(AFR)
Reserved on : 21.12.2017
Delivered on : 09.03.2018

Court No. - 34

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 14588 of 2009
Petitioner :- Snehalata Singh @ Salenta And Others
Respondent :- State Of U.P. And Others
Counsel for Petitioner :- Prem Prakash Singh,K.K. Roy,Namrata Singh
Counsel for Respondent :- C.S.C.,Additional Solicitor General of India,Dr. A.K. Nigam,S.S. Tiwari
with

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 65217 of 2008
Petitioner :- Raj Kumar Singh
Respondent :- State Of U.P. through Secretary Health And Others
Counsel for Petitioner :- P.K.S. Paliwal,D.V.Singh,Jameel Ahmad Azmi,S.N. Singh
Counsel for Respondent :- C.S.C.

Hon'ble Sudhir Agarwal,J.
Hon'ble Ajit Kumar,J.

(Delivered by Hon'ble Sudhir Agarwal, J.)

1. The writ petition No. 14588 of 2009 (hereinafter referred to as "First Petition") under Article 226 of the Constitution of India, has been filed as a Public Interest Litigation, highlighting pathetic conditions of medical services in State of U.P., with special reference to personal experience of petitioner-1, a working woman labour getting a traumatic handling of maternity services in the hospitals maintained by State of U.P. including hospitals of Medical Colleges and Medical University.

2. Petitioner-2, a Non-Government Organization (hereinafter referred to as "NGO") is registered as a Society under the provisions of Society Registration Act, 1860 (hereinafter referred to as "Act, 1860"), working in the State of U.P. and Uttaranchal, for welfare of women and children and their health. Similarly, petitioner-3 is a network of various organizations taking care of health conditions and medical services in State of U.P., though an unregistered body.

3. Illustrative case brought forth before Court is that petitioner-1, Sneh Lata Singh w/o Kamal Singh, felt labour pain on 13.02.2007 and

at 5 AM was taken to Purkaji Public Health Centre (hereinafter referred to as “Purkaji PHC”), a Village Panchayat Level Medical Health Care Centre established and maintained by State Government. She went on the advice of Ms. Geeta Sharma, Auxiliary Nurse Midwife (for short “ANM”) who told petitioner-1 to go for treatment at Government Medical Health Care Centre where she would get an incentive of Rs.1400/- under Janani Suraksha Yojna (hereinafter referred to as “JSY”), a Scheme launched by Central Government with an objective to encourage Institutional delivery. The aforesaid ANM at Purkaji PHC asked petitioner-1's husband Kamal Singh to buy an injection and glucose bottle, which he bought. Thereafter glucose was administered to petitioner-1. At 10 AM she gave birth to a baby girl. No other person except the aforesaid ANM was present in Purkaji PHC on the said fateful day i.e. 13.02.2007. Ms. Geeta Sharma, ANM, demanded Rs.450/- for getting delivery performed at Purkaji PHC. Though demand was apparently illegal but petitioner-1's husband went to Sri Shakarpur Medha, owner of brick kiln, where he was working, borrowed Rs.250/- and gave that money to Ms. Geeta Singh (ANM). Only thereafter petitioner-1 was discharged by the aforesaid ANM.

4. While returning home, petitioner-1 realized continuous discharge of urine. She was surprised since it was her sixth delivery and in past she never had such complication. Urine discharge continued, whereupon petitioner-1 visited Purkaji PHC on 17.02.2007 accompanied by her husband, and met Dr. J.P. Tyagi. He told that continuous discharge of urine is not a big problem. He advised some medicines, stating that it will give relief. However, problem of continuous urine discharge persisted. Petitioner-1 and her husband again went to Purkaji PHC. This time they met Doctor J.P. Tyagi and Ms. Geeta Sharma. Another Doctor Ojha was also present. He advised petitioner-1 some other medicines and assured that this time she would have relief. Dr. Tyagi and Dr. Ojha simultaneously told petitioner-1 and her husband that treatment in Purkaji PHC would be same and it is

advisable to go to some private hospital for treatment. Since problem continued, Petitioner-1 along with her husband went to Laksar Hospital in District Haridwar. There she was admitted for six days and treated for infection with antibiotic medicines. Hospital's prescription dated 10.03.2007 is on record and refers to following medicines:

"Injection Gentamicin 80 ml (6)
Tablet Loxof 500mg x 2 (4)
Tablet Ramisper x 2 (4)
Tablet Dipsodiag, one at night (2)
Food use in liquid
Tab. Lasilactone (½ in morning)"

5. Petitioner-1's problem still persisted. Thereupon her husband brought her to a Private Hospital namely Agarwal Medical Centre, (Pappu Nursing Home), Laksar District-Haridwar. Here she remained admitted for 3 days and administered with antibiotics. Finding no respite, she was taken by her husband to another hospital, namely, Mother and Child Hospital and Laparoscopic Centre, Ram Nagar, Roorkee where she was attended by Dr. Smt. Anshu Agarwal, an Obstetrician, Gynecologist and Laparoscopic Surgeon. She administered some treatment and also got few tests conducted but could not diagnose reason for persistence of urine discharge. Petitioner-1 was advised to go Jolly Grant Hospital, Haridwar but due to financial constraints petitioner and her husband returned to their home. Discharge of urine continued hence on 25.05.2007 petitioner-1 was taken to S.D. Medical Institute and Research Centre, Muzaffarnagar where it was detected that she had Urethra-Vaginal Fistula, a hole in the bladder. For this testing, she paid Rs.300/-. Since she lacked sufficient means for further treatment hence Hospital did not provide further treatment. On 26.05.2007 she visited Ravi Nursing Home, Sadar Bazar, Muzzafarnagar where certain medicines were prescribed. This prescription is on record as Annexure-4 to writ petition and refers to following medicines:

"Plenty of fluids orally.

Tab. Levown 500 mg.

Tab. Aciloc

Cap. Rinifol

Tab. Deneveron

Tab. Urikind

Syp. Alkasol"

6. Petitioner-1 managed intake of medicines for about 15 days but same being very expensive, had to be discontinued for paucity of funds.

7. On 15.06.2007 petitioner-1 knocked the door of District Magistrate, Muzaffarnagar who advised to contact Chief Medical Officer (hereinafter referred to as "CMO"), Muzaffarnagar. Petitioner-1 met CMO, Muzaffarnagar who forwarded her to Chief Medical Superintendent, Lala Lajpat Rai Medical College, Meerut (hereinafter referred to as "LMC"), a State Medical College maintained by State of U.P. (hereinafter referred to "SMC, Meerut"), along with letter dated 15.06.2007. Since petitioner was not attended by Government Medical Officer at Muzaffarnagar and sent to Meerut, she tried to meet other Medical Officers at Muzaffarnagar and in this process met Deputy Chief Medical Officer who behaved very arrogantly and told petitioner-1 that she would not get any medicine or proper treatment since she had complained the matter to higher authorities. He also required petitioner-1 to give in writing that she did not go for Institutional delivery.

8. Later on, with the letter dated 15.06.2007 given by CMO, Muzaffarnagar, petitioner went to SMC, Meerut where she was called for operation on 16.07.2007 and sent home. On 16.07.2007 when petitioner-1 and her husband visited SMC, Meerut, they did not find anyone to attend her. They stayed at a hotel and again went to SMC, Meerut where a Journalists from a news channel "Aaj Tak" met her. She explained her plight to the said Journalist, who contacted officials at

SMC, Meerut, whereupon a Senior Medical Officer gave another date for operation i.e. 24.07.2007.

9. On 19.07.2007, petitioner-1 learnt that a meeting of National Rural Health Mission (hereinafter referred to as “NRHM”) was going on and an Organization namely “Astitva Samajik Sanstha” was also present thereat. Petitioner-1 approached aforesaid Sanstha and explained her miseries. She was then sent to Women Hospital, Muzaffarnagar. On 24.07.2007, petitioner-1 went to SMC, Meerut for operation but told by a Junior Doctor that she would have to pay Rs.20,000/- for the said operation. Having no money with her, she had no option but forced to return back to home. In the meantime, petitioner-1 continued to intake medicines as advised at Women District Hospital, Muzaffarnagar.

10. Petitioner-1 learnt about a meeting of officials of petitioner-3 and Government on 01.08.2007 at Lucknow. She came to the meeting and presented her case before officials of petitioner-3. Thereafter print media carried her story and details of prolonged and pathetic treatment in the hands of Medical Officers at different level in the State and quest for justice. On 28.09.2007 petitioner-3, “Health Watch Forum” and another NGO “Humsafar” took petitioners-1 to “King George Medical College, Lucknow”, later termed as “King George Medical University”, Lucknow (hereinafter referred to as “KGMU”), where she was examined and diagnosed to have 'Fistula'. She also underwent certain tests but was told that presently no bed is vacant and whenever it is available, she would be informed and called for operation. Thereafter on 25th and 26th October, 2007, petitioner-1 went through several tests in KGMU, but operation was not performed for want of bed. She was informed by “Health Watch Forum” and “Hamsaffar” that doctors at KGMU have fixed a date for operation sometimes in January, 2008. Thereupon she went to KGMU and again got tested as per advice of Doctors but could not be operated since bed was not available.

11. On 04.02.2008 a test, namely, Perabdominal Urosonography in the Department of Urology was conducted. Thereafter petitioner-1 was

operated on 05.02.2008 at KGMU. She was discharged on 22.02.2008 and returned to Muzaffarnagar. She went to KGMU on 11.03.2008 for removal of Catheters but same could not be removed. Even this removal of Catheters took more than 1 and 1/2 months and could be removed only on 25.04.2008 when petitioner-1 visited again KGMU.

12. It is further said that Ministry of Health and Family Welfare, Government of India, in its guidelines issued for NRHM has given details of vision of the Mission, Objectives, Expected Functioning, Community Level, Core Strategies of Mission, Supplementary Strategies of Mission, Special Focus and also details of the work already undergoing for implementation of Mission. Institutional framework has been detailed in **para 5 under the heading "The Efforts So Far"** whereunder details of Programmes, Infrastructure, District Plans, Procurement, Technical Support to the Mission, Training and Capacity Building have been mentioned. The same read as under:

> *" 5. The emphasis in the first six months since the launch of the mission has been on the preparatory activities necessary for laying the ground work for implementation of the Mission such as:*
>
> *Institutional Framework*
>
> - *State and District Missions have been set up in all States and UTs* ***except U.P., Goa, Delhi and Chandigarh****.*
> - *The Departments of Health and Family Welfare have been merged at the level of the GOl and the same is being replicated in the States.*
> - *The Institutional framework (Mission Steering Group, Empowered Programme Committee, Mission Directorate), at the Central and State levels have been put in place.*
> - ***State launch of the Mission has been organized in*** *Bihar,* ***Uttar Pradesh****, Rajasthan, Madhya Pradesh, Orissa, Uttaranchal and North Eastern States* ***in which apart from the state level functionaries, the Chairmen, District Boards, District Collectors and Civil Surgeons of various districts have taken part****. The State Launches have doubled*

up as orientation workshop for the district level functionaries.

- *The Mission Document; Guidelines on Indian Public Health Standards; Guidelines for ASHA; Training Modules for ASHA; Guidelines for State Health Mission; District Health Mission and merger of societies have been shared with the States.*

- *MOU to be signed with States have been shared with the States.* ***MOUs clearly spell out the reform commitment of the States in terms of their enhanced public spending on health, full staffing of management structures, steps for decentralization and promotion of district level planning and implementation of various activities, achievement of milestones under the leadership of Panchayati Raj Institutions****.*

- *Five Task Groups set up on the goals of the Mission, Strengthening Public Health Infrastructure, Role of PRIs, ASHA, Technical support to NRHM have completed their work.*

- *Three Task Groups on Health Financing, District Planning and Public Private Partnerships are in the process of finalizing their recommendations. Three new Task Groups on Urban Health, Medical Education, and Financial Guidelines set up.*

Programmes

- ***Reproductive and Child Health Programme - II*** *(RCH-II) and the* ***Janani Suraksha Yojana (JSY) launched****.*

- ***Polio eradication programme intensified*** *- cases reduced from 134 in 2004-05 to 63 (up to now).*

- ***Sterilization compensation scheme launched****.*

- ***Accelerated implementation*** *of the* ***Routine Immunization programme taken up****. Catch up rounds taken up this year in the State of Bihar, Jharkhand and Orisaa.*

- ***Ground work for introduction of JE vaccine completed****.*

- *Group* ***work for Hepatitis vaccines to all States completed****.*

- ***Auto Disabled Syringes introduced throughout the country****.*

- *State Programme Implementation Plans for RCH II appraised by the National Programme Coordination Committee set up by the Ministry. Funds to the extent of 26.14% i.e. Rs.1811.74 crore have been released under NRHM outlay.*

Infrastructure

- *Facility survey introduced.*

- *Repair and renovation of Sub Centres under RCH II*

- *united fund of Rs.10,000 to SHCs;*

- ***Selection of 2 CHCs in each State for upgradation to IPHS****.*

- ***Upgradation of CHCs as First Referral Units and Primary Health Centres to 24×7 units taken up****.*

- ***Release of funds for upgradation of two CHCs per district to IPH Standards****.*

District Plans

- *Strengthening of planning process in 50% of the districts of the EAG states.*

- *ASHAs selected. Selection of ...ASHAs in progress in EAG States.*

- *Training of the state/district level trainers of ASHAs completed. District level training taken up.*

Procurement

- *An* ***Empowered Procurement Wing is being set up in the Ministry****.*

- *Procurement procedures are being finalized and procedural assistance being provided to the states in the procurement activities.*

Technical Support to the Mission

- *A **National Health System Resource Centre (NHSRC) being set up at national level**. A Regional Resource Centre set up for North Eastern States. Ground work prepared for State Resource Centres.*
- ***700 Consultants (MBA/CA) appointed for State/District Level Programme Management Units**.*
- *MOUs signed with the States clearly articulating the commitment of the States.*

Training and Capacity Building

- *Finalized comprehensive training strategy.*
- *Training started on Skilled Birth Attendant. ”*

(emphasis added)

13. The scheme specifically provides for a concerted action for integrated health facilities; quality and accountability in delivery of health services; taking care of the needs of poor and vulnerable sections of society and their empowerment; preparation for health transition and appropriate health financing; pro-people public private partnership; convergence for effectiveness and efficiency and responsive health system meeting people's health needs. It has also given details of the priorities, constraints and action to overcome them. But in practice, petitioners complaint is that medical establishments at the ground level, i.e. Primary Health Centers (PHCs), Community Health Centers (CHCs), District Level Hospitals (D.L.Hs) and even State level Medical Colleges (SMCs), all are in precarious condition. Medicines are not available, Para Medical Staff is inadequate, corrupt and inefficient, Medical Officers are mainly unavailable and wherever they are, either incompetent or work with gross carelessness and negligence and find it better to refer patient(s) to Districts or other Hospitals and fail to provide even immediate threshold medical treatment. Unfortunately, even in Districts and State Medical College Hospitals, same story continue.

14. Even at KGMU, which is considered to be a finest Medical College and Hospital in State, (as claimed by State and mostly believed by the

people of State), patients are forced to wait for months together for undergoing operations and treatment. This waiting period is very long, causing enhancement of sufferance, agony and pain to the patients. Nobody bothers to see that poor and needy people are not attended properly. In most Government hospitals and health care centers, treatment is refused if people are not able to cough up money and satisfy illegal demands of medical and para medical staff. Officers of Provincial Medical Services (hereinafter referred to as "PMS") like Deputy Chief Medical Officers etc. show crudest and corrupt behaviour with sufferers and their attendants. Nobody is there to take care and also to take appropriate action against erring officers in any manner. Huge funds are spent in the name of welfare medical services undertaken by State but fact is that those services are not available to real needy people but swelling pockets of those who are supposed to serve.

15. With this backdrop, by way of this Public Interest Litigation, petitioners, besides seeking compensation by way of damages for ill-treatment met to petitioner-1 in State Medical Services by Medical Officers and other staff, has also prayed for a writ of mandamus directing respondents-1 and 2 to implement strictly, directions and objectives of National Rural Health Services Guarantees, in respect of ante natal care, delivery care and post natal care and to ensure timely Referral with full documentation, honouring of Referral with free treatment till tertiary level of care. Petitioners have also sought a writ of mandamus directing respondents-1 and 2 to ensure proper treatment and medical facilities at all District Hospitals, Community Health Centers, Primary Health Centers etc., so as to ensure proper medical care and also to maintain a full "Outdoor Patient Record" including history, examination, diagnosis and advice; and in case of Referral and discharge, a comprehensive Referral and discharge record. A third prayer for mandamus is for direction to respondents-1 and 2 to set up a "Grievance Redressal Mechanism" as also a system for conducting

audits of all maternal deaths and maternal complications at District Level including investigation of system induced delays and also periodical publication of results of these audits.

16. Writ Petition (PIL) No.65217 of 2008 (hereinafter referred to as "Second Petition") has also been filed as Public Interest Litigation by one Raj Kumar Singh, a social worker and Editor of Weekly Newspaper namely "Naha Sandesh" having Headquarter at 44, Asha Bhawan, Bhiti, District Mau. In this writ petition, a mandamus has been sought directing respondents to make it mandatory that all District Private Hospitals and Nursing Homes should display qualification of Para Medical staff, their designation and they shall also bear their name tag. Further an inquiry be conducted as to how Hospitals and Clinics are running undertaking medical termination of pregnancy though in District Mau, none is registered under Medical Termination Pregnancy Rules 2003 and State Government be directed to take appropriate action in the matter.

17. In both the matters counsel for petitioner submitted that Court may concentrate in both these matters on medical services in State of U.P. and only in respect of medical termination at Private Medical Clinics and Nursing Homes, it should be made obligatory for authorities to ensure strict compliance of statute, failing which appropriate stern action be taken against erring institutions. We are proceeding to consider first issues arising from first petition.

18. In substance, extreme poor conditions of medical services in the State at various levels have been brought to the notice of this Court with special reference to women. Facts disclosed in First Petition demonstrate pathetic conditions prevailing with Medical Services maintained by State, one of the most important constitutional obligation being a "Welfare State". State has to provide effective medical service for which huge budgetary fund is allocated every year and consumed but without ensuring whether benefits are reaching to

last person for whom this entire system is working. There is no responsibility, no accountability and no sincerity towards service.

