarity on the scope of inspection and the actual improvements made and directed the respondents to file an additional affidavit disclosing all the necessary details and further directed the state to fill up medical and para-medical vacancies expeditiously and to consider framing a policy for incentivizing postings in tribal and rural areas. Pursuant to this order, a subsequent report was filed by the respondent state authorities in 2013 informing the Court that recruitment of 1500 doctors through the public service commission was underway and that measures to improve healthcare delivery in Barwani District were in progress.

09. This Court vide its order dated 15.05.2013 directed that both newly recruited and existing doctors from non-tribal areas be posted in Barwani and directed that detailed affidavit be filed regarding personnel deployment and infrastructure improvements in the district Barwani. The state further filed another report in 2014 asserting that most sanctioned posts under both regular and NHM categories had been filled and that postgraduate specialists in Gynaecology, Paediatrics, Psychiatry, ENT and Radiology had been deployed at Barwani District Hospital. The report further state that construction of new NRCs, maternity wings, modular kitchens, OPDs and mortuary facilities had either been completed or were nearing completion. The report acknowledged that Sub-Health Centres still lacked buildings however land transfer processes for newly sanctioned PHCs were underway and that a proposal had also been submitted for further infrastructure expansion based on the 2011 census.

10. The petitioner by its written submissions contended that the

compliance done by respondent state authorities was largely statistical and lacked any evaluation of quality of service and further submitted with data that serious staffing shortages continued to persist despite orders by this Court. The petitioner asserted that sanctioned Class I posts, Class II posts, and posts of gynecologists, pediatricians and anesthetists still remained vacant. The petitioner further submitted that several CHCs and PHCs were operating without a single doctor and that blood storage unit at the district hospital lacked a qualified pathologist with lab work reportedly being carried out by untrained staff. The petitioner highlighted through photos and data that lack of housing, poor working conditions and absence of incentives continued to deter postings in tribal areas resulting in lack of proper medical staff which ultimately led to neglect of the health of tribal women. The petitioner submitted that the continued non-compliance by the state despite directions by this Court reflected serious negligence and required firm enforceable orders.

15. The petitioner prayed for the issuance of time-bound and structural directions to the state government for immediate operationalization of all remaining CEmONC and BEmONC facilities, regularization and filling of sanctioned posts within a fixed period, strict enforcement of JSSK entitlements, creation of a rational referral and accountability framework, establishment of an independent grievance redressal system and constitution of a court-monitored implementation mechanism. The petitioner also sought compensation for families who had suffered death or serious harm due to proven cases of medical negligence.

16. Miss Shanno Shagufta Khan, learned counsel for the petitioner

submitted that between 2011 and 2019, the petitioner had filed multiple rejoinders, written submissions and various documents to draw attention regarding the lack of health facilities despite the reports filed by the state. Learned counsel submitted that the petitioner had acting in good faith and without personal interest filed this petition to bring forward the plight of the tribal women in Barwani and that from time to time had submitted reports and suggestions supported by independent findings to show that the state had failed to address critical issues like lack of healthcare infrastructure, shortage of staff which were not solved during the pendency of the proceedings and still remain the same.

17. Learned counsel submitted the case in hand illustrates a structural failure in the public health delivery system particularly in the context of maternal healthcare for tribal and marginalized communities and that despite the passage of several years and repeated orders of this Court the measures taken by the state have remained superficial with no demonstrable improvement in outcomes or accountability mechanisms.

18. Learned counsel further submitted that the compliance done by the state has largely taken the form of statistical affidavits and policy references with little attention to ground realities or implementation gaps and that the declarations made in successive compliance reports particularly regarding the operational status of CEmONC and BEmONC facilities, appointment of specialists and functionality of transport and referral systems have not translated into actual service delivery. Learned counsel submitted that the grievance redressal mechanisms set up by the state were found to be ineffective, help desks remained locked up and the monitoring group for community action (MGCA) was largely inactive with no regular meetings or meaningful oversight.

