

Proposition for Drafting PIL

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Poor infrastructure, staff crunch continue to plague healthcare in rural India: Centre

Less than half the Primary Health Centres function on a 24x7 basis

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India's rural healthcare system continues to be plagued by shortfall on two critical fronts - doctors and infrastructure. There is a shortage of 83.2 per cent of surgeons, 74.2 per cent of obstetricians and gynaecologists, 79.1 per cent of physicians and 81.6 per cent of paediatricians, according to the Rural Health Statistics 2021-2022 released last week.

Less than half the Primary Health Centres (PHC), 45.1 per cent, function on a 24x7 basis. Of the 5,480 functioning Community Health Centres (CHC), only 541 have all four specialists, showed the document released by the Union health ministry.

In the Indian healthcare system, sub-centres (SC) are the first point of contact for a patient, catering to a population of 3,000-5,000. This is succeeded by a PHC, which is required to look after the daily needs of 20,000-30,000 people.

CHCs provide referrals and access to specialists, catering to 80,000-120,000 people. These facilities are overburdened across the board, with SCs currently looking after more than 5,000 people, PHCs catering to 36,049 people and CHCs to 164,027 people. This, coupled with a human resource shortage, plagues access to adequate and quality healthcare.

SCs, PHCs and CHCs had more staff in 2021, at the height of the deadly second wave of COVID-19, as compared to now. The number of auxiliary nurse midwives at SCs has decreased to 207,587 in 2021 from 214,820 in 2022. The shortage was most pronounced in Uttar Pradesh, Gujarat, Himachal Pradesh, Odisha and Uttarakhand.

The number of doctors at PHCs has shrunk to 30,640 in 2022 from 31,716 in 2021. Lab technicians, nursing staff and radiographers at PHCs and CHCs have all recorded a marginal increase between 2021 and 2022. Up from 22,723 to 22,772, from 79,044 to 79,933 and from 2,418 to 2,448, respectively.

Uttar Pradesh, Rajasthan, Madhya Pradesh, Gujarat and Odisha face the highest shortage in surgeons, obstetricians / gynaecologists, paediatricians and radiographers at CHCs across the country.

Urban PHCs — part of the National Health Mission’s efforts to set up multi-tier health centres catering to a population of 50,000-75,000 — also face severe shortages. These facilities currently face a shortage of 18.8 per cent of doctors, 16.8 per cent of pharmacists, 16.8 per cent of lab technicians and 19.1 per cent of staff nurses.

Urban CHCs — catering to 0.25-0.5 million — face a similar fate. These centres encounter a shortfall of 46.9 per cent of total specialists, 14.7 per cent of General Duty Medical Officers, 49.3 per cent of radiographers, 3.9 per cent of pharmacists, 7.2 per cent of lab technicians and 5.3 per cent of staff nurses.

While there has been a decline in the past year, a huge improvement has been recorded as compared to 2005, when the government launched the National Rural Health Mission.

“The allopathic doctors at PHCs have increased from 20,308 in 2005 to 30,640 in 2022, which is about 50.9% increase. There is a shortfall of 3.1% of allopathic doctors at PHC, out of the total requirement at all India level. The specialist doctors at Community Health Centers (CHCs) have increased from 3,550 in 2005 to 4,485 in 2022,” the report noted.

Moreover, compared to the requirement for existing infrastructure, there is a shortfall of 83.2 per cent of surgeons, 74.2 per cent of obstetricians and gynaecologists, 79.1 per cent of physicians and 81.6 per cent of paediatricians. Overall, there is a shortfall of 79.5 per cent of specialists at the CHCs as compared to the requirement, the document noted.

(Curtesy to DownToEarth)

On reading of this article in webpages, Ms. Leema Rose, a social activist, has approached you to file a Public Interest Litigation (PIL) in the Supreme Court of India. She has provided you a copy of the Rural Health Statistics 2021-22 published by the Ministry of Health and Family Welfare, Government of India (***Annexed herewith***). She also updated you the following:

1. That the Supreme Court has declared the right to emergency medical aid and it is an obligation of the State to preserve life under Art. 21 of the Constitution of India in the case of *Pt. Parmanand Katara vs. Union of India*, (1989).