19. We need not to remind that we are governed by a dynamic, organic, well drafted people's oriented document of governance, i.e., Constitution of India. Besides others, certain fundamental rights to citizens and residents of this country have been enshrined and guaranteed therein. Article 21 is one of the most important fundamental right, which guarantees right of life and liberty to a person. The term “right to life and liberty” has been interpreted by Courts, time and again, so as to encompass a right to live with dignity, safety and in a clean environment. Socio economic justice for people is the spirit of preamble of our Constitution. Interest of general public is a comprehensive expression comprising several issues which affect public welfare, public convenience, public order, public health, morality, safety etc. All are intended to achieve socio-economic justice for people.

20. In **Consumer Education and Research Centre v. Union of India, (1995) 3 SCC 42,** Court said that human sensitivity and moral responsibility of every State is that "all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

21. The jurisprudence of personhood or philosophy of the right to life envisaged under Article 21, enlarges its sweep to encompass human personality in its full blossom with invigorated health which is a wealth to the workman to earn his livelihood, to sustain the dignity of person and to live a life with dignity and equality. Article 48-A places an obligation upon Governments to protect and improve environment. Expression 'life' under Article 21, has within its ambit, operational efficacy of human rights and constitutional rights, the right to medical aid and health. Court held that facilities for medical care and health to prevent sickness, ensure stable manpower for economic development and is the obligation of State. It is a fundamental right of citizens and

residents of this country. Court also refers to Articles 21, 39(e), 41, 43 and 48-A of the Constitution of India.

22. Above observations have been reiterated in **Court on its Own Motion vs. Union of India (UOI) and Ors., JT 2012(12) SC 503**.

23. When matter came up before Court on 10.10.2017, learned counsel for petitioners stated that they are pressing writ petition with respect to reliefs-2 to 6. The matter was heard accordingly.

24. This Court noticed that only Union of India, respondent-3 had responded by filing a counter affidavit but State of U.P. and its authorities strangely abstained themselves from putting any response. Observing that "right to Health" is an integral facet of a meaningful right to life enshrined under Article 21 of the Constitution, this Court passed an order on 10.10.2017. Relevant paragraphs 12 to 16 thereof are reproduced as under:

> *"12. When right to health and medical aid is a part and parcel of fundamental right to life and liberty under Article 21 of Constitution, it includes within its ambit maintenance of health care services by State in appropriate manner, so as to take care of sickness and health problems of its residents in an appropriate manner. Poor, shabby and inadequate health care institutions, if are maintained by State, it is nothing but a blatant invasion on fundamental right of persons, which is a part of Article 21 of Constitution.*
>
> *13. It is really surprising that this matter is pending for the last eight years but State Government and its authorities have chosen to keep silence by not filing any reply till date.*
>
> *14. Before proceeding further, we find that a lot of information Court needs with regard to health care institutions being maintained by State Government and hence, its reply is also necessary. We, therefore, direct Principal Secretary, Medical Health and Welfare who is*

responsible for all Government Hospitals as also Secretary, Medical Education, Government of U.P., Lucknow who is maintaining hospitals connected with State Medical Colleges, to file their personal affidavits giving following details:

(i) ***Total budgetary allocations made*** *by State Government* ***for maintaining health and medical welfare*** *of people in the State and* ***items particularly covered by such allocation.***

(ii) ***Funds/allocations received from Government of India*** *towards various* ***health maintenance schemes launched by Government of India in the last five years.***

(iii) Total ***number of Government Hospitals maintained at District Level, Block level and Gram Panchayat Level.*** *Details shall be furnished Districtwise.*

(iv) ***Number of medical staff and para medical staff sanctioned in the aforesaid hospitals.*** *Details shall also be given district-wise as on 30.09.2017.*

(v) Number of ***medical and para medial staff actually working in*** *the aforesaid institutions.*

(vi) Total ***amount spent by State on medicines supplied to patients through aforesaid hospitals.***

(vii) Number of ***patients attended in aforesaid hospitals month-wise in the last one year.***

(viii) ***Amount spent by State on regular maintenance of machines and apparatus etc., needed in aforesaid hospitals for operation and other purposes.***

(ix) Whether all District Level Hospitals as also those attached with State Medical Colleges have Trauma Centres in working condition, and, if so, since when.

*(x) **Whether any medical scheme for pregnant ladies, for delivery of child and child maintenance has been launched.** If so, details thereof.*

(xi) Any other Scheme relating to people health care with details.

15. Aforesaid affidavits shall be filed by two Secretaries as directed above within six weeks.

16. *List this matter on 27th November 2017."*

(emphasis added)

25. Respondents-1 and 2 found more than 1-½ months' time granted on 10.10.2017, insufficient. On 27.11.2017 when matter came up, learned Additional Advocate General Sri M.C. Chaturvedi, appeared with a request to grant further time, which is usual practice, we have experienced, on the part of State. The matter was adjourned to 4.12.2017, when two affidavits were filed, one sworn by Sri Prashant Trivedi, Principal Secretary, Medical, Health and Family Welfare (hereinafter referred to as "P.S., MHFW") and another by Rajneesh Dubey, Principal Secretary, Medical Education (hereinafter referred to as "P.S.,M.E.") Affidavits contain certain gross collective informations but no details.

26. P.S., MHFW stated that this writ petition being Public Interest Litigation is not being contested by joining issues since matter has been raised in larger public interest. Therefore, Government would make all possible efforts to further the cause raised by petitioners and satisfy need of people with reference to quality of Medical Health Services in State of U.P. It is also said that any opinion, direction or suggestion would be positively implimented by Government in the best interest of State. Giving statistical details, pursuant to specific information sought by this Court, it is said that Departments of Medical Health and Medical Education, though are being managed separately by officers of the level of Principal Secretary and Secretary, but proceed in a consolidated and coordinated manner so that entire paraphernalia is best utilised for the benefit of people of State. "P.S., MHFW" is responsible for all

Government hospitals while, “P.S.M.E.” is maintaining hospitals connected with State Medical Colleges.

27. Budgetary allocation for Medical and Health is separate. Family Welfare, Medical and Health allocation has three major heads, namely, Alopathic, Public Health and Social Welfare (Special Component Scheme). Preceding 5 year's budgetary allocation for Medical and Health Department under the aforesaid three Sections is as under:

(Rs. In Crores)

S.N.	Grant No.	F.Y. 2013-14	F.Y. 2014-15	F.Y. 2015-16	F.Y. 2016-17	F.Y. 2017-18
1	32- Health Department (Alopathic)	4114.05	5006.76	5580.51	6344.27	6516.86
2	36- Health Department (Public Health)	441.47	500.87	556.67	607.92	589.88
3	83- Department of Social Welfare (Special Component Scheme)	21.00	21.00	30.16	104.40	101.35
	Total	**4576.52**	**5528.63**	**6167.34**	**7056.59**	**7208.09**

28. The above chart shows a consistent increase of funds under different heads, sometimes a little bit substantial, but in recent period, increase is very nominal. In F.Y. 2017-18, under the head of Public Welfare and Social Welfare, allocation of fund has reduced than what it was in F.Y. 2016-17. We failed to understand any reason therefor inasmuch as population of State is continuously on increase and health conditions of poor people has not shown any broad improvement so as to justify reduction under any head. However, no reason even otherwise has come forward. Be that as it may, allocation of funds has been given by P.S., MHFW in his affidavit without mentioning reasons and causes of increase or decrease in funds in different periods.

29. Similarly towards Family Welfare for two years, namely F.Y. 2016-17 and 2017-18, budgetary allocation has been shown as under:

In Crores

F.Y.	**Allocation**	**Expenditure**	**Unspent Amount**
(2016-17)	6458.0430	4965.3612	1492.6818
(2017-18)	6140.1807	1573.8369	4566.3438

30. There is a note under the aforesaid chart stating that NHM grant included in the aforesaid allocation was Rs.4576.3860 Crore in F.Y. 2016-17 and Rs.4048.3842 in F.Y. 2017-18. Expenditure in the aforesaid two Financial Years in Family Welfare Department is Rs.4965.3612 Crore in F.Y. 2016-17 and 1573.8369 Crore in F.Y. 2017-18. The aforesaid expenditure included NHM funds Rs.3453.8529 Crore in F.Y. 2016-17 and Rs. 638.7552 Crore in F.Y. 2017-18.

31. The chart of allocation of funds towards Family Welfare and expenditure shows a startling fact that huge amount remained unspent and we really failed to understand any reason therefor. Whether State lacked interest in family welfare activities or there were any other factors for non-spending of money, is a matter of simple guess as nothing has been mentioned in the affidavit of P.S., MHFW but the fact remains that almost 24% of allocated funds in 2016-17 remained unspent and in 2017-18 also (affidavit has been filed in December, 2017 when 3/4 of Financial Year has already gone) only about 25% and odd funds have been spent and remaining is lying unused. This is bound to affect welfare activities of needy persons and State has to account for that by showing justified reason therefor.

32. Schemes launched by Government of India in the last five years and details of funds received therefor are given in Annexure-3 to the Affidavit of P.S., M.H.F.W. which read as under:

(Rs. in Lacs)

S.N.	**Programme Name**	**Fund received**	**Fund received**	**Fund received**	**Fund received**	**Fund received**

		2012-13	2013-14	2014-15	2015-16	2016-17
1	RCH Flexipool	67875.72	95633.92	74290.25	94846.66	99666.67
2	Mission Flexipool	47605.16	43002.54	78996.01	110954.00	122187.92
3	Immunization	7846.68	11285.01	3833.98	3856.67	3750.00
4.	IPPI	12786.70	12509.00	8580.00	10725.00	6150.00
5	RNTCP	4309.82	5333.04	5673.33	12898.65	15037.83
6	NVBCD	1484.67	1336.55	3165.83	1570.84	1458.33
7	NIDDCP	0.00	0.00	235.44	151.67	78.33
8	NLEP	380.22	324.77	520.48	524.47	
9	IDSP	344.89	382.90	386.66	375.00	562.50
10	NMHM	0.00	0.00	886.92	0.00	
11	NPPCD	1.76	2.00	101.01		
12	NBCP	1682.94	1134.33	543.02		
13	NTCP	8.00	0.00	0.00		
14	National prog. For health care elderly	133.72	240.86	0.00	6043.33	
15	N.P. For control of cancer, diabities, cardio stroke	89.29	344.73	2085.34		
16	NOHP	0.00	0.00	0.00	0.00	
17	NUHM	600.22	805.14	20220.99	12025.50	7545.00
18	Total	145149.79	172334.79	199519.26	253971.79	256436.59
19	Infrastructure Mainentance 2017-18					
20	Infrastructure Maintenance 2016-17	87446.00	155567.00	137643.70	43948.31	28628.59
21	Infrastructure Maintenance 2015-16					13861.29
22	Infrastructure Maintenance 2014-15					31167.66
23	Dues 2014-15					5578.64
24	Dues 2015-16					9712.52
Total		**232595.79**	**327901.79**	**337162.96**	**297920.10**	**345385.29**

33. Aforesaid chart shows that in the last five years i.e. F.Y.2012-13 to F.Y. 2016-17, funds received from Government of India under various schemes are Rs.15409.6593 Crores.

34. Allocation of funds by Central Government in various schemes has been substantial. It was more than Rs. 2300 crores in 2012-13 which increased to more than Rs. 3200 crores in next year i.e., 2013-14. In subsequent years it has continuously increased though not substantially but in any case more than Rs. 3400 crores have been allocated and released in F.Y. 2016-17. Despite such huge funds if schemes have not properly been carried out and objectives have not been achieved, than it can be said to be a sheer wastage of huge public funds. This requires investigation, where these funds have gone and who has pocketed it or why remain unspent if could not be utilized.

35. Giving details of hospitals at District, Tehsil, Block and Gram Panchayat Level, it is said that total Male/Female Combined Government Hospitals in State of U.P. are 174 with capacity of 23070 beds, Community Health Centers (hereinafter referred to as "C.H.C.") established in districts are 821 and Primary Health Centers (hereinafter referred to as "P.H.C.") are 3621.

36. Number of beds available in entire State of U.P. being only 23000 when we have presently population of about 23 crores (i.e., one bed between 10000 people). It is extremely inadequate and a self speaking fact to show deprivation of appropriate medical services to poor and needy people of this State.

37. District wise details of C.H.C. and P.H.C. and sanctioned posts of Medical Officers are as under:

S.N.	**Name of Districts**	**Number of C.H.C.**	**Number of P.H.C.**	**Number of Sanctioned Posts of Medical Officers**
1	Agra	16	60	297
2	Firozabad	9	61	283
3	Mainpuri	9	54	208
4	Mathura	12	37	198
5	Aligarh	13	47	303
6	Kasganj	5	36	167
7	Etah	4	36	157
8	Hathras	7	32	155

9	Allahabad	20	81	380
10	Pratapgarh	27	67	312
11	Fatehpur	10	50	207
12	Kaushambi	7	36	137
13	Azamgarh	22	105	454
14	Ballia	15	83	261
15	Mau	6	45	165
16	Bareilly	14	64	312
17	Pilibhit	7	29	167
18	Sahjahnpur	14	50	264
19	Budaun	14	55	246
20	Balrampur	9	39	194
21	Bahraich	14	63	250
22	Gonda	16	66	238
23	Sravasti	6	17	130
24	Fazabad	12	40	279
25	Ameti	14	44	147
26	Ambedkar Nagar	9	36	155
27	Barabanki	17	67	394
28	Sultanpur	14	57	330
29	Basti	11	49	304
30	Siddharth Nagar	12	73	229
31	Sant Kabir Nagar	6	26	128
32	Gorakhpur	18	79	408
33	Deoria	16	79	260
34	Kushinagar	14	67	239
35	Maharajganj	14	47	216
36	Jhansi	6	44	204
37	Lalitpur	5	29	156
38	Jalaun (orai)	8	39	173
39	Chitrakoot	6	34	141
40	Mahoba	4	18	110
41	Banda	8	54	183
42	Hamirpur	8	41	157
43	Kanpur Nagar	10	51	342
44	Kanpur Dehat	11	36	190
45	Farukhabad	8	33	178
46	Auraiya	7	33	186
47	Etawah	8	37	279
48	Kannauj	11	38	230

49	Lucknow	11	40	996
50	Raibareily	17	65	315
51	Hardoi	17	76	330
52	Unnao	14	52	288
53	Sitapur	20	83	309
54	Kheri	15	70	235
55	Meerut	12	44	289
56	Bulandshahr	13	72	385
57	Baghpat	7	27	140
58	Gautam Budh Nagar	5	22	127
59	Ghaziabad	4	20	196
60	Hapur	5	24	73
61	Saharanpur	14	53	348
62	Muzaffar Nagar	9	49	250
63	Shamli	5	31	76
64	Moradabad	8	37	242
65	Sambhal	9	34	147
66	Amroha	9	29	166
67	Rampur	5	30	138
68	Bijnor	11	15	231
69	Varanasi	12	30	343
70	Ghazipur	16	73	244
71	Chandauli	5	33	193
72	Jaunpur	21	92	340
73	Mirzapur	13	50	268
74	Sonbhadra	6	45	217
75	Sant Ravi Das Nagar	6	21	161
	Total	**821**	**3621**	**18150**

38. Number of posts of nursing staff sanctioned and working, collectively, is as under:

S.N.	**Post**	**Sanctioned**	**Working**
1	Chief Nursing Officer	01	00
2	Nursing Superintendent	01	00
3	Deputy Nursing Superintendent	18	08
4	Assistant Nursing Superintendent	310	302

5	Sister	1469	607
6	Staff Nurse	7770	3587
Total		**9569**	**4504**

39. Above chart shows that almost 50% of vacancies of Nursing Staff are unfilled. It is difficult to accept and understand, how 821 CHCs and 3621 PHCs, besides District Government Hospitals (174 in number) can be looked after by a sanctioned strength of just 1469 Sisters and 7770 Staff Nurses. The sanctioned strength apparently is highly inadequate. Even that is not occupied to its optimum level. We also find almost 60% vacancies of Sisters and 55% vacancies of Staff Nurses, unfilled. Reason for huge vacancies of these cadres has not been stated in the affidavit field by P.S., MHFW. We also do not find any sincere attempt or concern on his part to find out why so many vacancies are continuing and steps have not been taken to fill in the same. This negligence and apathy is nothing but a fact to demonstrate that at the highest level of State nobody is sensitive enough to look into the plight of poor, needy, infirm and sick people for whose benefit State medical services are run and that is why such a large number of vacancies have been allowed to continue and how long the same would continue, still a matter of wild guess.

40. Details of Para Medical Cadres like sanctioned strength, actual working strength and number of vacancies are as under:

S.N.	Name of Posts	Total sanctioned strength	Working strength	Vacant post
1	Joint Director (Pharmacy)	01	00	01
2	Officer on Special Duty (Pharmacy)	01	00	01
3	Officer in charge (Pharmacy)	82	51	31
4	Chief Pharmacist	1418	1233	185
5	Pharmacist	6141	6141	00
6	X-Ray Technician	1008	934	74
7	Senior Lab Technician	389	344	45

8	Lab Technician	2202	1473	729
9	Physiotherapist/Occupational Therapist	40	40	00
10	Darkroom Assistant	583	459	124
11	E.C.G. Technician	60	117	Excess-57

41. In nutshell, total sanctioned Para Medical staff is 11925 which includes 389 Senior Lab Technician, 2109 Lab Technician, 1334 Chief Pharmacists, 6061 Pharmacists, 56 Incharge Officer, Pharmacy, 578 Dark Room Assistants, 65 Physiotherapists, 1074 Ex-ray Technicians and 87 ECG Technicians.

42. Despite aforesaid para-medical staff it has been demonstrated before us and during course of argument admitted that a large number of Radioligical tests and Diagnosis are attended in private centers since facilities at Government Hospitals and Health Centers either found non-functional or for some other reasons the same are not available to poor and needy sick people. We find that even basic items like, stratures, ambulances etc. are not available, attendants carry their patients and many a times even dead bodies are lying in a very inhuman and insensitive manner due to apathetic concern shown by Government medical staff.

