

जयदीप सिंह कोचर
संयुक्त सचिव (प्रशिक्षण और अनुसंधान)
Jaideep Singh Kochher
JOINT SECRETARY (TRAINING & RESEARCH)



राष्ट्रीय मानव अधिकार आयोग
मानव अधिकार भवन, सी-ब्लॉक, जीपीओ
कम्पलेक्स, आईएनए, नई दिल्ली-110 023 भारत
NATIONAL HUMAN RIGHTS COMMISSION
Manav Adhikar Bhawan, C-Block, GPO Complex, INA,
New Delhi-110 023 India

D. O. No. 11/7/2015-PRP&P

Dated : 9 May 2016

Dear Smt. Saunik,

The National Human Rights Commission and Jan Swasthya Abhiyan, a civil society network, in association with the Union Ministry of Health and Family Welfare had organized a two-day Western Region Public Hearing on Right to Health Care in Mumbai on 6-7 January 2016.

2. The first day of the Public Hearing was devoted to hearing of individual cases in which rights of patients in public health system were violated. The second day dealt with presentation of case studies and systemic issues related to denial of right to health care covering a range of issues. Based on the deliberations held on the second day of the Public Hearing, several useful recommendations have emerged for the State of Maharashtra. A copy of the said recommendations is enclosed for information and necessary action at your end.

3. I would request your State Government to take up these recommendations for implementation so as to promote and protect the health rights of people. The Commission will appreciate if it is informed about the action taken.

With regards,

Yours sincerely,

(J. S. Kochher)

Encl.: As above.

Smt. Sujata Saunik
Principal Secretary
Department of Health & Family Welfare
Government of Maharashtra
10th Floor, B Wing, GT Hospital Complex Building,
Mumbai - 400 001

ISSUED

09 MAY 2016

Western Region Public Hearing on Right to Health Care

Recommendations for the State of Maharashtra Emerging from Sessions on 7 January 2016, Regarding Systemic Issues and Cases Studies on Right to Health Care

A. Case Studies Presented on Health Rights of Specific Groups of People, or Related to Specific Schemes from Various States

I. Denial of health rights to workers under ESI scheme in Maharashtra

Recommendation :

- (i) Appropriate action be taken by ESIC Maharashtra to ensure prompt and effective coverage of all eligible workers, so that they can gain access to all ESI health services and entitlements.

II. Community Based Monitoring of Health Services in Maharashtra

Recommendation :

- (i) Community based monitoring be expanded and strengthened in Maharashtra, in line with the mandate and support for this activity being given by the National Health Mission. The State Government may also prioritise regular functioning of the State level committees that have been formed to support this process.

III. Denial of Right to Health Care for Persons Living with HIV AIDS

Recommendations :

- (i) Maharashtra State Government must make adequate budgetary provisions for the crucial targeted intervention programme for persons living with HIV AIDS.
- (ii) Maharashtra State Government must ensure time bound and regular release of the budget, so that shortage of key supplies would be avoided in future.

IV. Denial of Right to Free Health Care to Poor Patients under the Charitable Trust Hospitals Scheme

Recommendations :

- (i) Maharashtra State Government may set up an effective, accountable and publicly accessible mechanism for monitoring of the charitable trusts hospital scheme across the State.

ISSUED

09 MAY 2016

- (ii) Maharashtra State Government may set up a Grievance Redressal System, with a provision for complaint tracking in the context of expected free / concessional services to be provided by Trust hospitals.
 - (iii) Maharashtra State Government may set up a real time website and call centre helpline, to provide information to public about real time availability of free and concessional beds in every charitable trust hospital involved in this scheme.
-

B. Presentations on Systemic Issues Related to Various States

I. Women's Access to Health Care

Recommendations :