2. That Right to health and medical care have been read under Art. 21 of the Constitution of India by the Supreme Court of India in the cases of *Suresh K. Koushal vs. NAZ Foundation* (2014) and *State of Haryana vs. Santra* (2000) respectively.
3. That every citizen has a right to live a healthy life; health and medical care came within the sweep of Art. 21 of the Constitution of India; as held in the case of *Moba Changkai vs. State of Nagaland*, (WP (C) No. 179 of 2016) by the Assam High Court in 2019.
4. That it is a duty of the Government and members of the medical profession to provide life-saving drugs and treat patients at affordable prices to save life; the charitable hospitals should provide free treatment to have-nots, as held in the case of *Union of India vs. Mool Chand Khairati Ram Trust* (2018).

Besides these she was eloquent in quoting various pronouncements of the Constitutional Courts, to name a few, *Dipika vs. Union of India*; *Paschim Banga Khet Mazdoor Samity and Others vs. State of West Bengal*; and *Swami Achyutanad Tirth vs. Union of India*. She continued to count the challenges India is facing in relation to healthcare. She has quoted some statistics the sources of which are not much known to her as she expects you to further find out reliability of these data.

The following facts could be noted from her conversation as she claims that these are the reasons for deterioration of healthcare in India:

A. Inadequate Healthcare Infrastructure:

- i. Despite recent improvements, India's healthcare infrastructure remains inadequate, particularly in rural areas.
- ii. India has 1.4 beds per 1,000 people, 1 doctor per 1,445 people, and 1.7 nurses per 1,000 people. Over 75% of the healthcare infrastructure is concentrated in metro cities, where only 27% of the total population resides—the rest 73% of the Indian population lack even basic medical facilities.

B. High Disease Burden:

- i. India has a high burden of communicable and non-communicable diseases, including tuberculosis, HIV/AIDS, Malaria and Diabetes.
- ii. Addressing these diseases requires significant investment in healthcare infrastructure and resources.
- iii. According to a report by Frontiers in Public Health, more than 33% of the individuals are still suffering from infectious diseases out of the total ailing population in India.
- iv. The per capita out-of-pocket (OOP) expenditure on infectious diseases is INR 7.28 and INR 29.38 in inpatient and outpatient care, respectively.

C. Gender Disparities:

- i. Women in India face significant health disparities, including limited access to healthcare, higher rates of maternal mortality, and gender-based violence.
- ii. According to the World Economic Forum 2021, India consistently ranks among the five worst countries in the world for the health and survival of females.
- iii. Women from poor households account for over 2,25,000 lesser hospital visits than men between 2017 and 2019 for nephrology, cardiology, and oncology services alone.

D. Limited Health Financing:

- i. India's health financing system is limited, with low levels of public spending on healthcare. This limits the government's ability to invest in healthcare infrastructure and resources, and it can lead to inadequate healthcare services for individuals.
- ii. Government of India spent 2.1% of GDP on healthcare in FY23. This is much lower than the average health spending share of the GDP — at around 5.2% — of the Lower- and Middle-Income Countries (LMIC).

Ms. Leema Rose would like you to draft a PIL appreciating the provisions of the Constitution of India, particularly, Arts. 39(e), 41 and 47. She also informed you that the right to health care is now a sacrosanct right as it has

been read under Art. 21 of the Constitution of India in various cases by the Supreme Court of India. She was also aware of the fact that few States in India have already passed the healthcare bills.

The reports show very clearly that India has a long way to go as far as healthcare is concerned. Thus, this PIL is inevitable to file so that the Supreme Court may direct the Centre and the States:

- To significantly increase the investment in healthcare infrastructure and resources, including medical facilities, equipment, and healthcare professionals;
- To improve access to healthcare, by removing the barriers that prevent individuals from accessing healthcare services, including financial constraints, transportation and discrimination.
- To make targeted policies and programmes, such as health insurance schemes and mobile healthcare units.
- To create a designated and autonomous agency to perform the functions of disease surveillance, information gathering on the health impact of policies of key non-health departments, maintenance of national health statistics, enforcement of public health regulations, and dissemination of information to the public.
- To draw up fresh guidelines to stop migration of healthcare professionals from India by providing adequate remunerations and allied facilities.

Ms. Leema Rose has requested you to add more relief(s) to the above sought reliefs provided they are in the best interest of improving healthcare service in India and reaching to every citizen of the country.