43. With respect to allocation of budget towards Medicines and Chemical Head, details have been given in Annexure 10 to the affidavit of P.S., MHFW which are as under:

(In Crores)

S. N.	**Financial Year**	**Budgetary allocation**	**Expenditure**	**Unspent budget**
1	2013-14	390.44	379.09	011.35
2	2014-15	420.75	412.50	008.25
3	2015-16	469.87	457.67	012.20
4.	2016-17	530.97	514.46	016.51
5	2017-18	623.47	239.46	384.01

44. On the one hand medicines are not being made available to poor people though claimed that same are being provided free of cost and on the other hand we find that whatever budgetary allocation has been made even a part thereof remained unspent and unutilized. Why budgetary allocation towards medicine and chemicals has remained unutilized is again a matter of wild guess in absence of any explanation provided by P.S., MHFW in his affidavit.

45. It is further averred that from October 2016 to September 2017, number of persons attended in O.P.D. is 1302.60 Lacs, details whereof, as per Annexure-12 are as follows:

S.N.	**Month**	**Number of Patients attended (in Lacs)**
1	October, 2016	122.59
2	November, 2016	108.78
3	December, 2016	109.41
4.	January, 2017	81.62
5	February, 2017	90.23
6	March, 2017	81.35
7	April, 2017	70.98
8	May, 2017	96.70
9	June, 2017	101.56
10	July, 2017	99.56
11	August, 2017	211.87
12	September, 2017	127.95
Total		**1302.60**

46. The number of patients attending OPD from aforesaid chart shows that almost for every 2-3 persons in the total population of this State, one has attended OPD. This shows level and quantum of sickness and enormity of problem. Lack of proper hygienic conditions, unplanned development, pollution of air and water, both due to various activities like reckless and illegal exploration and mining, construction activities, siphoning of natural resources without caring replacement, destruction of greenery etc., are some of the causes for continuous increase in sickness among the people. Neither State is providing post-

sickness care in a better way nor taking care for effective preventive measures so that people may not fall sick. In both the ways people are on the mercy of conditions over which most of them have no control and have to suffer for the fault of a few others.

47. Total 389 posts of Senior Lab Technicians are sanctioned in all districts and in different units in the manner as under:

S. N.	**Name of Districts**	**District Hospital**	**Blood Bank**	**District Malaria Officer**	**Regional Family Welfare Training Centre**	**Maternity Wing**	**Filaria Unit**
1	Agra	01	02	03(Regional Malaria Lab) A.D. 01 (Dist. Malaria Officer)	01	01	
2	Mathura	01	01	01			
3	Firozabad	01	01	01			
4	Mainpuri	01	01	01		01	
5	Aligarh	01	02	01		01	
6	Hathras		01	01			
7	Kasganj		01	01			
8	Etah	01	01	01			
9	Meerut	02	02	02(Regional Malaria Lab) A.D. 01 (Dist. Malaria Officer)	01	01	
10	Bulandshahr	01	01	01		01	
11	Ghaziabad	01	01	01		01	
12	Hapur		01	01			
13	Baghpat	01	01	01			
14	Gautam Budh Nagar	01	01	01			
15	Varanasi		01	03(Regional Malaria Lab) A.D. 01 (Dist. Malaria Officer)	01		01
16	Chandauli	01	01	01			
17	Jaunpur	01	01	01			01

18	Ghazipur	02	02	01			01
19	Mirzapur	02	01	01			
20	Sant Ravi Das Nagar	01	01				
21	Sonbhadra	01	01	01			
22	Faizabad	01	02	03(Regional Malaria Lab) A.D. 01 (Dist. Malaria Officer)		01	01
23	Ambedkar Nagar	01	01	01			01
24	Barabanki	01	02	01		01	01
25	Sultanpur	01	01	01		01	01
26	Amethi		01	01			
27	Basti	01	04, 02	01			01
28	Siddharth Nagar	02	03				
29	Sant Kabir Nagar	02	01	01			
30	Gonda	01	02	01		01	01
31	Balrampur	01	01	01			
32	Baharaich	01	02	01		01	01
33	Shravasti	01	01	01			
34	Kanpur Nagar	01	03	01			
35	Kanpur Dehat	01	01	01			
36	Kannauj	01	01	01			
37	Farukabad	01	02	01			
38	Auraiya	01	01	01			
39	Etawah	01	01	01		01	
40	Allahabad		02	03(Regional Malaria Lab) A.D. 01 (Dist. Malaria Officer)	01	01	
41	Pratapgarh	01	01	01			01
42	Kaushambi	01	01	01			
43	Fatehpur	01	01	01			01
44	Bareilly	01	02	03(Regional Malaria Lab) A.D. 01 (Dist.		01	

				Malaria Officer)			
45	Budaun	01	01	01		01	
46	Pilibhhit	01	01			01	
47	Shahjahapur	01	02	01		01	
48	Gorakhpur	02	02	03(Regional Malaria Lab) A.D. 01 (Dist. Malaria Officer)	01		01
49	Kushinagar	02	02				
50	Maharajganj		03				
51	Deoria	01	02	01			01
52	Chitrakoot	02	01				
53	Mahoba	01	01	01			
54	Banda	01	02				
55	Hamirpur	01	02				
56	Jhansi	01	02	03(Regional Malaria Lab) A.D. 01 (Dist. Malaria Officer)	01		
57	Jalaun	01	01	01			
58	Lalitpur	01	01	01			
59	Saharanpur	01	02	01		01	
60	Muzaffarnagar	01	01	01		01	
61	Shamli		01	01			
62	Azamgarh	01	02	01			01
63	Mau	01	02	01			
64	Balia	01	02	01			01
65	Lucknow		02	03(Regional Malaria Lab) A.D. 01 (Dist. Malaria Officer)			
66	Sitapur	01	01	01			01
67	Unnao	01	01	01			01
68	Raibareilly	01	02	01		01	01
69	Hardoi	01	02	01			01
70	Lakhimpur Kheri	01	01	01			

71	Muradabad	02	02	01		01	
72	Bijnor	01	01	01		01	
73	Rampur	01	01				
74	Sambhal		01	01			

48. Number of Senior Lab Technicians allocated in different districts and mostly in different hospitals show that in health care centers, availability of Lab facilities are either in very bad conditions or not available at all. A district comprises of hundreds of villages and some districts have number of villages running in four figures also, intra-district distance is also very large, transportation of patients from village to district is time consuming, and looking into all these aspects it is apparent that medical facilities at village level, are in extremely deplorable shape. Is it for the reason of conscious omission to have medical facilities of appropriate standard at village level or we pay lesser respect to the people residing in rural areas or village or for any other reason, again a matter of investigation. In the present case since no explanation has come forward, it is a matter of guess work. Fact however is evident that at grass level effective medical facilities are wanting.

49. Under the head of “Maintenance in Health and Medicines”, details of budgetary allocation and expenditure in F.Y. 2013-14 to 2017-18 are given as under:

(Rs. in Crore)

S. N.	**Financial Year**	**Budgetary allocation**	**Expenditure**	**Unspent amount**
1	2013-14	94.92	89.90	5.02
2	2014-15	100.72	97.34	3.38
3	2015-16	112.85	98.99	13.86
4.	2016-17	136.06	123.65	12.41
5	2017-18	124.11	31.33	92.78

50. Here again we find almost 4 to 10% of budgetary allocation unutilized and reasons therefor are not understandable as nothing has been said by P.S., MHFW in his affidavit.

TRAUMA CENTRES

51. We are told by learned counsel for parties at Bar and learned Additional Advocate General joined the statement by submitting that realizing problem of huge casualties on account of vehicular accidents, Government of India after having extensive study in developed and developing countries, decided to establish Trauma Centers across the country and atleast within access of few minutes of accident to the needy ones. We have examined on this aspect also. Going in historical aspects of Trauma Centers, which is not very old, we find that motor accidental deaths in the country were found alarming. Many a times, persons injured in accidents could not be saved due to non availability of requisite multi-specialized services at one place. World Health Organization reports said that road traffic death and injuries are predictable and preventable. Several developed and developing countries could tackle with the menace in various ways including by providing medical services with basic life support fastened and replacement of fluids within first hour of injury.

52. Taking progressive steps in India, Government of India, during 11th Plan, launched a scheme towards road safety which may include Trauma Care Services along the Highways. The scheme with the title “Capacity Building for developing Trauma Care Facilities on National Highways” was launched during 11th Plan as a 100% central grant-in-aid scheme. Its objecive was to augment Trauma Care Services at existing 140 public healthcare facilities along National Highways. It was extended and expanded in 12th Plan and fund pattern was changed by including State's share of expenditure. Government of India decided to provide consolidated funds to State and not to Trauma Care facilities directly. The objective was a better monitoring and accountability to provide above service. The critical factor for strategy of Trauma Center was to provide initial stabilization to the injured within the golden hour. The time between injury and initial stabilization is most critical

period for patient's survival. Strategic activities to achieve this objective include:

(a) Initial stabilization by trained manpower;

(b) Rapid transportation; and,

(c) Developed medical facilities to treat such cases.

53. Ministry of Health and Family Welfare started Piolet Project (1999) during Ninth Five Year Plan to augment and upgrade accidents and emergency services in selected State Government hospitals, located in most accident prone areas of National Highways. The scheme envisaged providing financial assistance to upgrade emergency services at selected Government hospitals.

54. With the feedback received and general consensus that emerged during consultations with various stakeholders, it was proposed to design and develop a network of Trauma Care Centres that would, in first phase, cover entire Golden Quadrilateral connecting Delhi-Kolkata-Chennai-Mumbai-Delhi and North-South-East-West Corridors.

55. The Scheme for developing Trauma Care facilities in Government Hospitals and National Highways started in 11th Plan and initially 140 Trauma Care Centers were planned to be established with a cost of Rs. 732.25 croses. In 12th Plan it was expanded to establish 85 more Trauma Care Centers of three levels, i.e., Level-I (5); Level-II (25); and Level-III (55).

56. In an operational guidelines published by Government of India, Ministry of Health and Public Welfare with the title “Capacity Building For Developing Trauma Care Facilities on National Highways”, details of Trauma Care design has been given. It says that a “Trauma Care Facility” generally referred as “Trauma Care” is a Health Care Institution that has resources and capabilities necessary to provide Trauma Care at a particular level to injured patients. Trauma Center designation set criteria with strict requirements for staffing, specialist

availability, response times, training, quality improvement and community education. Facility verification and designation is an important foundation for the success of an inclusive Trauma Center.

57. Trauma Centers are categorized into four levels:

Level IV Trauma Center: These are equipped and manned mobile hospital and ambulances provided by MoRTH / NHAI / NRHM / State Governments, etc as the case maybe.

Level III Trauma Center: It provides stabilization (surgically if appropriate) to the trauma patient. Comprehensive medical and surgical inpatient services are to be made available to those patients who can be maintained in a stable or improving condition without specialized care. Emergency doctors and nurses are available round the clock. Physicians, surgeons, Orthopaedic surgeon and Anaesthetist would be available round the clock to assess, resuscitate, stabilize and initiate transfer as necessary to a higher-level Trauma Care Service. Such hospitals will have limited intensive care facility, diagnostic capability, blood bank and other supportive services. As per scheme, District/ Tehsil Hospitals with a bed capacity of 100 to 200 beds would be selected for level III care.

Level II Trauma Center: It has to provide definite care for severe trauma patients. Emergency physicians, surgeons, Orthopaedicians and Anaesthetists are in-house and available to trauma patients immediately on arrival. It would also have on-call facility for neurosurgeons, pediatricians and if neurosurgeons are not available, general surgeons trained in neuro surgery for a period of 6 months in eminent institutions would be made available 24x7. The Center should be equipped with emergency department, intensive care unit, blood bank, rehabilitation services, broad range of comprehensive diagnostic capabilities, and supportive services. In this category existing medical college

and hospitals with bed strength of 300 to 500 are identified as Level II Trauma Center.

Level I Trauma Center: It provides highest level of definite and comprehensive care for patient with complex injuries. Emergency physicians, nurses and surgeons would be in-house and available to trauma patient immediately on their arrival. The services of all major super specialties associated with Trauma Care would be available 24x7. It should be situated at a distance of less than 750 to 800 kms apart. These Level I Trauma Centers need not necessarily be along with the Highways corridor. These should be tertiary care centers to which patients requiring highly specialized medical care are referred. **Level I Trauma Centers are supposed to be only in medical colleges due to high level of skill, specialists and infrastructure required for the same.**

58. The aforesaid guidelines perceived distinction between "Trauma Care" and Emergency Department and clearly say as under:

Trauma Center vs. Emergency Department: The difference between an emergency department and a Trauma Center is both a matter of law and a matter of degree. As a matter of law, all hospitals are required to promptly attend to all medical emergencies, hence must have emergency services. As a matter of degree, emergency departments are designed for a broad scope of minor to severe medical emergencies. On the contrary, a Trauma Center has a focused scope of practice and strict requirements for staffing, specialist availability and response times to cater specifically to the critically injured. Based upon its capability to treat serious injuries, an emergency department can be given appropriate designation of a Trauma Care Facility as well. Emergency Departments of hospitals that are not designated Trauma Centers may not have organized multi-speciality teams ready to respond to trauma calls or access to the immediate, high level of surgical care available at a designated Trauma Center. It

is highlighted that **Trauma Center is not an infrastructure concept but a System Concept in which appropriate infrastructure, equipment & human resources work in tandem to provide necessary trauma care services to a patient.**

59. The planning consideration for Trauma Care Facility gives further details and it provides in said guidelines as under:

A Trauma Care Facility is within a hospital building, a separate building adjunct to an existing hospital or a stand alone facility self-sufficient in all aspects. The **core areas** in all these three types remain consistently the same as detailed below, the difference being primarily in scope of support facilities that needs to be planned.

Core Areas in Trauma Facre Facility:

(A) Patient Access:

(a) Ambulance entrance

(b) Walking entrance

(B) Patient Care Areas:

(a) Triage and Reception area

(b) Resuscitation area

(c) Treatment area

(d) Ambulatory care area

(e) Waiting Area

(f) Observation Ward

(g) Isolation rooms

(C) Clinical Support Services

(a) Lab Services

(b) Radiology

(c) Blood Bank

(d) Pharmacy

(e) Communications

(f) CSSD

(g) Manifold

(h) Security

(D) Facilities for Patients Relatives

(a) Waiting Area

(b) Communication Room

(c) Toilets

(d) Refreshment Area

(E) Staff Facilities

(a) Staff changing rooms

(b) Staff shower and toilets

(c) Staff dining area

(F) Office accommodation:

(a) Administrative support

(b) Staff offices

60. The guiding principle for running a Trauma Care Facility is uniquely time-dependent for patient's care. The length of time spent by patients waiting for, or receiving care, number of patients attending and scope of services offered influences the design requirements for each component of facility. The reception/triage, the trauma bay, the OR, the postoperative care unit, the intensive care unit (ICU), and the surgery ward form an interdependent system through which trauma patient will transit during their stay at Hospital.

61. Details of further design etc. of Trauma Centers are also given in said guideline and we are omitting the same for the time being except noticing the norms of Intensive Care Unit beds and Operation Theaters for Level-I, Level-II and Level-III Trauma Care Facility provided by Government of India.

	L-I	L-II	L-III
ICU Beds	30 beds (10-ICU and 20-General trauma beds)	20 beds (10-ICU and 10 General trauma beds)	10 beds (5-ICU and 5-General trauma beds)

Operation Theaters	4	2	1

62. Similarly human resources are also provided in said guidelines at L-I, L-II and L-III Level Trauma Centres, as under:

S.N.	Human Resource	L-1	L-II	L-III
1	Neuro Surgeon	4	1	-
2	Radiologist	2	2	-
3	Plastic Surgeon	1	-	-
4	Anaesthetist	6	3	2
5	Orthopaedic Surgeon	4	3	2
6	General Surgeon	6	2	2
7	Casualty Medical Officer	30	8	6
8	Staff Nurse (including Trauma Nurse Coordinators)	100	40	25
9	Nursing attendant	24	16	13
10	OT Technician	10	5	5
11	Radiographer	4	4	4
12	Lab Technician	4	2	2
13	MRI Technician	2	-	-
14	Multi task worker	40	15	12
	Total	**237**	**101**	**73**

63. Regarding information sought by this Court whether all District Level Hospitals as also those attached with State Medical Colleges have “Trauma Centres” in working condition, and, if so, since when, it is stated that Trauma Centres are not functional in all District Hospitals. Total number of Trauma Centres in State of U.P. are 43, out of which, 27 are functional, partly based on local arrangements, and 16 Trauma Centres are not functioning. It is further stated that problem in making

Trauma Centres completely functional is lack of Specialist Doctors such as General Surgeon, Orthopedic Surgeon and Anesthetist and Para Medical Staff. It is also said that process of purchase of equipments is going on. Some Trauma Centres are operating depending on local arrangements, partly.