- (i) In the context of Maharashtra, community based Maternal Death Reviews (MDR) / Social autopsies of maternal deaths with community and civil society participation should be institutionalised. States may incorporate NGO representatives in the District MDR committees, and should publish yearly reports.
- (ii) State Health Department should ensure that skills and understanding of peripheral health workers, regarding various forms of discrimination and vulnerability faced by women in context of maternal health, need to be improved through appropriate capacity building. This would enable these issues to be factored into birth preparedness plans, health care delivery and follow up plans for women during pregnancy and delivery.
- (iii) State Health Department should ensure adequate blood availability, to avoid denial of delivery services to women in rural health centres. Ensuring blood availability should not be treated as merely the responsibility of the family. Appropriate steps may be taken by the State Governments to adopt the National Blood Policy, along with implementation of Indian Public Health Standards (IPHS) regarding blood availability in all public health facilities. It is recommended that the State Health Departments may evaluate the option of Unbanked Direct Blood Transfusion to ensure availability of blood especially during emergencies.
- (iv) In case of denial of maternity services in public facilities, if women are forced to avail of private services for delivery, then in keeping with the Janani Shishu Suraksha Karyakram (JSSK) entitlements, free delivery care should be ensured in such cases also.
- (v) There should be a system of regular participatory monitoring of the Janani Shishu Suraksha Karyakram (JSSK) in western region States, which provide entitlements for maternal health care. States should consider adopting a women-friendly grievance redressal mechanism for JSSK in various States. This should be accompanied by access to relevant medical records.

(vi) State Health Department should ensure that regular audit of referrals related to delivery care and maternal health care must be undertaken, and the State may implement a protocol for referrals.

(vii) State Health Department should ensure that free sonography services must be available at the level of Community Health Centres (CHCs) and Sub-Divisional Hospitals. The State should ensure that appropriate and prompt compensation is provided to women where these services are not available, and women are forced to access this essential service from the private sector. The State may also consider operationalising arrangements with locally available radiologists in the private sector, engaging them to provide sonography services in those public hospitals which do not presently have radiologists.

II. Human Resource Shortages in Rural Health Services

Recommendations :

(i) To ensure regular presence of doctors in all Primary Health Centres and rural health facilities, the Government of Maharashtra may make it compulsory for all freshly graduated doctors to work in Public rural health services for at least 3 years, which should be made a pre-requisite for licence to practice.

(ii) To ensure improved presence of health services staff in rural areas, State Health Department may consider adopting the current model of staff placement being implemented in Karnataka, wherein transfer and posting is linked with a well-defined, transparent web-based system, and is accompanied by individual counselling with staff, while deciding on postings and transfers.

III. Role of Public Bodies in Redressing Denial of Patients Rights in Private Medical Sector

Recommendations :

(i) Maharashtra State Government may conduct a review of the patient grievance redressal mechanism of the Maharashtra Medical Council, especially keeping in view its large pendency of cases. Based on this, the Government may consider taking steps for expansion and re-structuring of the ethics committee of the Maharashtra Medical Council, to make this body more effective in addressing patients complaints related to private doctors. One option may be for State Medical Council to set up a separate tribunal to deal with patients complaints. Such a tribunal could include appropriate non-medical persons such as retired judges.

(ii) Maharashtra State Government may conduct an independent review of the mechanism being implemented by J. J. Hospital, Mumbai for screening complaints by patients desiring to file FIRs against any private hospital in Mumbai. It needs to be ensured that this mechanism is fully transparent, time bound and patient-friendly. It is recommended to the Maharashtra State

Government to ensure that patient complaints, which are intended for filing FIRs against private hospitals, are screened in a time bound manner within 7 days. It is recommended to consider inclusion of non-medical experts such as a retired judge in the screening panel, to ensure fairness during the screening process, and to arrange periodic rotation of responsibility among various public hospitals for screening of such complaints.

- (iii) The State Government of Maharashtra act speedily to either adopt the central Clinical Establishments Act (CEA), or enact a similar State CEA, while ensuring inclusion of specific provisions for protection of patients' rights and grievance redressal mechanism for patients who seek care in private hospitals.

७१

जयदीप सिंह कोचर
संयुक्त सचिव (प्रशिक्षण और अनुसंधान)
Jaideep Singh Kochher
JOINT SECRETARY (TRAINING & RESEARCH)



राष्ट्रीय मानव अधिकार आयोग
मानव अधिकार भवन, सी-ब्लॉक, जीपीओ
कम्प्लेक्स, आईएनए, नई दिल्ली-110 023 भारत
NATIONAL HUMAN RIGHTS COMMISSION
Manav Adhikar Bhawan, C-Block, GPO Complex, INA,
New Delhi-110 023 India

D. O. No. 11/7/2015-PRP&P

Dated : 9 May 2016

Dear Shri Mukesh Sharma,

The National Human Rights Commission and Jan Swasthya Abhiyan, a civil society network, in association with the Union Ministry of Health and Family Welfare had organized a two-day Western Region Public Hearing on Right to Health Care in Mumbai on 6-7 January 2016.