19. Learned counsel submitted that structural reforms are needed such as compulsory rural service before and after postgraduate medical education, rotational posting policies, adequate salary and proper housing incentives for doctors posted in difficult areas to substantially increase the medical staff in rural areas. Above mentioned steps are needed to address chronic staff shortages and service gaps in tribal areas as despite repeated assurances critical vacancies in medical staff remained unfilled and that many CHCs and PHCs are operating without a single specialist or qualified doctor.

20. Learned counsel submitted that the right to maternal health as recognized under Article 21 of the Constitution and reinforced by binding international obligations imposes a duty upon the state to ensure timely quality healthcare but the pattern of continued maternal deaths despite judicial oversight indicates not mere lapses but a breach of constitutional obligations. Learned counsel submitted that meaningful reform requires not only infrastructure and personnel but also systems of monitoring, redressal and community accountability. Learned counsel placed reliance on Hon'ble Apex Court decisions in ***Paschim Banga Khet Mazdoor Samity v/s State of West Bengal reported in (1996) 4 SCC 37*** wherein the Apex Court had recognized Right to health as an integral part of the right to life under Article 21 and had directed the state to provide compensation and implement measures to ensure adequate emergency medical care.

21. Learned counsel in conclusion thus prayed that compensation be given to the concerned families and that this Court may call upon the respondents to file a fresh and comprehensive status report indicating the current functional status of health facilities and maternal ICU

infrastructure along with data regarding availability of trained personnel in Barwani district.

22. Shri Sudeep Bhargava, learned Deputy Advocate General appearing for the respondent / State submitted that the respondents had from the initial days of these proceedings taken the allegations made in the petition with due seriousness and had acted in compliance with the successive directions issued by this Court. Learned Deputy Advocate General submitted that the respondents had already placed on record comprehensive compliance affidavits covering efforts made in infrastructure, human resources and service delivery in the district and that the measures implemented over the years had brought about tangible improvements in accessibility and quality of maternal healthcare in the region.

23. Learned Deputy Advocate General submitted that the district Barwani had been prioritized for focused interventions under the State health mission and that while challenges in staffing in remote tribal areas persisted it is being addressed by recruitment of doctors through bond arrangements, contractual engagement of other staffs and incentive measures are taken which is significantly reducing the gaps in the existing systems.

24. Learned Deputy Advocate General submitted that the many central as well as state schemes and other facilities are available not only in Barwani area but also in whole of MP and that the health indicators of the state already show a positive trajectory and hence no further report is required as the state had done substantial compliance of the directions issued by this Court as prayed by the petitioner.

25. Learned Deputy Advocate General prayed that this petition be

disposed off in light of the sufficient measures already in place and since more steps are already being undertaken to address the problems raised in this PIL.

26. We have heard learned counsel for the parties at length and perused the record.

27. This petition was filed in 2011 seeking improvement in the heath infrastructure and facilities in the tribal area in Barwani district and since then after taking cognizance this Court had from time to time vide interim orders monitored the progress and had given directions to address the situation. However since 2016 this matter was listed on many occasions but no efforts were taken by the petitioner either to get this petition decided or to bring forward the current situation in district Barwani at different relevant time periods. During the pendency of this petition from 2011 till now a lot of progress has been made by the sustained and coordinated efforts of the central and state authorities.

28. The State of Madhya Pradesh had with active support from the Union of India substantially expanded both the coverage and the capacity of public health services across the State. A broad group of centrally sponsored programmes are operational in whole of M.P. some of which are **Ayushman Arogya Mandirs (Health & Wellness Centres), Ayushman Bharat–Pradhan Mantri Jan Arogya Yojana, Janani Suraksha Yojana, Janani Shishu Suraksha Karyakram, Laqshya, Mission- Parivar Vikas, Rashtriya Bal Swasthya Karyakram, Nikshay Poshan Yojana** and the **Pradhan Mantri–Ayushman Bharat Health Infrastructure Mission** among many others.

29. As per the information available in official website of concerned

department that **7,513 Health & Wellness Centres** have been made functional, **Ayushman Bharat** coverage has been extended to 1.68 crore beneficiaries and quality-assurance and free-diagnostics/free-drugs initiatives have been mainstreamed through the National Health Mission framework. Even during COVID-19 many emergency packages (ECRP-I/II) have been utilized to provide pediatric and critical-care to the patients, oxygen systems, referral transport and field hospitals were established which are still providing quality services even after the exigencies of the pandemic.