64. Details of Trauma Centres functional and non-functional are given in Annexure-15 to the Affidavit and therefrom, we find that Trauma Centres are functional in following districts:

S.N.	**Name of Districts**
1.	Raibarelly
2.	Sahjahanpur
3.	Faizabad
4.	Basti
5.	Jalaun
6.	Etawa
7.	Fatehpur
8.	Lalitpur
9.	Kanpur Nagar
10.	Barabanki
11.	Hardoi
12.	Azamgarh
13.	Bulandshahr
14.	Firozabad
15.	Unnav
16.	Sultanpur
17.	Saharanpur
18.	Varanasi
19.	Ghaziabad
20.	Lucknow
21.	Jaunpur
22.	Kannauj
23.	Banda
24.	Ballia
25.	Sonbhadra
26.	Muradabad
27.	Aligarh (Jasrathpur)

65. Trauma Centres are non-functional at following places :-

S.N.	**Name of Districts**
1.	Sitapur
2.	Jhansi
3.	Muzaffarnagar
4.	Hathras
5.	Lakhimpur Khiri
6.	Kanpur Dehat

66. Details of amount spent on construction of building of Trauma Centres from F.Y. 2009-10 upto F.Y. 2016-17 are as under:

(Rs. in Lakh)

S.N.	Districts	Amount released	Amount spent	Amount unspent
Construction of Trauma Centre by Central Government				
1.	Faizabad	92.70	92.70	-
2.	Basti	65.00	65.00	-
3.	Jaulan	65.00	65.00	-
4.	Etawah	65.00	65.00	-
5.	Fatehpur	100.98	100.98	-
6.	Lalitpur	65.00	80.71	**15.71**
Construction of Trauma Centre by Government of U.P.				
7.	Saharanpur	63.44	63.44	-
8.	Ghaziabad	63.44	63.44	-
9.	Lucknow	71.67	69.14	**2.53**
10.	Varanasi	63.44	63.44	-
11.	Kanpur	63.44	63.44	-
12.	Jaunpur	112.74	112.74	-
13.	Kannauj	95.40	95.40	-
14.	Azamgarh	148.33	146.37	**1.96**
15.	Hardoi	209.95	209.10	**0.85**
16.	Bulandshahr	180.12	180.12	-
17.	Barabanki	148.46	148.26	0.20
18.	Unnao	154.35	154.35	-
19.	Sultanpur	157.30	157.29	0.01
20.	Sonbhadra	150.62	150.10	0.52
21.	Ballia	172.65	169.45	3.20
22.	Firozabad	196.25	196.25	-
23.	Banda	238.98	236.76	2.22

24.	Jhansi	175.24	175.24	-
25.	Moradabad	186.19	175.69	10.50
26.	Sitapur	231.13	231.13	-
27.	Kanpur Dehat	172.12	171.60	0.52
28.	Muzaffarnagar	188.36	173.00	15.36
29.	Aligarh	214.95	202.16	12.79
30.	Hathras	201.55	197.35	4.20
31.	**Allahabad**	**170.05**	**165.00**	**5.05**
32.	Hapur	97.31	97.00	0.31
33.	Mirzapur	75.36	51.02	24.34
34.	Kheri	190.38	179.69	10.69
35.	Bijor	83.10	83.10	-
36.	Pratapgarh	84.11	84.00	0.11
37.	Bahraich	168.76	31.10	137.66
38.	Pratapgarh (Lalganj)	80.96	55.00	25.96
39.	Mainpuri	112.15	48.88	63.27
40.	Pratapgarh (Raniganj)	92.03	27.47	64.56
41.	Ghazipur	88.91	19.47	69.44
42.	Ghazipur (PHC Yusufpur)	88.91	0.00	88.91
43.	Sant Ravidasnagar	81.32	0.00	81.32
Total		**5527.15**	**4916.38**	**642.19**

67. Details of Nursing Staff sanctioned and presently working at various Trauma Centres, are given in Annexure-8 as under:

S.N.	**Tauma Centre at**	**Staff Nurse**	
		Sanctioned	Working
1	Trauma Centre, Kanpur	15	07
2	Trauma Centre, Faizabad	15	04
3	Trauma Centre, Basti	15	06
4	Trauma Centre, Jalaun	15	02
5	Trauma Centre, Etawah	15	02
6	Trauma Centre, Fatehpur	15	03
7	Trauma Centre, Lalitpur	15	03
8	Trauma Centre, Barabanki	15	04
9	Trauma Centre, Hardoi	15	03
10	Trauma Centre, Ghaziabad	15	04
11	Trauma Centre, R.M.L. Lucknow	15	05
12	Trauma Centre, Jaunpur	15	03
13	Trauma Centre, Kannauj	15	02

14	Trauma Centre, Pt. Din Dayal Varanasi	15	04
15	Trauma Centre, Bulandshahr	15	04
16	Trauma Centre, Firozabad	15	04
17	Trauma Centre, Banda	15	03
18	Trauma Centre, Azamgarh	15	06
19	Trauma Centre, Unaav	15	02
20	Trauma Centre, Sonbhadra	15	02
21	Trauma Centre, Ballia	15	00
22	Trauma Centre, Sitapur	15	00
23	Trauma Centre, Jhansi	15	00
24	Trauma Centre, Moradabad	15	00
25	Trauma Centre, Lakhimpur Kheri	15	00
26	Trauma Centre, Hathras	15	00
27	Trauma Centre, Saharanpur	15	01

68. Thus at Allahabad, Trauma Centre is under-construction and non-functional according to above information.

69. With regard to information pertaining to medical scheme for pregnant ladies, delivery of children and child maintenance, it is stated that various schemes have been launched, details whereof are as under:

(i) **Janani Suraksha Yojna (JSY))** has been launched for the benefit of pregnant lady for the financial year 2017-2018 (From April 2017 to October 2017), under which, the total number of beneficiaries are 13,72,861.

(ii) **Janani Shishu Suraksha Karyakram (JSSK)** has been launched for the benefit of pregnant lady for the financial year 2017-2018 (From April 2017 to October, 2017), under which, the total number of beneficiaries are 99,67,779.

(iii) **Pradhanmantri Surakshit Matritva Abhiyaan (PSMA)** has been launched for the benefit of pregnant lady for the financial year 2017-2018 (From April 2017 to October,

2017), under which, the total number of beneficiaries are 3,42,961.

(iv) In order to provide effective diabetes management system, a **Gestational Diabetes Management (GDM)** Scheme has been launched. The programme is running in 18 Divisional District Headquarters as Pilot Project and in those 18 Districts, trained staff has been provided, whose training has already been completed on 24.04.2017 and **necessary equipments like Glucometers, Lancet and Strips procurement has been completed in all 18 Districts.**

(v) However, regarding child maintenance keeping its commitment to decrease IMR (Infant Mortality Rate) Government of Uttar Pradesh has implemented **Facility Based New born Care Program in State.** Under this program following units are being established in phased manner across the State.

(vi) **Newborn Care Corners (NBCC)** have been established in labour rooms to provide immediate care to Sick new born.

(vii) **Newborn Stabilization Units (NBSU)** are being established at FRUs/CHCs for treatment of sick new born as per GOI Guidelines. Severely sick new born referred to higher centre after stabilizatioin. **Since April 2017 to September 2017 total 11376 newborns had been treated.**

(viii) Sick Newborn Care Units are being established in phased manner across the State at DWH, other district level hospitals and selected medical colleges to care and manage sick and critical new-born babies till 28 days of life. Total admission in last year from April 2016 to March 2017 is 55288 and from April 2017 to October 2017 is 52511.

70. It is further stated that following schemes relating to the diseases of Tuberculosis, Leprosy, Infectious diseases, Encephalitis, Blindness, Polio etc. have been launched:

i. Revised National Tuberculosis Control Programme (RNTCP)

ii. National Leprosy Eradication Programme (NLEP)

iii. Infectious diseases Surveillance Programme (IDSP)

iv. Acuted Encephalitis Syndrome/Japanes Encephalitis Syndrome (AES/JES)

v. National Blindness Controal Programme (NBCP)

vi. National Vector Born Diseases Control Programme (NVBDCP)

vii. Non-communicable disease (NCD)

viii. National Immunization Programme(NIP)

ix. Pulse Polio Programme (PPP)

x. National Tobacco Control Programme (NTCP)

xi. National Mental Health Programme (NMHP)

xii. National Iodine Deficiency Disorders Control Programme (NIDDCP)

xiii. National Fluorosis Control Programme (NFCP)

Medical Education and attached Hospitals

71. P.S.M.E. Sri Rajinesh Dubey in a separate affidavit has said that Department of Medical Education plays a pivotal role in developing Medical and Para Medical personnel to cater health needs of State. It also plays role in establishment and maintenance of well-equipped teaching institutions which are premier referral Centres for peripheral hospitals. Medical Education Department facilitates a comprehensive medical education via various Medical, Dental Institutes, Universities and Para Medical Colleges in State of U.P. There are 13 Medical Colleges, 2 Medical Universities, 4 Autonomous Medical Institutes, 2

Non-Autonomous Medical Institutes in State of U.P., details whereof are as under:

S.N.	Name of the Institution	Details
1.	Medical Colleges	(i) Allahabad (ii) Kanpur (iii) Agra (iv) Meerut (v) Jhansi (vi) Gorakhpur (vii) Ambedkar Nagar (viii) Kannauj (ix) Jalaun (x) Saharanpur (xi) Azamgarh (xii) Banda (xiii) Badau
2.	Medical Universities	(i) King George Medical University, (KGMU), Lucknow (ii) U.P. Ayuvigayan University Safai, Etawah
3.	Autonomous Universities	(i) Sanjay Gandhi Post Graduate Institue, (SGPGI), Lucknow (ii) Dr. Ram Manohar Lohia Institute (RML), Lucknow (iii) Govt. Institute of Medical Sciences Greater Noida, (iv) Super Speciality Pediatric Hospital and Post Graduate Teaching Institute, Noida
4	Non-Autonomous Medical Institutes	(i) J.K. Cancer Institute (ii) Laxmipati Singhania Cardic Institute, Kanpur

72. Budgetary allocation for Medical Education in F.Y. 2016-17 and 2017-18 and Institutions are details as under:

(Rs. in Lacs)

S.N.	Head under which amount was spent	F.Y. 2016-17		F.Y. 2017-18	
		Budgetary allocation	Expenditure	Budgetary allocation	Expenditure
1	Pay	14492.43	17317.99	38362.76	17796.73
2	Wages	0.60	0.38	1.00	0.00
3	Dearness Allowance	19702.88	12775.91	2301.78	2331.25
4	Travelling Allowance	28.75	48.78	28.75	10.35
5	Transfer Travel Allowance	8.75	0.67	8.75	0.00
6	Other Allowances	1539.58	1205.73	1877.45	806.90
7	Honorarium	0.40	0.31	0.40	0.00
8	Office Expenditure	73.84	72.85	73.84	45.90
9	Electricity Liability	4415.00	4775.32	4415.40	3470.10
10	Water Tax/Sewarage	568.80	622.16	568.80	406.16
11	Stationery and printing of forms	51.38	52.55	50.71	32.65
12	Office Furniture and Eqipments	375.80	214.25	100.80	4.62
13	Expenditure on Telephone	13.15	9.93	13.15	6.32
14	Staff Car and Other Vehicles	120.00	2.20	50.00	0.00
15	Maintenance of Vehicles and Petrol	57.65	53.47	57.65	24.33
16	Expenditure for Commercial and Specialised Services	4848.53	4709.96	4843.53	2561.05
17	Rent, Cess and Ownership Tax	904.00	1326.90	904.00	678.19
18	Publication	6.20	3.62	6.20	1.07
19	Advertisement, Sale etc.	15.50	7.12	15.50	1.60
20	Grant in Aid-General (Non-salaried)	39495.00	37305.03	35366.01	27133.12
21	Scholarship and Stipend	14892.81	13535.50	17967.44	9383.73
22	Large Construction Work	218401.13	173570.91	100494.04	31359.77
23	Small Construction Work	156.30	154.80	56.80	15.15

24	Machines, Equipments	47550.02	42650.00	13232.02	400.00
25	Maintenance	3108.05	1739.08	3019.01	521.03
26	Investment/Loan	100.00	0.00	100.00	0.00
27	Grant in Aid-General (Pay)	94500.00	88500.00	110695.00	72584.71
28	**Medicines and Chemicals**	**6327.07**	**5974.48**	**6327.07**	**3367.18**
29	**Requirements Relating to Hospitals**	**97.20**	**85.00**	**95.20**	**47.49**
30	Food Expenditure	265.05	305.44	265.05	187.04
31	Other Expenditure	673.55	917.10	635.25	405.50
32	Material and Supply	1098.30	1309.70	1048.30	802.43
33	Journey for Training and Other incidental Expenditure	1.73	0.10	1.64	0.00
34	Leave Travel Concession	9.44	0.60	9.35	0.00
35	Computer Hardware/Software Expenditure	70.66	69.11	1047.66	2.08
36	Maintenance of Computer and Stationery	44.70	46.01	44.70	25.43
37	Medical Expenditure	170.50	197.92	102.30	76.67
38	Uniform Expenditure	6.80	3.35	6.80	0.47
39	Arrears of Revised Pay (State)	0.00	0.00	2313.70	0.00
40	Arrears of Revised Pay (State)	0.00	0.00	6036.99	0.00
Total		**474191.55**	**409564.23**	**352544.80**	**174489.02**

73. Funds received from Government of India under Health Maintenance Schemes in the last five years are detaild as under:

(Rs. in Crores)

S.N.	**Name of Scheme**	**Funds/ Allocations received from Government of India**
1	Establishment of new medical colleges	500.10

2	Enhancement of Post Graduate (PG)	35.25
3	Establishment of Trauma Centres	57.78
4	ICMR (Indian Counsel of Medical Research)	23.0451
Total		**616.1751**

74. Funds received for Medical Colleges are in respect of State Medical Colleges at Faizabad, Basti, Bahraich, Firozabad and Shahjahanpur. Funds were received for establishing “Trauma Centres” in Government Medical Colleges at Kanpur, **Allahabad**, Jhansi, Gorakhpur, Agra and Meerut.

75. With regard to sanctioned strength of Doctors in Medical Colleges/Institutes/Universities, it is said that total 3389 posts are sanctioned in various categories, out of which, 2162 are filled (1760 on regular basis and 402 on contractual basis. 1227 posts are vacant. Process for selection of vacant seats has already been initiated. Details of sanctioned posts, working staff and existing vacancies are as under:

S.N.	Name of Medical College	Posts	Sanctioned	Filled		Total no. of posts filled	Posts Vacant
				Regular	Contract-ual		
1	Kanpur	Professor	56	15	06	21	35
		Associate Professor (Sah Acharya	56	23	07	30	26
		Lecturer/ Assistant Professor	121	80	23	103	18
		Others (LMO, Veterinary Officer)	03	01	0	01	02
2	Heart Instiute, Kanpur	Professor	05	03	02	05	00
		Associate Professor (Sah Acharya	06	02	03	05	01
		Lecturer/ Assistant Professor	23	12	02	14	09
3	J.K. Cancer Institute,	Professor	01	01	00	01	00

	Kanpur	Associate Professor (Sah Acharya	06	02	01	03	03
		Lecturer/ Assistant Professor	06	07	02	09	-3
4	Allahabad	Professor	41	16	16	32	09
		Associate Professor (Sah Acharya	52	25	14	39	13
		Lecturer/ Assistant Professor	101	71	15	86	15
		Others (LMO, Veterinary Officer)	03	01	00	01	02
5	Agra	Professor	48	19	09	28	20
		Associate Professor (Sah Acharya	71	23	10	33	38
		Lecturer/ Assistant Professor	118	92	16	108	10
		Others (LMO, Veterinary Officer)	03	01	00	01	02
6	Jhansi	Professor	26	07	11	18	08
		Associate Professor (Sah Acharya	42	15	15	30	12
		Lecturer/ Assistant Professor	75	43	21	64	11
		Others (LMO, Veterinary Officer)	03	01	00	01	02
7	Meerut	Professor	37	20	11	31	06
		Associate Professor (Sah Acharya	54	24	08	32	22
		Lecturer/ Assistant Professor	91	47	24	71	20
		Others (LMO, Veterinary Officer)	03	01	00	01	02
8	Gorakhpur	Professor	23	10	10	20	03
		Associate Professor (Sah Acharya	37	22	12	34	03
		Lecturer/	70	38	20	58	12

		Assistant Professor					
		Others (LMO, Veterinary Officer)	03	01	00	01	02
9	Ambedkar Nagar	Professor	24	03	01	04	20
		Associate Professor (Sah Acharya	29	01	02	03	26
		Lecturer/ Assistant Professor	47	32	10	42	05
		Others (LMO, Veterinary Officer)	05	00	00	00	05
10	Kannauj	Professor	24	05	04	09	15
		Associate Professor (Sah Acharya	28	10	07	17	11
		Lecturer/ Assistant Professor	52	27	07	34	18
		Others (LMO, Veterinary Officer)	03	00	00	00	03
11	Jalaun	Professor	23	01	04	05	18
		Associate Professor (Sah Acharya	25	03	07	10	15
		Lecturer/ Assistant Professor	47	20	11	31	16
		Others (LMO, Veterinary Officer)	02	00	00	00	02
12	Azamgarh	Professor	24	01	04	05	19
		Associate Professor (Sah Acharya	26	05	06	11	15
		Lecturer/ Assistant Professor	45	26	14	40	05
		Others (LMO, Veterinary Officer)	05	00	00	00	05
13	Saharanpur	Professor	22	00	05	05	17
		Associate Professor (Sah Acharya	27	00	13	13	14
		Lecturer/ Assistant	46	25	11	36	10

		Professor					
14	Banda	Professor	14	01	04	05	09
		Associate Professor (Sah Acharya	19	02	10	12	07
		Lecturer/ Assistant Professor	34	10	16	26	08
15	Badaun	Professor	20	1	1	2	18
		Associate Professor (Sah Acharya	29	0	1	1	28
		Lecturer/ Assistant Professor	40	12	6	18	22
16	RMLIMS, Lucknow	Professor	39	15	0	15	24
		Associate Professor (Sah Acharya	48	31	0	31	17
		Lecturer/ Assistant Professor	112	82	0	82	30
17	U.P. Ayurvedic Sansthan, Safai, Etawah	Professor	40	45	0	45	-5
		Associate Professor (Sah Acharya	80	31	0	31	49
		Lecturer/ Assistant Professor	162	85	0	85	77
18	S.G.P.G.I., Lucknow	Professor	53	27	0	27	26
		Associate Professor (Sah Acharya	19	0	0	0	19
		Lecturer/ Assistant Professor	254	170	0	170	84
19	K.G.M.U., Lucknow	Professor	91	169	0	169	-78
		Associate Professor (Sah Acharya	132	80	0	80	52
		Lecturer/ Assistant Professor	414	169	0	169	245
20	S.S.P.G.T.I., NOIDA	Professor	17	04	0	04	13
		Associate Professor (Sah Acharya	24	13	0	13	11
		Lecturer/ Assistant Professor	23	17	0	17	06

21	Rajkiya Ayurvedic Sansthan, NOIDA	Professor	06	0	0	0	06
		Associate Professor (Sah Acharya	14	06	0	06	08
		Lecturer/ Assistant Professor	17	08	0	08	09
			3389	1760	402	2162	1227

76. Aforesaid chart strangely enough demonstrate a very pathetic state of affairs, inasmuch as almost in all State Medical Colleges a large number of vacancies of Teachers are existing. At some places existing vacancies are to the extent of 50% of sanctioned strength. For example, in Ambedkar Nagar against 24 sanctioned posts of Professors and 29 Associate Professors, existing vacancies are 20 and 26, respectively. Similarly, in Kannauj, against 24 sanctioned posts of Professors and 28 posts of Associate Professor, number of existing vacancies are 15 and 11, respectively. At Budaun, even in the cadre of Lecturer/Assistant Professor, against sanctioned strength of 40, 22 are vacant. In K.G.M.U., Lucknow which is a pioneer institution, vacancies of Lecturer/Assistant Professors are 245 against sanctioned strength of 414, meaning thereby that almost 60% posts are vacant. Similarly, at SGPGI, Lucknow, vacancies of Lecturers/Assistant Professors are 84 against sanctioned strength of 254 i.e. almost one-third posts are lying unfilled and in the cadre of Associate Professors, all 19 sanctioned posts are lying vacant. Another prestigious institution at Safai, (Etawah), we find that in the cadre of Lecturers/Assistant Professors, against sanctioned strength of 162, 77 vacancies are existing. This quality and standard of medical education in State of U.P., in the light of these facts, is self speaking and we find it difficult to express the same in words.