2. The first day of the Public Hearing was devoted to hearing of individual cases in which rights of patients in public health system were violated. The second day dealt with presentation of case studies and systemic issues related to denial of right to health care covering a range of issues. Based on the deliberations held on the second day of the Public Hearing, several useful recommendations have emerged for the State of Rajasthan. A copy of the said recommendations is enclosed for information and necessary action at your end.

3. I would request your State Government to take up these recommendations for implementation so as to promote and protect the health rights of people. The Commission will appreciate if it is informed about the action taken.

With regards,

Yours sincerely,

(J. S. Kochher)

Encl.: As above

Shri Mukesh Sharma
Principal Secretary
Department of Medical Health & Family Welfare
Government of Rajasthan
Room No. 1108, Government Secretariat,
Main Building,
Jaipur - 302 005

ISSUED

09 MAY 2016

Western Region Public Hearing on Right to Health Care

Recommendations for the State of Rajasthan Emerging from Sessions on 7 January 2016, Regarding Systemic Issues and Cases Studies on Right to Health Care

A. Case Studies Presented on Health Rights of Specific Groups of People, or Related to Specific Schemes from Various States

I. Ensuring Access to Health Services for Brick Kiln Workers in Rajasthan

Recommendations :

- (i) Provision be made for Mobile medical units, in order to ensure outreach of health services to the migrant population of brick kiln workers in various districts of Rajasthan, with a special focus on mother and child care services.
- (ii) Periodic visits of ASHA and ANMs, registration of pregnant mothers, organisation of Health camps and MCHN (Mother & Child Health Nutrition) days should be organized periodically at the brick kiln sites.
- (iii) The State may involve civil society organisations in implementing an appropriate monitoring mechanism in various Districts, to ensure effective outreach of essential health services to brick kiln workers.

II. Community Based Monitoring of Health Services in Rajasthan

Recommendation :

- (i) Community based monitoring should be restarted by the State Government and State Health Mission in Rajasthan, including active involvement of appropriate NGOs and civil society organisations.

III. Concerns Expressed due to Existing and Emerging PPP (Public Private Partnerships) in Health Sector in Rajasthan

Recommendations :

- (i) Rajasthan Government should ensure that any model of PPP (Public Private Partnerships) in healthcare should presently be on a short term and experimental basis, with stringent monitoring mechanisms and accountability indicators in place, while ensuring that this arrangement will not lead to any healthcare rights violation. The Government may conduct systematic scrutiny of any private bodies being contracted for operating public health facilities, prior to engaging with them in any partnership arrangement. For the Government of Rajasthan, the first priority for provision of health services to people must be through strengthened, improved and expanded Public Health services, in preference to outsourcing of services to private providers.

IV. Denial of Right to Health Care for Persons Living with HIV AIDS in Rajasthan

Recommendation :

- (i) Adequate number of ART centres, second line medicines and key tests such as viral load test should be made available in Rajasthan. ART centres and HIV related tests should be made available at all medical colleges in the State.
-

B. Presentations on Systemic Issues Related to Various States

I. Women's Access to Health Care

Recommendations :

- (i) State Health Department should ensure that skills and understanding of peripheral health workers, regarding various forms of discrimination and vulnerability faced by women in context of maternal health, need to be improved through appropriate capacity building. This would enable these issues to be factored into birth preparedness plans, health care delivery and follow up plans for women during pregnancy and delivery.
- (ii) State Health Department should ensure adequate blood availability, to avoid denial of delivery services to women in rural health centres. Ensuring blood availability should not be treated as merely the responsibility of the family. Appropriate steps may be taken by the State Government to adopt the National Blood Policy, along with implementation of Indian Public Health Standards (IPHS) regarding blood availability in all public health facilities. It is recommended that the State Health Department may evaluate the option of Unbanked Direct Blood Transfusion to ensure availability of blood especially during emergencies.
- (iii) In case of denial of maternity services in public facilities, if women are forced to avail of private services for delivery, then in keeping with the Janani Shishu Suraksha Karyakram (JSSK) entitlements, free delivery care should be ensured in such cases also.
- (iv) There should be a system of regular participatory monitoring of the Janani Shishu Suraksha Karyakram (JSSK) in western region States, which provide entitlements for maternal health care. States should consider adopting a women-friendly grievance redressal mechanism for JSSK. This should be accompanied by access to relevant medical records.
- (v) State Health Department should ensure that regular audit of referrals related to delivery care and maternal health care must be undertaken, and the State may implement a protocol for referrals.
- (vi) State Health Department should ensure that free sonography services must be available at the level of Community Health Centres (CHCs) and Sub-