30. Financial statements also reflect that there has been a consistent uptrend in public health financing. The State has received central grants of Rs.10,651.72 crore under NHM between 2018-19 and 2022-23 in addition to Rs.121.55 crore under the Pradhan Mantri Ayushman Bharat Health Infrastructure Mission and Rs.1,168.30 crore under the COVID-19 Emergency Response and Health System Preparedness Package. Further, Rs.1,808.43 crore has been released under the Fifteenth Finance Commission for 2021-23 to strengthen the health system of the state. In district-specific allocations, Rs.2,375 lakh has been approved for a 50 bedded Critical Care Block at Government Medical College, Datia and Rs.125 lakh each for Integrated Public Health Laboratories in Bhind and Datia.

31. The State has rolled out a series of comprehensive interventions under the National Rural Health Mission including **Vijaya Raje Janani Kalyan Bima Yojana** which is an insurance linked incentive for institutional delivery, **Janani Express** which provided a referral transport grid has been equipped with **1,082 dedicated vehicles** for obstetric emergencies, **Janani Sahyogi Yojana**, **Prasav Hetu**

Parivahan Evam Upchar Yojana, and **Dhanwantari Block Development Scheme** all aimed at promoting institutional deliveries, ensuring timely transport to CEmONC and BEmONC facilities and enhancing antenatal and postnatal care coverage. Further, initiatives in nutrition and child health are in place such as the **Bal Shakti Yojana** and expanded immunization services coupled with targeted human resource strengthening through the **Prabha Kiran Training Scheme**, sponsorship of nursing education, deployment of mobile health units in remote blocks, implementation of the State Drug Policy and integrated Health Management Information System which reflect a systemic and coordinated approach. The combined effect of these measures have resulted in wider institutional delivery coverage, operational referral pathways and increased outreach by ASHAs, ANMs.

32. We are conscious that workforce and infrastructure gaps still persist and that the present numbers of CHCs, PHCs and Sub-Health Centres are still short of the norms further vacancies persist across key cadres with pending specialist postings in harder-to-serve tribal districts experiencing greater recruitment and retention challenges. However we are of the opinion that these deficits are now being addressed as the state has initiated specific measures to strengthen the public health workforce through creation of a Specialist Cadre in 2007 with sanctioned posts for postgraduate medical officers at CHCs, decentralized recruitment of nursing staff and ANMs through district authorities, bonded service requirements for MBBS graduates mandating rural postings, targeted incentives and allowances for staff in high-focus and tribal districts and redeployment of trained ANMs to high-delivery facilities. New Government Medical Colleges are going to be opened in the State in

Next year, due to which public will get more doctors in future.

33. Many Capacity-building initiatives have been undertaken through the State Institute of Health and Family Welfare and regional training centres including Skilled Birth Attendant, EmOC, LSAS, IMNCI and IYCF training programmes, with technical support from agencies such as UNICEF and PHFI. The State has further also proposed creation of a dedicated HR cell, phased recruitment drives for nurses and specialists, introduction of graded pay scales for contractual staff, development of residential facilities in hard-to-reach areas and implementation of a Human Resource Information System for efficient workforce management.

34. On a cumulative assessment of the above, we are of the opinion that while challenges remain in addressing inter-district disparities and service availability gaps but significant progress has been made in policy coverage, infrastructure creation, human resource deployment and programme implementation and that constant work is in progress to put in place a robust institutional architecture.

35. In view of the above discussion, we hereby dispose of this petition directing the authorities to ensure proper utilization of available resources while maintaining transparency in implementation of programmes and constantly reviewing progress at regular intervals with the expectation that the responsible authorities will continue their efforts for strengthening public health services in the state ensuring timely and effective delivery of health care to all sections of the population with particular attention to underserved areas and take all further measures as may be necessary to improve overall health infrastructure in the State. The petitioner shall be at liberty to approach this Court again, if

occasion so arises in future.

20. With the aforesaid, the Writ Petition (PIL) stands disposed of.

(VIVEK RUSIA)
J U D G E

(BINOD KUMAR DWIVEDI)
J U D G E

Ravi