77. Similarly in the aforesaid Medical Colleges/Institutes/ Universities, etc., Non-Teaching Staff's sanctioned posts in different categories, working and vacancies are as under:

S.N.	Medical	Sanctioned Posts	Posts filled	Vacant Posts

	College/ Institute/ University	Group 'B'	Group 'C'	Group 'D'	Group 'B'	Group 'C'	Group 'D'	Group 'B'	Group 'C '	Group 'D'
1	Kanpur	66	223	355	11	166	260	55	57	95
2	Agra	44	334	775	10	181	570	34	153	205
3	Meerut	46	199	486	46	145	347	00	54	139
4	Allahabad	213	191	550	213	170	405	00	21	145
5	Jhansi	137	278	384	70	123	185	67	155	199
6	Gorakhpur	145	125	340	142	95	158	03	30	182
7	Kannauj	601	344	48	235	103	23	366	241	25
8	Jalaun	273	139	15	87	28	03	186	111	12
9	Ambedkar Nagar	292	274	75	108	73	27	184	201	48
10	Azamgarh	463	223	68	166	52	05	297	171	63
11	Saharanpur	191	73	24	31	04	01	160	74	23
12	Banda	83	97	00	56	08	00	27	89	00
13	Badau	96	79	00	00	04	00	96	75	00
14	Heart Institute, Kanpur	82	52	50	65	20	32	00	12	32
15	J.K. Cancer Institute, Kanpur	03	32	64	03	20	32	00	12	32
16	K.G.M.U., Lucknow		3035	2024		1154	1396		1881	628
17	RMLIMS, Lucknow		325	05		67	03		258	02
18	SGPGI, Lucknow		983	528		541	333		442	195
19	RIMS, Safai, Etawah		1412	292		833	181		579	111
20	SSPHGTI, NOIDA		328	00		175	00		153	00
21	Rajkiya Ayurvigyan Sansthan,		501	00		00	00		501	00

	NOIDA									
TOTAL		**2735**	**9252**	**6083**	**1243**	**3962**	**3941**	**1492**	**5290**	**2142**
Grand Total				**18070**			**9146**			**8924**

78. Like teaching staff, non-teaching staff is also largely vacant almost to the extent of 50% inasmuch as against sanctioned strength of 18070 actual working staff are 9146 and 8924 posts are vacant. Individually, in some places, vacancies are to the tune of 80 to 90%.

48. Under Head of "funds received for Medicines", details for F.Y.2015-16, 2016-17 and 2017-18 are given as under:

(In Lacs)

S. N	Medical College/Hospital	Budgetary Allocation in F.Y. 2015-16		Budgetary Allocation in F.Y. 2016-17		Budgetary Allocation in F.Y. 2017-18 Sanctioned
		Sanctioned	Expenditure	Sanctioned	Expenditure	Sanctioned
1	SN Hospital, Agra	453.00	453.00	650.00	555.33	400.00
2	LLR Hospital, Kanpur	570.00	570.00	794.00	793.99	528.00
3	New Swaroop Rani Nehru Hospital, Allahabad	533.10	531.82	670.00	479.59	400.00
4	Vaksh Hospital, Kanpur	57.50	57.52	63.25	63.25	63.25
5	Apar India Hospital, Kanpur	78.20	78.18	75.02	75.02	75.02
6	Maharani Lakshmibai Hospital, Jhansi	453.00	452.98	650.00	424.68	400.00
7	Sardar Valabhbhai Patel Hospital, Meerut	609.00	608.92	782.40	696.54	532.40
8	Nehru Hospital, Gorakhpur	624.00	623.94	782.40	771.25	532.40
9	Contagious Decease	27.50	27.49	30.00	29.99	30.00

	Hospital, Kanpur					
10	Medical College, Gorakhpur	150.00	148.24	165.00	149.94	165.00
11	Heart Institute, Kanpur	441.50	441.50	650.00	650.00	400.00
12	J.K. Cancer Insitute, Kanpur	80.00	60.64	100.00	67.44	50.00
13	Medical College, Azamgarh	247.50	247.50	325.00	324.93	300.00
14	Medical College, Banda	118.54	118.22	200.00	146.16	100.00
15	Medical College, Badau	100.00	90.81	300.00	197.28	300.00
16	Medical College, Kannauj	230.00	229.99	436.25	435.15	350.00
17	Medical College, Jalaun	233.00	232.83	250.00	249.81	150.00
18	Medical College, Saharanpur	300.00	179.87	350.00	258.80	350.00
19	Medical College, Ambedkar Nagar	350.00	349.99	350.00	350.00	350.00
20	MD Eye Hospital, Allahabad	0.00	0.00	0.00	0.00	0.00
21	Para Medical College, Jhansi	0.00	0.00	0.00	0.00	2.00
Total		**5655.84**	**5503.44**	**7623.32**	**6719.15**	**5478.07**

79. On the one hand, poor people are not being properly supplied medicines as is complained by petitioners in a demonstrable way and on the other hand, we find that in two F.Y. of 2015-16 and 2016-17 in most cases, allocated funds have not been completely utilized and a substantial amount has been left unspent. Condition of Hospitals attached with Medical Colleges at Allahabad, Jhansi, Meerut, and Saharanpur has been miserable inasmuch as at Allahabad, in F.Y. 2016-17, Rs. 670 Lacs were sanctioned but only Rs. 479.59 Lacs could be spent. Similarly at Jhansi, Rs. 650 Lacs were sanctioned and Rs.

424.68 Lacs were spent. This negligence in keeping budgetary allocation unspent and that too under the Head of “Medicines”, which are to be provided to patients free of cost, is nothing but a serious negligence on the part of authorities concerned. We are surprised that no action has been taken in the matter. There is a complete lack of sense of accountability and answerability

80. With regard to Autonomous Medical Institutes and Medical Universities, it is said that procedure of allotment of budget is different as they are allocated lump sum money under the umbrella of Non-Salary Head for miscellenous purposes, including supply of medicines. Besides, there is provision of revolving fund for drugs and consumables in SGPGI and RML, Lucknow, in which money charged from patients is deposited and payment to drug manufacturers are made for drugs and consumables. Detailed allocation for F.Ys. 2015-16, 2016-17 and 2017-18, for these institutes are as under:

(In Lacs)

S. N.	Institution/Medical College	F.Y. 2015-16		F.Y. 2016-17		F.Y. 2017-18	
		Grant in Aid	Expenditure	Grant in Aid	Expenditure	Grant in Aid	Expenditure
1	Sanjay Gandhi Postgraduate Institute of Medical Sciences	8000.00	5000.00	11700.00	6000.00	11700.00	400.00
2	Dr. RMLIMS, Lucknow	2500.00	3500.00	2500.00	4000.00	2500.00	00
3	RIMS, Safai, Etawah	3615.00	5000.00	3965.00	0.00	3965.00	00
4	KGMU, Lucknow	7160.00	3200.00	9900.00	15500.00	6900.00	00
5	Cancer Institute, Lucknow	00	00	1000.00	4600.00	1000.00	00
6	Centre of Bio Medical Research,	495.00	300.00	450.00	300.00	450.00	00

	Lucknow						
7	RIMSR, Safai, Etawah	850.00	300.00	1100.00	0.00	1100.00	00
8	Super Speciality Bal Hospital and Post Gradituate Institute, NOIDA	500.00	00	2700.00	00	2700.00	00
9	Medical College, Greater Noida	500.00	00	750.00	00	300.01	00

81. In the prestigious institution like SGPGI, Lucknow, RIMS, Safai, Etawah and other institutions condition of budgetary allocation and expenditure is really deplorable. In SGPGI against aid of Rs. 8000 Lacs in F.Y. 2015-16 only Rs.5,000 Lacs utilized and in F.Y. 2016-17 Rs. 11,700 Lacs were allocated whereagainst only Rs. 6,000 Lacs could be spent. In F.Y. 2017-18 Rs. 11,700 Lacs has been sanctioned but till December, 2017 when the affidavit was filed only Rs. 400 Lacs has been spent. This is beyond comprehension to the mind of a prudent person particularly when number of patients visiting these institutions is very large.

82. With regard to patients attending Government Medical Colleges/Medical Institutes and Medical Universities, it is said that from December, 2016 to November 2017, 1,00,77,823 Outdoor patients and 7,60,528 Indoor patients were attended. Further break up at Medical College/Institutes/University-wise is given in Annexure-10 to the Affidavit.

83. In F.Y. 2016-17, Budgetary Allocation for maintenance of machines and apparatus is that of Rs.1190.36 Lacs; For F.Y. 2017-18 it is Rs.2400 Lacs out of which only Rs. 1775.52 Lacs has been released.

84. P.S.,M.E. has also stated that in 11th Five Year Plan, Trauma Centres have been established in Government Medical Colleges at

Kanpur, Allahabad, Jhansi, Gorakhpur, Meerut and Agra. Budgetary Allocation therefor is detailed as under:

(Rs. in Lacs)

S.N.	Name of Medical College	Amount Sanctioned	Amount Released	Unspent Amount
1	Kanpur	963.00	659.00	304.00
2	Agra	963.00	659.00	304.00
3	Allahabad	963.00	735.00	228.00
4	Jhansi	963.00	855.00	108.00
5	Gorakhpur	963.00	811.00	152.00
6	Meerut	963.00	80.00	883.00
Total		**5778.00**	**3799.00**	**1979.00**

85. It is also said that Trauma Centres are in working condition in Medical Colleges of Kanpur, Agra, Allahabad, Jhansi and Gorakhpur and they are functional for the last 3 to 4 years. Exact averments contained in para 11 of the affidavit of Dr. Rajneesh Dubey, PSME reads as under:

> *"**Trauma Centres are in working condition in medical** colleges of Kanpur, Agra, **Allahabad**, Jhansi and Gorakhpur and **they are functional for the last three to four years**. The Trauma Centres of Meerut medical college is in process. One Trauma Centre in Lucknow is being handed over from KGMU to SGPGI Lucknow. Already another trauma centre in KGMU and one trauma centre in U.P. AyurVigyan (Medical) University, Safai, Etawah, are running smoothly for the last few years." (emphasis added)*

86. With regard to Schemes for Women Welfare, affidavit of P.S.M.E., in para 12, says as under:

> *"That with regard to point no. (xi) of order dated 10-10-2017 of this Hon'ble Court, it is submitted that vide G.O. Of women welfare Department of Govt. Of U.P. Dated 14-09-2016 regarding the establishment of **new Burn Units in 05***

> ***medical colleges of the state for the acid attack women victims under the Rani Laxmi Bai Mahila Samman Kosh have been sanctioned.*** *Copy of which is being annexed herewith and is marked as Annexure No.14 to this affidavit. It is further submitted that* ***burn wards are running in 12 state medical colleges, except Badaun Medical College.”***

87. Allocation of funds to different Medical Colleges vide Government Order dated 14.09.2016 (Annexure 14 to the affidavit) is as under:

(Rs. in Lacs)

S.N.	**Name of Institution**	**Amout**
1	BRD Medical College, Gorakhpur	752.00
2	LLRM Medical College, Meerut	542.28
3	MN Medical College, Allahabad	616.13
4	MLB Medical College, Jhansi	205.66
5	SN Medical College, Agra	335.03
Total		**2451.10**

88. When these two affidavits were filed on 4.12.2017, learned counsel for petitioner disputed certain facts stated therein and also pointed out that various facts stated therein are vague and details have not been given. On several other aspects, facts stated are incorrect. For example, in the affidavit of P.S.M.E. it is said that Trauma Centres are functional in certain Medical Colleges including Allahabad for last 3 to 4 years but this is factually incorrect. It was a serious allegation made by petitioners' counsel. Therefore we found it appropriate to have those facts verified so as to test veracity of facts disclosed in the two affidavits. We, therefore, passed an order on 04.12.2017, appointing an “Advocates Commission” consisting of two Advocates to visit District Government Hospitals as well as Hospital attached to Medical College, Allahabad and submit report. Paragraphs 3 and 4 of our order dated 4.12.2017 reads as under:

> *"3. We, therefore, find it appropriate to appoint an Advocates Commission consisting of* ***Sri Rajeev Sharma, Advocate, and Sri Pradeep Kumar Pandey, Advocate, who shall visit District Government Hospitals in Allahabad City as also Medical College Hospital to find out the conditions of working position of staff etc. and submit report by 06.12.2017.***
>
> *4. District Magistrate, Allahabad is directed to provide conveyance facility to the aforesaid Advocates. Senior Superintendent of Police, Allahabad shall provide Police Escort for their safety and security in discharge of aforesaid function. Besides, we also direct Chief Medical Officer, Allahabad and Principal, Allahabad Medical College to provide all assistance including making requisite information available to the aforesaid Commission for compliance of this order. " (emphasis added)*

89. Two Advocate Commissioners Sri Rajiv Sharma and Pradeep Kumar Pandey visited Medical College's Hospital i.e. Swaroop Rani Nehru Hospital. They also visited District Hospitals i.e. Moti Lal Nehru Hospital (Kalvin Hospital), Taj Bahadur Sapru (Beli) Hospital and Government T.B. and Chest Hospital, Taliarganj.

90. Swaroop Rani Nehru Hospital is attached to Medical College while remaining three are maintained by Department of Medical, Health and Social Welfare.

91. Commissioners' Report in respect of Trauma Centres at Hospital/Medical Colleges reads as under:

> *"**Medical College Hospital***
>
> *1. That on inspection of medical college hospital it was found that the* ***building of newly constructed Trauma Centre was incomplete.*** *On* ***enquiry, the Principal of Medical College informed that it would take at least two months of rapid work for completion only after he receives the***

fund sought by him from the State Government in this regard.

2. That regarding the ***machines and equipment to be placed in this Trauma Centre, the Principal informed that these machines have been placed in the store-room of one of the Operation Theatre which was also under repairs. All these machines were found to be locked in the store room*** *but it was informed that they are used as and when required.*

3. That it was also informed that the ***emergency room is being used as partial Trauma Centre. There were 6 beds in it in which oxygen equipment was connected only with 2 beds.*** *It was informed that the patients after being given initial treatment are sent to the respective departments. The* ***general condition of the emergency room was very pathetic.***

4. That two out of the three patients admitted over there, made complaints for the delay in attending them.

5. That the condition of ***emergency ward was all the more horrible****. It was very* ***difficult to breath over there by*** *a normal man. There was no A.Cs. The windows were blocked by the fixed glass. Thus there* ***was no scope for any fresh air or any cross ventilation. One of the patients who was brought from ICU, was repeatedly requesting for being shifted back to ICU or to any other place.***

6. That at the registration counter, there was huge rush of male and female patients with majority of them standing over there for more than 40 minutes. This was so despite the fact that there were 5 counters for registration and distribution of parchas.

7. That there was ***only one MRI machine and it was found that there was backlog of 20 days.*** *The current patients were being given the date of 28 December, 2017 for MRI. The Principal as well as the Doctors available over there informed that* ***this pendency is due to non-availability of technicians. Not a single technician has been provided by the supplier of the MRI machine.*** *This technician also is working without payment on the pretext of getting the job*

when the post of technician is sanctioned by the government. This technician is said to be time taking as he has to attend the patients, their positions as well as the machines.

8. That there ***was only on C.T. Scan Machine but there were no patients around it nor anybody was found waiting for the same.*** *When asked about it, the* ***doctors available over there informed that there was no pendency of patients except in exceptional cases where medicines etc. are to be given before C.T. Scan.***

9. That ***on visit to general ward when the C.T. Scan reports kept on the side of the patients' beds were checked, it was found that they were not from medical college. C.T. Scan reports of three patients were kept on the table near their bed and all of them were from outside when asked all the three patients informed that they were directed by the hospital*** *staff to get the C.T. Scan from outside.*

10. That the patients informed that ***several private ambulances (Maruti Van) remain standing inside the campus of medical college for taking their patients to private C.T. Scan and MRI Centre****. When this fact was checked, two* ***Vans bearing number U.P. 70 ET 6474 and U.P. 70 ET 6087 were found standing for carrying the patients to private C.T. Scan and MRI Centre.*** *One attendant of the patient namely Mahendra Pandey having mobile no. 9335420584 informed that* ***he was referred by the staff of Medical College to United Diagnostic for C.T. Scan.***

11. That the condition of ***ICU Cardio was also not proper. There were 18 beds in the ICU and 22 beds outside it but there were only 2 ventilators and only 5/6 monitors were operational.*** *So clearly there was requirement of more ventilators and more operational monitors.*

12. That this ***ICU Cardiology was also suffering from suffocation*** *as the windows were blocked by fixed glass and there was no scope for any fresh air on cross ventilation. No doubt some window A.Cs. were there but in the month of December, there was no question of turning them on.*

13. That on the question of ***cleanliness*** *it was informed that this* ***is done only in one shift.***

14. That the Principal and his staff informed that when the medical college was established in the year 1961, there were only 300 beds but the sanctioned strength of ward boys was 104. Now in 2017 the numbers of beds have been increased from 300 to 1200 but the sanctioned strength of ward boys still remains the same at 104.