Divisional Hospitals. States should ensure that appropriate and prompt compensation is provided to women where these services are not available, and women are forced to access this essential service from the private sector. States may also consider operationalising arrangements with locally available radiologists in the private sector, engaging them to provide sonography services in those public hospitals which do not presently have radiologists.

II. Human Resource Shortages in Rural Health Services

Recommendations :

- (i) To ensure regular presence of doctors in all Primary Health Centres and rural health facilities, the State Government may make it compulsory for all freshly graduated doctors to work in Public rural health services for at least 3 years, which should be made a pre-requisite for licence to practice.
- (ii) To ensure improved presence of health services staff in rural areas, State Health Department may consider adopting the current model of staff placement being implemented in Karnataka, wherein transfer and posting is linked with a well-defined, transparent web-based system, and is accompanied by individual counselling with staff, while deciding on postings and transfers.

III. Role of Public Bodies in Redressing Denial of Patients Rights in Private Medical Sector

Recommendation :

- (i) Government of Rajasthan should promptly bring private hospitals in the State under the Clinical Establishments Act (CEA), starting by registering such hospitals under the Act, if not already done. The State Government should also ensure that the State Rules under CEA are notified at the earliest.

जयदीप सिंह कोचर
संयुक्त सचिव (प्रशिक्षण और अनुसंधान)
Jaideep Singh Kochher
JOINT SECRETARY (TRAINING & RESEARCH)



राष्ट्रीय मानव अधिकार आयोग
मानव अधिकार भवन, सी-ब्लॉक, जीपीओ
कम्प्लेक्स, आईएनए, नई दिल्ली-110 023 भारत
NATIONAL HUMAN RIGHTS COMMISSION
Mahav Adhikar Bhawan, C-Block, GPO Complex, INA,
New Delhi-110 023 India

D. O. No.-11/7/2015-PRP&P

Dated : 9 May 2016

Dear Shri Anil Mukim,

The National Human Rights Commission and Jan Swasthya Abhiyan, a civil society network, in association with the Union Ministry of Health and Family Welfare had organized a two-day Western Region Public Hearing on Right to Health Care in Mumbai on 6-7 January 2016.

2. The first day of the Public Hearing was devoted to hearing of individual cases in which rights of patients in public health system were violated. The second day dealt with presentation of case studies and systemic issues related to denial of right to health care covering a range of issues. Based on the deliberations held on the second day of the Public Hearing, several useful recommendations have emerged for the State of Gujarat. A copy of the said recommendations is enclosed for information and necessary action at your end.

3. I would request your State Government to take up these recommendations for implementation so as to promote and protect the health rights of people. The Commission will appreciate if it is informed about the action taken.

With regards,

Yours sincerely,

(J. S. Kochher)

Encl.: As above.

Shri Anil Mukim
Additional Chief Secretary
Department of Health & Family Welfare
Government of Gujarat
7th Block, 8th Floor,
Sachivalaya, Gandhinagar
Gujarat - 382010

ISSUED
09 MAY 2016

Western Region Public Hearing on Right to Health Care

Recommendations for the State of Gujarat Emerging from Sessions on 7 January 2016, Regarding Systemic Issues and Cases Studies on Right to Health Care

A. Case Studies Presented on Health Rights of Specific Groups of People, or Related to Specific Schemes from Various States

I. Denial of health rights to workers under ESI scheme

Recommendation :

- (i) ESI Corporation must ensure adequate number of dispensaries in the State of Gujarat, and should promptly fill all sanctioned posts so that health rights of all covered workers may be ensured. The State may upgrade ESI hospitals at major urban centres like Vadodara to ensure that they are properly equipped with ventilators and other necessary equipment, so that referrals to General hospitals may be minimised.

