

[COVID-19] SUPREME COURT REITERATES THAT RIGHT TO PROPER AND AFFORDABLE MEDICAL TREATMENT IS A FUNDAMENTAL RIGHT



The three Judge Bench of the Supreme Court has in *Suo Motu Writ Petition (Civil) No.7 of 2020* taken suo moto cognizance of the fire incident that happened in Uday Shivanand Hospital, Rajkot, Gujarat on 26-11-2020, which claimed the lives of five Covid-19 Patients. The fire is said to have been triggered due to a short-circuit in one of the ventilators.

In view of the said incident, the Apex Court has passed an Order dated 18-12-2020 and issued certain directions and guidelines to various Authorities to prevent the recurrence of fire incidents in Covid Hospitals and Nursing Homes and to ensure proper and affordable treatment to Covid-19 patients:

- 1) State Governments/Union Territories to appoint a nodal officer for each Covid Hospital to ensure compliance of fire safety measures
- 2) State Governments to appoint a committee for each district to conduct monthly fire audit of each Covid Hospital and to send a report to the Government
- 3) Covid Hospitals to obtain/renew No-Objection Certificate (NOC) from State Fire Department. Failing which, State Government to take necessary action against such non-compliant hospitals
- 4) Enquiry Commission to submit Enquiry Report to the State Government in the Rajkot Fire Incident, so that appropriate remedial action can be taken at the earliest
- 5) Covid Hospitals, whether Government or private, to provide affordable treatment to Covid-19 patients, as this treatment has become highly expensive and it has adversely affected the lives of a common man, both financially and economically.
- 6) Right to health is a Fundamental Right under Article 21 of the Constitution of India 1950. The said right to health includes right to affordable treatment. Therefore, the State has a duty to make more provisions for affordable treatment in hospitals run by the State Government and local administration, or the State should exercise its powers under the Disaster Management Act 2005 and fix a cap on the fees charged by the private hospitals.
- 7) State Government/Union Territory to take strict and stern action against people who violate the Government issued Guidelines and Standard Operating Procedures (SOPs), such as by not wearing masks, not maintaining social distances at public gatherings, etc. Such people cannot be permitted to infringe the rights of other citizens including the Right to health guaranteed under Article 21 of the Constitution.

- 8) Police personnel to be deployed at large gatherings such as vegetable markets, food courts, railway stations, bus stands, etc, to ensure public safety and implementation of SOPs.
- 9) Police permission to be obtained to organise functions and gatherings, to ensure strict compliance of Guidelines.
- 10) Transparency in number of Covid tests done, and facts and figures of Corona Positive patients, for public awareness.
- 11) Corporate/private hospitals to strictly follow directions given by the State. The State may direct them to maintain 50% or any other percentage of free municipal beds.
- 12) State to design a mechanism to ensure frontline workers and health care professionals get intermittent rest in between their work schedule.
- 13) Political parties to strictly follow Guidelines issued by the Election Commission of India during election campaigning during General Elections 2021 that would happen in few States.

The Supreme Court has therefore directed all State Governments/Union Territories to file an affidavit within four weeks, bringing on record various measures taken in view of the directions given in this Order dated 15-12-2020.

Harini Daliparthi
Senior Legal Associate
The Indian Lawyer