15. That the Principal and staff of Medical College themselves drew the attention of commission towards-

a) ***garbage concentration inside the campus*** *as* ***there was no disposal of waste by the officials of Nagar Nigam*** *despite their repeated requests.*

b) there were ***many strayed animals like cows, buffaloes and dogs inside the campus*** *which are continuous source of nuisance for patients as well as staff.*

c) there were ***many unauthorized vendors of fruits, tea, samosas and golgappas inside and immediate outside the campus.*** *All* ***these vendors are not turned out despite repeated complaints made to the police. These unauthorized vendors create a nuisance in the movement of ambulances*** *of the Medical College.*

d) some of the young doctors made request that they have not been allotted a flat inside the campus and they have to rush to the Medical College from distant places like Nani in odd hours. This allotment of flats is done by the District Magistrate and many of the flats are allotted to persons who are not even in medical profession.

e) ***No security staff in available to ensure smooth functioning*** *of medical college and protection of the belonging of the patients. The Princiopal and staff of the Medical College expresses their inability to engage private security staff as the permission of the government is not there. ”*

92. With respect to other three Hospitals, report reads as under:

*“****Moti Lal Nehru Hospital (Kalvin Hospital)***

1. That on inspection of this hospital, it was found that ***there was no****-*

a) ***ICU***

b) ***CCU***

c) ***Cardiology Unit***

d) ***Ventilators***

e) ***Oxygen concentration***

2. That on verification it was informed that there were 1869 OPD patients/fresh registration-parchas on 05.12.2-17 alone. Apart from this, the total ***strength of beds was 156 and almost all the beds were occupied****. In such a huge turnout of patients, the above facilities should have been there.*

3. That there was just ***two registrations counters to tackle*** *such huge rush of patients.*

4. That the commission was shown of ***two wards of 25 beds each.*** *They are* ***nicely constructed wards but there were no patients in it*** *and it was informed by the Chief Medical Superintendent that* ***it was not functional because of the non-availability of staff nurses.*** *If the sanctioned post of nurses are promptly filled, these two wards can be made operational.*

5. That it was also informed that there are ***73 sanctioned post*** *of* ***Class-IV employees*** *out of* ***which 20 posts are vacant*** *and no appointment has been made since 2008 on there Class-IV posts.*

6. That there was only ***one lift and that too was out of order****.*

7. That the ***toilets were in extremely bad shape*** *despite the fact that the staff had full knowledge of the visit of the commission.*

8. That the ***Bio-medical waste management facility for disposal of garbage was available in the hospital and it was fully functional strangely enough this facility is not there in the medical college.***

9. That the commission wanted to inspect the ***operation Theatre*** *but it* ***was locked*** *and its* ***keys could not be found despite waiting for reasonable amount of time.***

<u>Tej Bahadur Sapru (Beli) Hospital</u>

1) That on inspection it was found that the ***newly constructed Trauma Centre*** *was in good shape but it was* ***not functional because of the non-availability of equipments*** *and the* ***requisite manpower to handle it****. It was informed that in order to run the Trauma Centre,* ***6 Doctors, 2 Anesthetic, 2 Orthos and 2 General Surgeon alongwith 18 nurses are required.***

2) That strangely enough the ***situation is vice versa in Medical College where equipments and staff is available for Trauma Centre but the structure is incomplete whereas in this hospital*** *the structure of Trauma Centre is complete but equipment and staff is not available.*

3) That ***neither the ventilation nor the central oxygen plant was found in the hospital****.*

4) That there ware ***only 5 private wards*** *which are much less and there is a requirement of more private wards.*

5) That the hospital has strength of 199 beds plus 10 beds in Trauma Centre. Majority of these 199 beds were found to be occupied.

6) That considering the huge area and the strength of beds, the necessity of 250 KWA generator was being felt by the CMS as well as staff of the hospital.

7) That the commission found one ambulance with life supporting system inside the hospital. On verification, the Chief Medical Superintendent informed that there are 2 ambulances with life supporting system but there is hardly any use of the second ambulance. The hospital will have no objection if the second ambulance is sent to the Medical College for the welfare of serious patients. The CMS further informed that ***Medical College does not have any such ambulance.*** *The CMS also informed that the payment for 70Km. Per day per ambulance is made whether there is any actual use of the same or not.*

<u>Govt. T.B. and Chest Hospital, Teliarganj</u> *"*

1) On inspection of this hospital, it was found that the ***main gate of the hospital was locked*** *and there was* ***no one to open it****.*

2) Consequently the commission had to enter the hospital from the side gate. The ***emergency room was also locked*** *and no doctor including one on emergency duty was available. However later on one doctor turned up.*

3) That there are ***156 beds for chest T.B. patients*** *and* ***28 beds*** *for* ***Multiple Drug Resistant*** *ward. The* ***occupancy*** *of today i.e. 05.12.2017 was reported* ***to be 116****.*

4) That the ***shortage of nurses*** *and* ***Class-IV employees*** *were reported.*

5) That there are ***no oxygen pipeline*** *and* ***no ambulances in the*** *hospital. The necessity of oxygen pipeline is strongly felt for chest T.B. patients."*

(emphasis added)

93. Above report is self speaking, explaining in detail unfortunate, pathetic conditions prevailing in all the aforesaid Hospitals. Despite recognition of right of medical care and treatment as Fundamental Right and part of Article 21 of Constitution, the way in which the same is being cared and maintained by State is really shocking and disturbing.

94. When this matter was again taken up on 20.12.2017, we received an affidavit sworn by Dr. S.P. Singh, Principal, Moti Lal Nehru Medical College, Allahabad stating therein that two Advocate Commissioners visited Hospital of Medical College, Allahabad on 06.12.2017 and submitted their report. Meeting the facts stated in said report, in reply thereto, affidavit of Principal, in paras 6 to 25 reads as under:

"6. That, the Advocates Commission's report has reported certain facts and after perusal of the same, it is evident that ***certain improvements are required to be made with regard to the facilities to be given to the inmates of the hospitals affiliated with the Medical College, Allahabad.***

The deponent being the Principal of the Moti Lal Nehru Medical College, Allahabad would make all possible efforts to improve the services required to be given to the inmates of the hospitals affiliated with the Medical College, Allahabad.

7. That, what regard to paragraph-1 of the Advocates Commission report, it is submitted that ***civil work of Trauma Centre has been completed****,* ***lift and gas pipe lines have also been completed.*** *Although in the* ***OT and post operative areas are fitted with AC's in the interest of patients, and for proper management of the patients in remaining area, a demand Rs.364.01 Lakhs has been sent to the Urban Development*** *Department through the District Magistrate, Allahabad and Principal Secretary, Medical Education, Government of U.P. Lucknow on 22.09.2017 for installing* ***AC's and power connection****. True photocopy of the letter dated 22.09.2017 is being annexed herewith and marked as Annexure No.1 to this affidavit.*

It is further submitted that a ***reminder letter was again sent*** *through the District Magistrate, Allahabad* ***on 08.12.2017*** *and the Principal Secretary Medical Education, Government of U.P.* ***regarding the aforesaid demand to the Principal Secretary****, Urban Development Department, Government of U.P. regarding the said demand. It is further to be added that the Special Secretary, Medical Education, Government of U.P. vide his letter dated* ***09.12.2017 recommended*** *the release of the proposed amount of Rs.364.01* ***Lakhs for AC and power connection in trauma centre in one installment itself in the Financial Year 2017-18.*** *True photocopies of the letters dated 08.12.2017 and 09.12.2017 are being annexed herewith and marked as Annexure No.2&3 to this affidavit.*

8. That, with regard to paragraph-2 of the Advocates Commission Report, it is submitted that ***trauma patients are treated separately in the separate building****. The* ***Machines are stored in store room*** *because the operation theater is under repair to transform as modular OT. The* ***medical equipments/machines are installed in year 2010-11 and all of them are functional. The few equipments are kept in OT store room and rest are used***

in the surgical ICU and OT-5 where the trauma cases are operated. Details of the patients treated in trauma building is being annexed herewith and marked as Annexure No.4 to this affidavit.

9. That, with regard to paragraph-3 of the Advocates Commission report, it is submitted that the ***emergency room is only a resuscitation room.*** *The patients are examined and classified according to severity of disease and triage system and* ***there are six beds and out of six beds, five beds have the facility of oxygen pipeline system. From there the patient then transferred to presently running three trauma wards, HDU and surgical ICU's for proper treatment.***

10. That, in regard to paragraph-4 of the Advocates Commission report, it is submitted that the patients are attended at once as they reached the respective wards. There could be some delay in case there is ***huge rush of patients and that process is quite natural****.*

11. That, in regard to paragraph-5 of the Advocates Commission report, it is submitted that ***the proposal for renovation of existing emergency wards (orthopedics, surgical male and female wards) an amount Rs.386 Lakh has been demanded from the State Government*** *vide letter dated 22.09.2017, which has already been annexed as Annexure No.1 to this affidavit.*

12. That, in regard to paragraph-6 of the Advocates Commission report, it is submitted that the ***proposal of construction of new waiting hall and six additional registration counters amounting to Rs.70.15 Lakh has already been sent to*** *State Government vide letter dated 22.09.2017. However, the report itself makes it clear that there are five counters operating for the purposes of registration of the patients and it is because of the huge rush, there are further requirement of additional counters, for which request has already been made from the State Government vide letter dated 22.09.2017, annexed as Annexure No.1 to this affidavit.*

13. That, in regard to paragraph-7 and 8 of the Advocates Commission report, it is ***submitted that the M.R.I. and***

C.T. Scan Machines are functional. The demand for creation of the post of Technicians for M.R.I. And C.T. Scan has already been sent to the Director General, Medical Education *& Training, U.P. Lucknow vide letter dated 18.07.2017. True photocopy of the letter dated 18.07.2017 is being annexed herewith and marked as Annexure No.5 to this affidavit.*

14. That, in regard to paragraph-9 of the Advocates Commission report, it is submitted that ***few patients come to the hospital after being referred from private nursing home and various CHCs. These patients have their M.R.I/C.T. already done in their previous admitted places****. The details of M.R.I. And C.T. conducted at SRN Hospital is placed on record in the form of a chart dated 05.12.2017, which is being annexed herewith and marked as Annexure No.6 to this affidavit.*

15. That, in regard to paragraph-10 of the Advocates Commission report, it is submitted that ***some private ambulances come in to the hospital alongwith the patients and they remain standing in the hospital on the request of the patients****. No staff refers patients to Private Diagnostic Centre. However, vide letters date 28.11.2017 and 06.04.2017 the Senior Superintendent of Police, Allahabad and Chauki-Incharge, SRN Hospital have been requested to take action against the erring ambulances as well as vendors operative in hospitals premises. The true photocopies of the letters dated 06.04.2017 and 28.11.2017 are being collectively annexed herewith and marked as Annexure No.7 to this Affidavit.*

19. That, in regard to paragraph-11 and 12 of the Advocates Commission report, it is submitted that the ***cardiology ICU was extended from 6 bedded to 18 bedded. The facility of ventilator and monitors is available on 6 beds.*** *The demand of additional ventilator and monitors has already been made from the State Government. The ICUs are usually have closed windows and ventilated with Acs. The Acs are used as and when required because the cardiac patients are very prone to cold. The* ***proposal of Rs.19.89 Lakhs for strengthening the ACs of ICU cardiology is sent*** *with*

proposal dated 22.09.2017, annexed as Annexure No.1 to this affidavit.

20. That, in regard to paragraph-13 and 14 of the Advocates Commission report, it is submitted that the ***demand to create the post of Safai Karmachari and Ward Boys has been sent to the State Government****. It is to* ***be clarified that cleanliness is done in second shift also.*** *It is also to be submitted that 26 post of Class III & IV is already sanctioned on 11.01.2016. The true photocopy of the Government Order dated 11.01.2016 is being annexed herewith and marked as Annexure No.8 to this affidavit.*

21. That, in regard to paragraph-15(a) of the Advocates Commission report, it is submitted that ***the Superintendent-in-Chief, Medical College, Allahabad made request to Nagar Nigam for solid waste management at selected places and also catching the stray animals. The Principal also directed to the resident of campus to remove the live stock kept by them*** *True photocopies of the letters dated 09.06.2016, 13.07.2016, 28.07.2016, 01.09.2015, 28.09.2015 and 06.04.2017 are being collectively annexed herewith and marked as Annexure No.9 to this affidavit.*

22. That, in regard to paragraph-15(b & c) of the Advocates Commission report, it is submitted that the Superintendent-in-Chief, Medical College, Allahabad by means of his letter dated 06.04.2017 requested the Chauki Incharge to take action against.

23. The unauthorized vendors. True photocopy of letter No. 939 dated 28.07.2016 is being annexed herewith and marked as Annexure No.10 to this affidavit.

24. That, in regard to paragraph-15(d) of the Advocates Commission reprot, it is submitted that the preference has to be given to the young Doctors for the allotment of flats inside the campus, which is done by the District Magistrate. The deponent would emphasize the need of the young doctors to the District Magistrate and would try to ensure that demands of the young doctors be attended in order to allot the residential premises within the campus to improve the

quality of the medical services to the patients of the hospitals affiliated to the Medical College, Allahabad.

25. That, in regard to paragraph-15(e) of the Advocates Commission report, it is submitted that the demand to private security personal has been sent to the Director General, Medical Education & Training, U.P. , on 29.05.2017. True photocopy of the letter dated 29.05.2017 alongwith other paramedical staff is being annexed herewith and marked as Annexure No.11 to this affidavit. "

95. Principal in his affidavit has tried to explain certain facts stated in Commissioners' Report and in respect of some aspects also tried to dispute correctness of facts stated in the Report.

96. PSME in Para 11 of his affidavit stated that Trauma Centres are in working condition in Medical College, Allahabad for the last 3-4 years while Commission found it in the process of completion as even civil work was incomplete. Principal also admits this fact but then has sought to explain that Trauma Patients are being attended in Emergency Wards and the same is being treated as Trauma Centres. We find it difficult that the Principal does not understand difference between "Trauma Centre" and "Emergency Ward". An emergency care control attends patients.

97. However, the facilities needed to run a Trauma Centre are not available in a routine emergency ward. It shows something fishy in the matter and needs investigation an enquiry. When we pointed out this discrepancy and state of affairs to learned Additional Adovate General Sri M.C. Chaturvedi, he said that there is some confusion in the matter. This led us to send another Advocate Commissioner to get photograph of building of Trauma Centres and submit report. We passed following order on 20.12.2017:

"1. An affidavit has been filed, which is sworn by Principal of Medical College, Allahabad. It shows that the Trauma Centre Building is still in process of construction and completion but simultaneously, it also shows that thousands of patients are being given treatment in the Trauma Centre, since 2011.

2. When we asked a specific question to Shri P.K. Pandey, learned Chief Standing Counsel, he was not in a clear position to tell us about actual position of Trauma Centre Building and its functioning.

3. On his request, we appoint Shri Anil Kumar Jaiswal, Advocate (Roll No. 10033/12), as an Advocate Commissioner, to visit S.R.N. Hospital, attached to Medical Collage, Allahabad, accompanying Shri P.K. Pandey, learned Chief Standing Counsel, today itself, in day's time and submit report by tomorrow.

4. Put up tomorrow, i.e., 21.12.2017. "

98. Sri Anil Kumar Jaiswal Advocate visited Trauma Centre at Swaroop Rani Nehru Hospital attached with Medical College at Allahabad and also Emergency Ward and submitted report. Para 2 of report said as under:

"(a) That Trauma Centre building lock had been opened before the Advocate Commissioner on 20.12.2017.

(b) That two story Trauma Centre building is complete.

(c) That electric wiring is completed but ***there is no electric connection.***

(d) That ***A.C. is planted only in O.T.***

(e) That the ***oxygen pipe is completed.***

(f) That ***beds, chairs, tables or any kind of furniture have not been seen by the adovocate commissioner in the Trauma Centre*** *building.*

(g) That the Trauma ***Centre building has not been found in functioning position on 20.12.2017.***

(h) That the ***emergency ward of S.R.N. Hospital is being run in the name of Trauma and emergency service.****"*

(emphasis added)

99. He has also placed on record a number of photographs. A glance at photographs indicates that the Trauma Care building is without proper maintenance and cloths, undergarments etc. of some individuals

were spread for drying, showing that some individuals are using the rooms as their residence.

100. In the aforesaid backdrop, arguments of learned counsel for petitioner, we find, basically are that Medical Health Care in State of U.P. is in pitiable condition. Despite constitutional obligation on the State to provide affordable quality medical care to its citizens, in particular, to poor people, same is not actually being so provided. Condition of Government Hospitals is pitiable, behaviour of Medical Staff is rude. In fact, hospitals are mostly suffering shortage of staff. There is lack of proper attention and attendance to poor patients. Free medicines to poor people, though highly canvassed in various advertisements, but ground level reality is totally different. Mostly medicines are not available. Quality of medicines is also poor. In-genuine expiry date medicines many times are supplied. Whatever funds received for betterment of infrastructure or its maintenance, mostly either siphoned off by persons responsible for maintenance or remain underutilized. There is no system of check or cross-check or deterrent action against erring officials. Even Medical Centres of emergent nature like, Trauma Centres are not maintained properly. Corruption is prevalent all through. In a nutshell, Medical Health Services maintained by State provides bitterest experience to needy ones. It is almost on ventilator and needs strong curative steps.

101. Learned Additional Advocate General Sri M.C. Chaturvedi as well as learned Chief Standing Counsel appearing for respondents stated that whatever condition is of medical services in the State, facts and figures have been placed before Court and they are not treating this litigation as adversarial proceedings but remedial and ready to accept all sorts of constructive proposals for betterment of medical service and would make all out efforts to carry them out.

102. The facts narrated above broadly can be placed in two categories. Firstly, Trauma being faced by poor patients when they attend medical services provided by State; and, secondly, emboldened, recklessness

and carelessness in discharge of duty and siphoning of funds or non utilization thereof in the hands of authorities who are responsible for maintaining public health services so as to deprive poor beneficiaries from the benefit for which funds are allocated.

103. In the first category, facts disclosed by petitioners and the two Secretaries in their affidavits, bring in following deformities in the system:

(A) Poor attendance in medical services-

(i) When she visited Purkaji PHC, no Medical Officer was there and delivery was conducted only by ANM.

(ii) Hole in the bladder i.e. Urethra-Vaginal Fistula detected in private hospital and treatment thereof at SMC, Meerut as also KGMU, Meerut took more than six months.

(B) Lack of infrastructure caused delay in treatment inasmuch as at KGMU it took four months for her to get a bed available and underwent operation on 5.02.2008.

(C) **Corruption:** ANM demanded money at Purkaji, PHC; Deputy Chief Medical Officer pressurized petitioner-1 to give in writing that she had not gone for instrumental delivery and at SMC for treatment and operation again money was demanded by a junior Doctor. Fact remains that even in SMC she was not given treatment at all. At KGMU also she was administered treatment with the intervention of NGO's like Health Watch Forum and Hamsaffar.

(D) **Deficiencies**: Facts and figures disclosed by the two Secretaries with regard to Public Health Service in State of U.P. broadly shows following deficiencies:

(i) Poor infrastructure;
(ii) Short of staff;
(iii) Short of funds

(iv) Under-utilization of funds;

(v) Lack of will to serve people.