II. Denial of Services Related to Mental Health Issues

Recommendations :

- (i) Gujarat State Government must ensure accessibility of diagnostic care for mental health problems at the district hospital level, with support for transport and care.
 - (ii) Gujarat State Government must make available free medication for mental health patients at Community Health Centre (CHC) level hospitals, with a provision for reimbursement of out of pocket expenditure to patients due to non availability of medicines in CHC.
 - (iii) Mental health services be included in State level schemes for cashless treatment, and that community based mental health programmes, including rehabilitation of patients, be designed with community engagement.
-

B. Presentations on Systemic Issues Related to Various States

I. Women's Access to Health Care

Recommendations :

- (i) In the context of Gujarat, community based Maternal Death Reviews (MDR) / Social autopsies of maternal deaths with community and civil society participation should be institutionalised. States may incorporate NGO

representatives in the District MDR committees, and should publish yearly reports.

- (ii) State Health Department should ensure that skills and understanding of peripheral health workers, regarding various forms of discrimination and vulnerability faced by women in context of maternal health, need to be improved through appropriate capacity building. This would enable these issues to be factored into birth preparedness plans, health care delivery and follow up plans for women during pregnancy and delivery.
- (iii) State Health Department should ensure adequate blood availability, to avoid denial of delivery services to women in rural health centres. Ensuring blood availability should not be treated as merely the responsibility of the family. Appropriate steps may be taken by the State Government to adopt the National Blood Policy, along with implementation of Indian Public Health Standards (IPHS) regarding blood availability in all public health facilities. It is recommended that the State Health Department may evaluate the option of Unbanked Direct Blood Transfusion to ensure availability of blood especially during emergencies.
- (iv) Hospitals empanelled for maternal health care services under the Chiranjeevi Yojana in Gujarat should ensure timely, safe, free and accompanied referral to higher facility, in case of emergencies which cannot be handled at their level.
- (v) In case of denial of maternity services in public facilities, if women are forced to avail of private services for delivery, then in keeping with the Janani Shishu Suraksha Karyakram (JSSK) entitlements, free delivery care should be ensured in such cases also.
- (vi) There should be a system of regular participatory monitoring of the Janani Shishu Suraksha Karyakram (JSSK) in western region States, and of the Chiranjeevi scheme in Gujarat, which provide entitlements for maternal health care. State should consider adopting a women-friendly grievance redressal mechanism for JSSK, and also for Chiranjeevi scheme. This should be accompanied by access to relevant medical records.
- (vii) State Health Department should ensure that regular audit of referrals related to delivery care and maternal health care must be undertaken, and the State may implement a protocol for referrals.
- (viii) State Health Department should ensure that free sonography services must be available at the level of Community Health Centres (CHCs) and Sub-Divisional Hospitals. State should also ensure that appropriate and prompt compensation is provided to women where these services are not available, and women are forced to access this essential service from the private sector. State may also consider operationalising arrangements with locally available radiologists in the private sector, engaging them to provide sonography services in those public hospitals which do not presently have radiologists.

II. **Human Resource Shortages in Rural Health Services**

Recommendations :

- (i) To ensure regular presence of doctors in all Primary Health Centres and rural health facilities, the Government may make it compulsory for all freshly graduated doctors to work in Public rural health services for at least 3 years, which should be made a pre-requisite for licence to practice.
- (ii) To ensure improved presence of health services staff in rural areas, State Health Department may consider adopting the current model of staff placement being implemented in Karnataka, wherein transfer and posting is linked with a well-defined, transparent web-based system, and is accompanied by individual counselling with staff, while deciding on postings and transfers.

III. **Role of Public Bodies in Redressing Denial of Patients Rights in Private Medical Sector**

Recommendation :

- (i) State Government of Gujarat may act speedily to either adopt the central Clinical Establishments Act (CEA), or enact a similar State CEA, while ensuring inclusion of specific provisions for protection of patients' rights and grievance redressal mechanism for patients who seek care in private hospitals.