(iv) Unaccountability and apathy.

104. It is high time that State must understand that sickness, injury or accident, do not give a prior notice. Death does not wait. With the loss of time, every moment somebody and some families are losing their beloved ones. Some injuries are resulting in permanent disability. The subject of medical care needs an urgent and immediate step else there will be a permanent loss to many.

105. State of U.P. caters to maximum number of people having largest population in the country. Maximum population resides in rural area. Health care infrastructure in rural areas, as per scheme of Government of India, was developed as a three-tier system. In plain area, over a population of 5000, a Sub-Centre was to be constituted; for a population of 30000 a Primary Health Centre (PHC) was to be constituted and for a population of 120000, a Community Health Centre (CHC) was proposed. A Sub-centre is most peripheral and a contact point between Primary Health Care System and Community. Sub-Centres were assigned task relating to personal communication with the object to bring about behavioral change and provide service in relation to maternal and child health, family welfare, nutrition, immunization, diarrhea and control of communicable disease programme. Each Sub Centre is supposed to be manned at least by one Auxiliary Nurse Midwife (ANM)/Family Health Worker and one Male Health Worker. For supervision of six Sub Centres one Lady Health Visitor is supposed to be appointed.

106. PHC is the first contact point between village community and the Medical Officer. PHCs were envisaged to provide an integrated curative and preventive health care to rural population with emphasis on preventive and promotive aspects of health care. PHCs are established and maintained by State Governments under the Minimum Needs Programme (MNP)/ Basic Minimum Services (BMS) Programme. A

PHC is supposed to be manned by a Medical Officer, supported by 14 paramedical and other staff. It acts as a Referral unit for 6 Sub Centres and must have 4-6 beds for patients. Activities of PHC involve curative, preventive, promotive and Family Welfare Services.

107. CHCs are also established and maintained by State Government under MNP/BMS programme. A CHC is required to be manned by four Medical Specialists i.e. Surgeon, Physician, Gynecologist and Pediatrician, supported by 21 paramedical and other staff. One CHC must have 30 in-door beds with one OT, X-ray, Labour Room and Laboratory facilities. It serves as a Referral centre for 4 PHCs and also provides facilities for obstetric care and specialist consultations.

108. Then comes higher structures like, Sub-Divisional Hospitals and District hospitals. As per norms set by Indian Public Health Standard, Primary Health Care infrastructure in the State of U.P. is highly deficient. Broadly, more than 31000 Sub Centres, 5100 and odd PHCs and about 1300 CHCs are required as per Health Care demand of State's population. According to Rural Health Statistics, 2015 data, State of U.P. is short of 33% of Sub-Centres/PHCs and 40% CHCs. Aforesaid report also shows that in the last more than a decade and half, there has been no expansion of Health Care Institutions in the State. Entire population is tasting an experience of poor quality public health service in the State and attempting to thrive upon low quality private health care service. Private health care system includes unqualified, un-recognized Doctors and quacks who serve almost 85% of medical needs as per April 2016 “Health In India Report”, published by Ministry of Statistics.

109. Various status reports published show that plan of Rural Health Care System is well conceived but ground level reality is virtually reverse in State of U.P. PHCs and Sub Centres either do not exist or if exist, are severely understaffed under-supplied. Rural Health Statistics published by Government for the year 2016, broadly show 85% shortage of Specialists, 77% shortage of Lab Technicians and 89%

shortage of Radiographers in CHCs in U.P. It further shows that 91% of PHCs did not have a Lady Doctor on duty and 60% do not have functional operation theaters. Most PHCs and CHCs do not have regular supply of medicines and drugs even for common ailments.

110. We are told that most CHCs and PHCs have been provided infrastructure by structure and building only but in our view, a Health Care System is not about real estate and construction alone, its life is the persons managing real estate by providing real medical service to needy ones. If one has to provide a quality of health infrastructure, one has to go for proper staffing of Doctors, Nurses, Technicians and also requisite equipments/appartus and regular supply of medicines and drugs.

111. It is a common case of parties that Rural people are the biggest sufferers in the matter of medical facilities and appropriate health care infrastructure. It is largely inadequate and problem is very acute. Despite the fact that rural people are primarily depending on Government Medical Health Care service, unfortunately, non-availability of medical staff and virtual total lack of advanced medical equipments to treat emergency/complicated surgical cases is nothing but a destiny in trauma for poor rural people of the State.

112. Moreover, for various other reasons, like local political interference, lack of security, frustration of not providing proper service due to inadequate instruments and apparatus, medicines etc., whatever staff is available, mostly remain unauthorizedly absent. Medical Services and patients are looked after by ill trained medical personnel, taking advantage of large illiterate population in rural areas.

113. It is also an interesting fact that Department of Medical Health and Family Welfare has a history of almost of 100 years, having been set up in 1921 through Provincial Medical and Health Services responsible for providing health related services even in remotest rural areas in densely populated State of U.P. and though sanctioned strength of doctors has increased with population, but not as per requirement.

Whatever is the sanctioned strength available, that too remains mostly unoccupied for shortage of Medical officers. We are told that recruitment efforts have been made in recent past but actual appointees are very less since most Doctors, even if selected, choose not to join.

114. Recently, a news item was published that 32 cataract patients were operated using a torch light for want of electric supply at a State run Medical Care Centre at Unnao in the State of U.P. These operations were done at CHC, Nawabganj. This news was widely published in print and electronic media. Another news item was published on 25.12.2017 that ambulances in Meerut at State Medical College i.e. Lala Lajpat Rai Medical College, Meerut were used to ferry liquor. We are also aware of tragic incident at State Medical College, Gorakhpur where more than 30 children lost their lives, allegedly, for non-supply/disruption of oxygen supply. Incidents are innumerable. Common thread to all incidents is that sufferers are poor rural public and their kith and kins.

115. In order to judge standard of Medical Care Centres, in our view, a reply to simple question should be the test, “whether, if we need medical care, would prefer to go to Medical Health Centre maintained by State or a Private one”.

116. When questioned in open Court, even learned State Law Officers did not immediately reply opting for State Medical Care Centres and kept conspicuous silence. Hesitatingly, they suggested that emergency requirement, if any, may have to be attended in nearest medical care establishment maintained by State Government but normally they prefer private ones. This is what is being followed by Senior Government Officials, Political Bureaucrats, People's Representatives, Members of Judiciary etc., who are resourceful enough to avail medical services maintained by private sector and most of them get appropriate reimbursement from State Exchequer. Poor, inadequate and understaffed state medical services therefore, remain to be utilized by the poor rural folk and they are ultimate victims of lack of quality in such services.

117. Above discussion, we find, is also fortified from the facts which we have in this matter and some are noticed from Commissioner's reports, as under:

A. Deficiency of Beds and para medical Staff in S.R.N. Hospital attached to State Medical Colelge, Allahabad: Number of beds from 1961 to 2017 has been increased from 300 to 1200 but sanctioned strength of ward boys which was 104 in 1961 has remain unchanged. There was no disposal of Medical waste.

B. Condition of Emergency Ward:

(i) Advocate Commissioner had stated that it was very difficult to breath over there by a normal man. What would have been happening to patients is easily understandable. Emergency ward had no air conditioners, windows were blocked by fixed glass leaving no scope for any fresh air or any cross ventilation.

(ii) The plight of patients has also been noticed stating that one patient, brought from ICU, was repeatedly requesting for being shifted back to ICU or to any other place.

(iii) Only one MRI machine was found working having backlog of 20 days. Technicians to run MRI Machines are not available.

(iv) C.T. Scan machine when checked was found that it was not of Medical College but had come from outside meaning thereby it was a private machine. Patients were compelled to have C.T. Scan by permitting Outsiders to bring C.T. Scan machines at aforesaid Hospital of Medical College.

(v) The scam of sending patients to private Hospitals has also been noticed by Advocate Commissioners' for C.T. Scan and MRI at private centres.

C. Lack of Maintenance:

(i) There were many stray animals roaming around the campus, unauthorized vendors of fruits, tea, samosas etc.

(ii) None availability of residential facilities to young doctors compelling them to stay at distant places from Hospital causing none availability at all times and no otherwise protection is available to patients.

(iii) In Cardio ICU 18 beds were inside the room and 22 beds outside. There were only 2 ventilators and 5/6 monitors were operational. Room condition of Cardio ICU has also been found very pathetic and suffocating.

D. Incorrect Information about Trauma Centre at State Medical College and also disclosed poor working and maintenance condition of Hospitals at Allahabad:

(i) Advocate Commissioners Report shows that Trauma Centre building was still incomplete. Principal, Medical College, Allahabad informed that it will take at least two months of rapid work for completion only after he receive funds sought by him from State Government in this regard.

(ii) Machines and equipment from Trauma Centre were already purchased and kept in operation room of Operation Theater which was also under repair. What could have been present condition of machines is easily understandable.

(iii) Emergency wards are being used as partial Trauma Centre and there also condition is pathetic. In 6 beds of emergency room oxygen equipment was connected in only 2 beds. General condition of emergency room was also found pathetic. Patients admitted in emergency room are not attended in time and there is a lot of delay. Emergency ward is said to be in horrible condition.

(E) Unutilized Funds: The Affidavit filed by Secretaries shows that thousands Crores of Rupees allocated for health services remain unspent. Huge number of vacancies of Medical Officer, Para Medical Staff etc. are existing. In the sample inspection of Swaroop Rani Medical Hospital attached to Moti Lal Nehru Medical College, Allahabad, discrepancies/irregularities are noted that Trauma Centre on the one hand said to be in working condition, while Principal himself disclosed that only civil work has completed and he has demanded further funds for making it functional. Gas Connection, electricity connection all are yet to be completed.

118. These are some deficiencies which were admitted by Principal and staff of College. With regard to other Hospitals also situation, noted by Advocate Commissioners depicts a very grim picture.

119. State of U.P. Presently having a population of about 22.3 Crores (19,95,81,477 Crores according to Census Report, 2011) is being looked after by just 174 District Hospitals whereas there are 75 Districts. These 174 Hospitals include General Hospitals, Specialized Hospitals, Hospitals maintained for women etc. Number of Tehsils, Blocks as also Gram Panchayats in State of U.P. are 316, 822, 59163 respectively whereagainst number of CHC is 821 and PHC is 3496 only.

120. For every 10,000 residents in the State of U.P. only 1 bed is available. 40% to 60% vacancies of Medical and Para Medical Staff exist. Even funds allocated are not being utilized and substantial amount remains unspent. Nobody bothers, why such a situation is persisting. Authorities are totally keeping eyes shut to the harsh fact that people of this State living under very poor and unhygienic conditions, get their plight aggravated due to lack of adequate medical services.

121. Number of these Medical Care Centers apparently is highly inadequate and shows that no serious attempt has been made by State

Government in the last more than 70 years of our independence to provide effective and adequate medical services to residents of this State.

122. Advocate Commissioners' Report was only a sample fact collection exercise with regard to ground level situation prevailing committee in respect of Medical Services maintained by State of U.P.

123. The upshot is that conditions of public health care system is highly deplorable, very pathetic and pitiable. Not only hospitals maintained by Government through provincial medical services but even hospitals attached to medical educational institutions are mostly in very bad conditions.

124. In regard to serious trauma patients, though almost two decades have passed for special maintenance of Medical services for them, but situation has not improved considerably . It has further worsened due to attempt on the part of Medical officers in State of U.P. who are mostly engaged in private practice or encourage private institutions to be attended by patients, visiting State maintained medical services, which proves heavy on the pockets of patients but causing personal benefits to Government Medical Officers. Learned counsel for petitioner stated that across the State most of Government Medical Officers including Teachers in State Medical Colleges are engaged in private practice. Though Rules have been made prohibiting private practice and in lieu thereof, special non-practicing allowance of lucrative amount is being paid to all such Medical Officers, but most of them are violating these Rules with impunity. Taking advantage of worse condition of Government maintained hospitals etc., patients are driven to private hospitals and clinics and/or directed to attend Medical officers privately, leaving no option otherwise to ailing patients and his attendants but to act according to directions of Medical officers and thereby spend huge amount in treatment in private. On many occasions, this situation has also resulted in serious altercations and disputes between patients and their attendants on one hand and

Medical and Para Medical Staff on the other, causing sometime damage to public property also.

125. Learned counsel for petitioner at this stage also stated at the Bar that Medical Officers mostly whether in Provincial Medical Service or in Medical Colleges, largely in private practice and in furtherance thereof also encourage private diagnostic and pathological tests. This is fortified from the report of Advocate Commissioner in the context of C.T. Scan found at Hospital attached with Medical College at Allahabad. Explanation furnished by Principal in the entirety of backdrop of facts stated in the two Commissioners' report in our view, is difficult to accept.

126. Report of Advocate Commissioner also points out with regard to private operators for C.T. Scan and explanation given by Principal of State Medical College, Allahabad is nothing but a lame excuse and in fact, supports the submission advanced on behalf of petitioner about private practice largely prevailing amongst officials of State Medical Services in violation of statutory Rules. This needs an in-depth inquiry into the matter.

127. On the issue of Trauma Centre at Allahabad Medical College, contradictory claims have come forth. As per two Advocate Commissioners report, Trauma Centre at Allahabad Medical College is yet to commence its function. P.S.M.E. has stated that Trauma Centre at Allahabad is functional for the last 3-4 years while Principal in para 7 of his own affidavit admits that only civil work has completed and Government has been written to sanction funds for installing AC's and power connection and these facts show that Trauma Centre is yet to take a long time for becoming functional. Therefore Affidavits of Principal Secretary and Principal, Medical College, Allahabad are apparently false. We find it strange that they have not care of verifying facts before filing affidavits in Court in such a serious matter. This shows lack of sincerity of these officers in looking into the matter relating to Public Health Services.

128. We also find it surprising that while Trauma Centre at Hospital attached to Medical College at Allahabad was under construction, which has continued even when we heard this matter and reserved judgments. Machines and apparatus for Trauma Centres were purchase long back. Since they could not have been installed at all for want of place, same have been kept in a store room by converting operation theatre which is also under repairs. What was so hurry for purchasing machines and apparatus when even building was not constructed, is beyond our comprehension. During this long period, warranty of machines must have expired and this undue hurry, in fact, points out to some undue advantage for which, these machines and apparatus have been purchased and smells lack of *bona fide* on the part of persons indulged in process of purchase. Principal has tried to explain that these machines are taken out whenever needed but when Trauma Centre itself for which these machines were purchased is in the process of construction and basic amenities like electricity etc. have not been provided, where was the occasion to use these machines. It is not the case of respondents that Emergency Ward which was already operational and functional in Medical College, Allahabad had been installed with some additional machines. At least no such explanation has come forward. Moreover, machines and apparatus especially purchased for Trauma Centre, a concept introduced by Government of India, for which funds have been made available, how these machines could have been installed and used elsewhere.

129. We, therefore, have no manner of doubt that in purchase of machines/apparatus when building was not ready, there was something grossly illegal and corruptible, which needs an in-depth audit and inspection in the hands of experts of appropriate agency.

130. The 'Emergency' of hospital which presently is being also used as partial Trauma Center hardly satisfies the guidelines meant for a Trauma Centre. A separate stand alone building is needed, civil work whereof, as reported by Advocate Commissioner, will take sometimes.

We are informed that construction started about 6-7 years back but machines and other equipments were purchased long back. Since same were not to be used as building itself was not constructed, they were stored in a badly managed OT room. With the passage of time, condition of such apparatus and instruments can be well imagined and we have to keep our fingers cross as to how many instruments now would be in a working condition. Despite our query, learned Standing Counsel could not explain need of purchase of all instruments when building itself was not constructed. It appears that some were interested only in purchases unconcerned as to what will happen to those items with passage of time. For loss of items and instruments due to being idle, those persons who have purchased same are directly responsible. More we discuss the matter, more we find disturbing inferences and conclusions.

131. In the context of trauma patients we are also informed by learned counsel for petitioner that many deaths of trauma patients, take place due to hurdles in transportation of these patients to Medical Care Centre. Ambulances do not get clear passage for various reasons and people die on the way during transportation. On this aspect also, we have been addressed by both sides at length and this aspect needs serious attention on the part of State so that vehicles carrying patients do not face any traffic congestion and get clear road to reach destination without wasting time. It is a common case of both parties that quick transportation of injured and serious patients to hospitals for immediate treatment is obstructed due to huge traffic on roads. With respect to non-clearance of ambulances and lack of awareness of public to make way for unobstructed passage of ambulances, there is a complete traffic mismanagement on the part of authorities responsible for this purpose.

132. We are informed that even in normal day to day affairs, due to huge increase in auto-vehicular traffic, roads are almost packed, people drive vehicles lack basic training of providing access to ambulances,

park their vehicles on the roadside or ways and cause jam like situation at different places. Most of the time, patient suffers for the reason of delay in speedy availability of treatment at the first instance. Learned Advocate General, representing respondents State of U.P. and its authorities, on this aspect, joined the issue with counsel for petitioner and submitted that despite best efforts by local authorities managing traffic, it is very difficult to avoid congestion and jams. Many times it causes obstruction in free passage of ambulances, ultimately causing loss to injured/serious patients.

133. This is a serious matter. We find no reason that it should not immediately be attended. Court can take judicial notice of the fact that in the past complaints of detention of ambulances in restricted traffic movement due to visit of high dignitaries and VIPs sometimes proved fatal to serious patients in detained ambulances.

134. In the last few years, due to sudden spurt in four and two wheelers on roads, traffic congestion has become a routine affair and many times it results in jams. Many a times road traffic get jammed because of haphazard movement of traffic in indisciplined manner obstructing both ways traffic and sometimes on account of indiscreet, uncontrolled and arbitrary parking of vehicles aggravated by encroachment on roads and sideways. This situation requires immediate remedial measures atleast to protect the life of injured/serious patients by allowing unobstructed smooth passage to ambulances carrying patients.

135. Learned Additional Advocate General when asked to suggest steps on his own, could not give effective reply but stated that State shall make all out efforts and will turn every stone to carry out directions of Court in order to provide best medical services to Upians.

136. Thus question left open to the Court to decide is nothing but an herculean task of finding out appropriate solution so as to mitigate plight of poor rural people of State in the matter of medical care which is their fundamental right being part of Article 21 of Constitution. A

million dollar question is how and in what manner ? It needs indepth study of the matter.

137. In our view, foremost apathy and lack of serious endeavour and attention on the part of higher authorities for not providing quality medical service is for the reason that they themselves are not affected at all. For them, State Medical Services, in particular, rural health service programmes are meant only for poor rural class. They belong to different class. It is a class discrimination which is not allowing the system to improve in the last several decades.

138. We can take judicial notice of the fact that development of Clinics, Hospitals and Nursing Homes in private sectors is multifold and very fast. Some of private sector establishment in medical treatment are providing worlds class service and people are travelling to India on medical tour for treatment of their serious ailments. The cost of medical treatment in such private sectors in India, we are informed, is cheaper than what it is available at abroad. Number of sophisticated private Nursing Homes, Hospitals and medical constitutions have been established providing medical services at a cost which from the standards of common man of this country is beyond dreams. At least rural people who constitute largest population of this country find it impossible to avail such facility. That is why, these hospitals and Nursing Homes cater to need of Society's upper class who can afford the same. Learned counsel for petitioner also submitted and we find substance therein that resourceful, powerful and rich people do not bother to avail medical services run by State. Their care is taken by Private Medical Practitioners, Hospitals and Nursing Homes. They are the lots who are financially sound, powerful enough and enjoy strong clout to avail best medical services since they are not bothered for funds needed for the same. It is only poor rural and urban people, who are left at the mercy of inadequately and poorly maintained State run Medical Services and fall victim to such worst services, losing there lives like ginny pigs. Death of such person in the eyes of State appears to be

mere statistic. Authorities are so heartless and apathetic that they do not seriously look into needs and requirements of these services for better attendance to beneficiaries.

139. So far as basic principle of State's constitutional obligation to maintain public health services to its residents is concerned, it is not disputed even by learned Standing Counsel. The problem lies in the manner services are being maintained by State and other stakeholders responsible for its maintenance and operation. Huge utilization of funds, large number of vacancies, apathy on the part of staff, wide spread corruption, lack of supervision and monitoring, diversion of interest from public to private, i.e., engagement in private practices and to divert patients to private medical institutions, lack of infrastructure, wherefrom available misuse or unmindful purchase for reasons best known to responsible persons, are some of the apparent grave problems which are denying, in effect, appropriate, quality services to needy ones. Unfortunately, sufferers are mostly from lower rung of society since resourceful rich and powerful persons are able to avail better services for them in private hands. Government, for the reasons best known to it, turn its blind eye to this state of affairs. To some extent we find that even political executives and bureaucratic executives, both are party in taking benefit of this diversion and, therefore, a mutual trust has developed in allowing the system to run on its own, and this is causing in a parallel system. That is how in the matter of public health services it has become a twin class service.

140. Government Officials since are reimbursed medical expenses, frequently they avail better private medical services and claim reimbursement from State Exchequer. Therefore they have no reason to bother for quality of medical services run by State. Superior bureaucrats and others holding High Offices, Ministers, People's Representatives etc., as and when needed, go to avail expensive private medical services, leaving only poor people who have no capacity to avail such expensive services and left at the mercy of these Institutions run by

State in the worst conditions. Moreover, High Officials frequently visit places like Lucknow, Gautam Budh Nagar etc. where Medical Institutions of Highly Specialized Services have been established which are also easily available to those who have resources or approaches. Others have no option but to wait for their turn in queue for long time and many succumb in queue, incapable of waiting for their turn. Even more powerful people, whether from Politics or from Executives etc., they avail medical services even abroad, having lessor confidence in medical services run by State or even private, on account of situation created by themselves by not maintaining medical services through most meritorious and professional persons. These high class political executives and others who travel abroad for their treatment, when come back, again canvass, profess and apparently claim to pursue cause of backward people so as to provide them place in State Medical Services but keep themselves aloof from giving opportunity to such people to have pride of providing medical services and treatment to them. When it is a matter of life, no one can imagine to compromise in the matter of quality, merit and effectiveness but this precaution is maintained by resourceful people when it comes to their own or their family members but for common poor people it is residuary service made available by them which has to be availed in absence of any other option, may be, due to financial scarcity or otherwise.

141. In our view, any person who is entitled to medical reimbursement from State Exchequer must be asked compulsorily to avail medical services maintained by State failing which, no medical reimbursement should be allowed. This is one way whereby medical services run by the State may undergo improvement due to continuous monitoring. If highly placed officials, resourceful persons and other dignitaries, whenever needed, go for treatment to Hospitals and Medical Services maintained by State, functional conditions of these institutions, in our view, may go under a sea change towards improvement but if these services are left for have nots, such lot having

no say in governance, may not be able to get any desired improvement in such services and the mere fact that such people have power to punish inactive persons over five years is nothing but something making mockery of helplessness of these people.

142. Inefficient, inadequate, improper, unclean and bad services at the level of PHC or additional PHC or above is mostly attended by poor people and they suffer all these odds. At the highest level namely medical colleges or KGMU or some specialized autonomous institution. like Sanjay Gandhi Post Graduate Institute etc., people of status sometimes also visit, but, mostly, they manage their affairs by availing medical facilities in well equipped highly sophisticated and expensive private medical institutions and mostly reimbursement is made by Government. It is for this reason that the executives, whether bureaucrat or political, both, neither have a first hand information about problems of public health service nor they care since they are not affected and those who mostly attend have no voice. They are weak, underprivileged, deprived and feel satisfied with whatever is made available to them. That is how they are also cheated, misused and exploited in the hands of scrupulous lower staff as we have seen in the present case where ANM demanded illegal gratification from petitioner-1. If in one word we have to describe State Medical Services, it is quite apt to use the word for its functioning on its destiny and fate i.e. *"Ram Bharose"*.

143. Learned Standing Counsel sought to explain shortage of medical officers for PHCs and CHCs stating that basic amenities are not available to these medical officers in CHCs and PHCs. For example, neither requisite instruments are made available nor medicines are available nor the individual requirements are fulfilled, like residence, conveyance etc. On the top of it, there is a serious problem of security in rural areas on account whereof medical officers are reluctant to attend duties in CHCs and PHCs. Many a times when recruitments are made, most persons selected, either do not join or if join, leave job in a

short time and switch over to private medical hospitals and nursing homes. The real problem lies in a large gap of availability of medical officers and demand. What he tried to explain is the problem where various things are interconnected and for one or another, due to non-availability the ultimate sufferer is the poor beneficiary who stands deprived of appropriate service in Government run hospitals.

144. To some extent, we feel that learned Standing Counsel may be right. Deficiency of qualified staff is on account of shortage of such staff not in service but on account of non-availability. When we go deeper in the matter we find that whenever process of recruitment commenced, number of applicants for medical services is multifold than the number of posts advertised. This could not be explained by learned Standing Counsel and we find that problem lies elsewhere, may be in the system of recruitment or on account of siphoning of resources and not providing proper equipment and infrastructure like apparatus, instruments for treatment and medicines. Medical Officers finding it difficult to provide effective services, also for other options. Budgetary allocation is quite high. We could not understand huge unspent fund and reason therefor. No one is taking care to explain reason for such unspent funds when services are in such a bad shape. Moreover, wherever funds are spent, still facilities are lacking and it also needs explanation. In our view, it is a case of sheer negligence, lack of supervision and non accountability which is persisting the problem. We do not want to lengthen our judgment with voluminous observations since things are self speaking and process of improvement also needs a large scale scrutiny at various level. Much more and serious steps need be taken at different levels we need real dedicated and devoted people to be appointed to serve needy person. Remedial measures, therefore, will have to taken in phases and, therefore, matter require multifarious directions to be acted at different levels as it cannot be done in one go.

145. So far as second petition is concerned, suffice it to mention that Chief Medical Officers in Districts may be directed to ensure strict

compliance of Medical Termination of Pregnancy Act, 1971 as amended by Termination of Pregnancy Amendment Act, 2008 and Medical Termination of Pregnancy Rules, 2003 and take punitive and deterrent action without fail else, they will be personally held responsible inviting criminal and civil action besides and departmental action.

146. In the light of above discussions, we find it appropriate to issue following directions to the State Government, U.P. through Chief Secretary:

(i) Immediate steps shall be taken to fill in existing vacancies of Medical, Para Medical and other attending staff at various levels in all Hospitals maintained by State Government through Department of Medical Health and Family Welfare or Medical Education.

(ii) State Government would ensure appointment of competent staff by reducing existing vacancies to 50% within first four months from the date of communication of this Judgment and remaining vacancies in the next three months.

(iii) Necessary supply of medicines of quality to all Medical Care Centre at different levels must be ensured. Similarly availability of requisite apparatuses, instruments, operation theatres and other medical requirements as per status of Medical Care Centres be maintained and continuous maintenance should be ensured under constant monitoring by responsible persons and they should be made accountable for any laxity or deficiency in such supply and availability.

(iv) For Medical Care of women and especially pre-natal and post natal treatment, lady Doctors and supporting lady Para Medical and Nursing Staff be recruited and their availability be maintained.

(v) A road map/Action Plan should be prepared in consultation with all stake holders responsible for maintaining medical services by State so that quality medical treatment is available to poor

people in the same manner as it is available to resourceful high officials and rich people, and people may not suffer in the matter of medical care merely on account of their poverty, illiteracy and other constraints.

(vi) Looking to fact that in sample survey got conducted by this Court through Advocate Commissioners, demonstrating a large number of apparent mismanagement in Hospitals whether maintained by State Medical College at Allahabad or by cadre of Provincial Medical Services, Special Audit through CAG should be got conducted without any further delay. In this regard, we direct requisite number of Specialized Audit Team having expertise in audit of Medical Care Centres be constituted with request to CAG, within one month from communication of this Judgment. At first instance, Medical Colleges and Hospitals attached to them should be got audited. This audit must be completed within two months. This Special Audit must examine funds made available, their utilization etc. in the last 10 years. If deficiencies, irregularities and illegalities are found, concerned department shall also identify erring officials and would take appropriate stern action whether civil, criminal or departmental, as the case may be, without any further delay.

(vii) After special audit of Medical Colleges and Hospitals attached to them, next Audit should be that of District level Hospitals, for which also, complete exercise would be done within two months and it shall be adhered to. In third phase such Special Audits will take care of next lower level Medical Care Centres i.e. CHCs and PHCs.

(viii) Entire Audit exercise of all levels shall be completed within a year.

(ix) We may also mention that above Special Audits shall include an investigation relating to funds made available and expenditure etc. on Trauma Centres also wherever they have been proposed or are functional or under construction.

(x) Director General, Vigilance shall constitute special teams at District level to find out Medical Officers of State Government who are engaged in private practice or running Hospitals, Nursing Homes or attending or providing treatment to patients in such private Hospitals etc. Said teams shall also investigate into cases of radio diagnosis and pathology test from private institutions and establishments, in respect of patients who are under treatment at State Medical Care Centres. Team shall find out reasons for non conduct of Radio Diagnostic or pathological services by institutions run by Government. Wherever private Radio Diagnosis and pathology tests are found got conducted from private hands, encouraged by Government Medical Staff, appropriate action including criminal and departmental shall be taken against them. We direct competent authority in such matters to proceed with such report of vigilance and take appropriate action at the earliest. Aforesaid vigilance teams, wherever finds Government Medical Officers/ officials indulging in private practice, may also register First Information Report against them. Besides, competent authority in the State Government shall take appropriate stern action without any further delay besides recovery of entire non-practising allowances paid to such violators.

(xi) It shall also be ensured that all Government Officials and others who receive salary or other financial gains from Government/Public exchequer, should avail Medical Care services from Hospitals run and maintained by Government and whenever any High level officials, political Executives or other dignitaries go for treatment, Medical Officer on duty, by roster, shall attend him and there shall be no special VIP treatment. If medical care is obtained in Private Hospital etc. Government must not reimburse the same. However, if there are some kinds of diseases or ailment, treatment /cure whereof is not available in Government Hospitals, and for that purpose, treatment in private becomes necessary, this condition may be relaxed but in such contingency, Government must ensure that for similar

ailments and deceases if suffered by common poor people, arrangement should be made for their treatment also at Government expenses in such Private Medical Care Institutions.

(xii) With respect to malpractices and irregularities found in sample survey of Hospitals attached to Moti Lal Nehru Medical College, Allahabad, we recommend Special Vigilance Enquiry in the matter as also a separate Special Audit of CAG, to be conducted immediately. Vigilance enquiry shall be conducted by a team constituted by Director General, Vigilance. Aforesaid special vigilance team if finds defalcation of funds etc., appropriate criminal action would be taken besides recommending disciplinary action against erring officials, whereupon, competent authority shall take appropriate disciplinary action.

(xiii) In the matter of appropriate treatment at Trauma Centres, State Government shall ensure transportation of patients to Trauma Centres. One of important step which needs immediate care is that unobstructed smooth passage be made available to ambulances carrying such patients. This aspect needs effective Traffic Management on roads and other requisite preparation. On this aspect we issue specifically following directions to Principal Secretary Home; Transportation as also Director General of Police, U.P.:

(a) Immediate instructions be issued to all Traffic Police Personnel in the State to canvass and spread public awareness about regulated parking of vehicles at places meant for same, non parking of vehicles on roads and sideways, removal of encroachment of all kinds so as to make roads, sideways and service lanes clear. This awareness programme should run for a reasonable time but not so long as may frustrate the very purpose. In our view, let this programme be conducted for a period of two months.

(b) People driving vehicles be made aware that they should not park vehicles in an indiscreet manner, obstructing free flow of traffic on road and in no case a vehicle should be parked on road side ways and service lanes.

(c) Whenever vehicles are stopped for any reason including traffic signals, people must stop the same in a single line ensuring clear passage for ambulances and fire brigades etc. Any violation should be dealt with strictly attracting heavy fines on violators

(d) After carrying on above Awareness Programme for two months, entire Traffic Police Force including other Police Personnel shall ensure clear passage, proper parking of vehicles, non-encroachment of roads etc. and any person violating the same should be fined heavily.

(d) Local Traffic Police people, if any congestion is caused, should be held personally responsible and appropriate strict action be taken against them.

(e) Any damage suffered by injured/serious patients due to obstruction in smooth passage for ambulances etc. must be held a criminal liability, besides civil, of the person(s) creating such obstruction as also the persons responsible for management of traffic including Traffic Police Personnel.

(f) In residential areas where people park their vehicles outside their residences or in commercial areas where also people park vehicle on roads etc. due to non-availability of parking space in their residences or commercial places, responsibility shall be fixed upon the residents and persons running commercial activities without providing parking space, by imposing heavy penalty etc.

(g) Immediate requisite provisions be made prohibiting registration of Auto vehicles unless purchaser has sufficient

parking place at their private places. In other words, Government should make provision restricting purchase of new vehicles and registration thereof unless person(s) purchasing vehicle have parking place at their residences.

(h) State Government shall also take immediate steps for providing dedicated corridors for movement of vehicles of essential service as an honour of fundamental right to patients and injured people to get quickest medical services and travel on road without any obstructions and also to ensure other essential services to be carried out without obstruction. In other words, a dedicated corridor shall be prepared for movement of ambulances carrying patients which is also a part of Trauma Care Facility and even otherwise, quick movement of ambulances for timely availability of medical services is fundamental right of patients and healthy people traveling on road are also under an obligation not to create any obstruction in life saving vehicles, like ambulances and a clear passage has to be maintained at any cost.

(xiv) Special Committees at District and Block levels be constituted on permanent basis which may have participation of common people and members of society to monitor proper functioning of Medical Care Centres of State and regular availability of requisite instruments, apparatuses, medicines etc. and also effective careful service to poor patients.

(xv) Free food to patients and their attendants shall also be ensured in all State run Medical Care Centres so that for want of appropriate diet, poor people may not suffer while undergoing treatment.

(xvi) Fields, lawns etc. maintained in medical colleges, hospitals attached to medical colleges and other Government hospitals shall not be allowed to be used for any celebration or function like marriage ceremony etc. If any staff of medical establishment is residing in campus, this restrain order will not apply to him but

officer incharge shall ensure that musical sound and disturbances shall not be allowed beyond the prescribed level of noise and there shall be no celebration/disturbance after 10 pm. In no case any such activity shall be allowed to others.

(xvii) In the matter of medical termination of pregnancy, we direct all Chief Medical Officers in concerned districts to ensure observance and compliance of Medical Termination of Pregnancy Act, 1971 as amended by Termination of Pregnancy Amendment Act, 2008 and Medical Termination of Pregnancy Rules, 2003. In no case any unregistered hospital or clinic shall be allowed to function. Any laxity shall be treated personal responsibility of the concerned Cheif Medical Officer and he/she will be liable for appropriate action treating failure as his collusion with erring personnel.

(xviii) State Government shall also ensure that in no case funds allocated for Medical Services remain unutilized and unspent. Where there is violation, persons responsible for non-utilisation be taken to task by taking disciplinary action against them treating it a serious misconduct for the reason that funds allocated for welfare of Medical Services, if are not spent, it means that requisite service to that extent has been denied.

(xix) For filing false affidavit before this Court, we also issue notice to Mr. Rajneesh Dubey, Principal Secretary, Medical Education, Government of U.P., Lucknow and Dr. S.P. Singh, Principal, Medical College to show cause as to why action for filing false affidavit before this Court, under Section 340 Cr.P.C. and for Criminal Contempt under Contempt of Courts Act, 1971 be not initiated against them. Office shall issue notice and register it separately as Miscellaneous Case.

(xx) We also make it clear wherever any authority in State Government if finds expedient, may approach this Court by filing an application for clarification/modification of this order wherever and whenever required for effective compliance of directions given above.

(xxi) Chief Secretary, U.P. Lucknow is directed to ensure supervision and compliance,. He shall collect information from all responsible Secretaries of Departments and Heads and submit Action taken report, in first phase, within one week after expiry of six months. For perusal of such report, matter shall be listed before the Court on 25.9.2018.

147. Both the writ petitions are disposed of with the directions and in the manner as aforesaid.

148. Copy of this judgment shall forthwith be sent by Registry for information and compliance to Chief Secretary, U.P. Lucknow; Principal Secretary Medical Education; Principal Secretary, Medical, Health and Family Welfare; Principal Secretary Home, Principal secretary, Transport, Government of U.P. Lucknow and Director General of Police UP, Lucknow.

Dated: 09.03.2018
S. Thakur/Akn