

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (CIVIL) NO. 95 OF 2012**

In the matter of:

DEVIKA BISWAS

...Petitioner

Versus

UNION OF INDIA AND OTHERS

...Respondents

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

ADVOCATE FOR THE PETITIONER: JYOTI MENDIRATTA

### **Directions Sought**

- A. For a declaration that sterilization surgeries conducted in the various states and Union Territories of India even after the order of the Supreme Court dated 1.1.2005 in the case of Ramakant Rai vs Union of India, have been done in unhygienic and unethical conditions which represent a fundamental rights violation under Article 21, Article 14 and Article 15 of the Constitution of India.
- B. For an order directing all states and Union Territories to implement in letter and spirit Standard Operating Procedures for Female and Male Sterilization (2006), Quality Assurance Manual for Sterilization Services (2006), Standard Operating Procedures for Sterilization Services in Camps (2008) issued by the Government of India after the decision of this Court in Ramakant Rai's case in order to ensure that poor women in rural areas are treated with respect and dignity when they undergo sterilization operations; and in particular:
  - a. The States shall establish Quality Assurance Committees (QAC) including the Secretary, Medical and Health, the Director, Family Welfare, the Director, Medical Examination, one empanelled gynecologist, one empanelled vasectomy surgeon, one anaesthetist, one state nursing advisor, the joint director, Family Welfare, one member from an

accredited private sector, and one representative from the legal cell.

- b. The State QAC will meet every six months to evaluate reports from the district level.
- c. Each District should establish a District Quality Assurance Committee composed of the District Collector, the Chief Medical Officer, one empanelled gynaecologist, one empanelled vasectomy surgeon, one anaesthetist, District Family Welfare Officer, one representative from the nursing cadre, any other person as determined by the State Department of Health and Family Welfare, one representative from the legal cell.
- d. The DQAC will meet once every three months to conduct a medical audit of all deaths related to sterilization, collect all information on hospitalizations related to sterilization, process cases of failure, complications requiring hospitalization, and deaths following sterilization, review static institutions, NGOs, to ensure that they meet the standard operating procedure guidelines,
- e. At institutions, Quality Circles consisting of medical, paramedical and other support staff shall be constituted for reviewing the quality of services provided.

- f. The Quality Circle will identify critical quality processes in light of the standards for sterilization, review the processes with checklists, and client case audits provided the Quality Assurance Manual, and develop a work plan listing activities for improvement and putting this into action.
- g. The Quality Circle should meet each quarter.
- h. The Quality Circle should publish its minutes for review by the DQAC and the civil society monitoring commission.
- i. Clients should be aware of all available methods of family planning, of the fact that sterilization is permanent, that clients should be informed in a language they clearly understand, and that clients should be made to understand what happens before, during, and after the surgery, its side effects, and potential complication, including failure (Section 1).
- j. Clients should make an informed decision for sterilization voluntarily (section 1.4.1), clients must be encouraged to ask questions (1.4.1.6), and clients must be told that they have the option of deciding against the procedure at any time without being denied their rights or other reproductive health services.

- k. All pre-procedure clinical assessments must be undertaken as per section 1.4.2. Demographic information should be recorded, each patient's medical history should be taken, a physical examination including blood pressure, pulse, pelvic examination, and laboratory examinations for hemoglobin, sugar and aluminum, and pregnancy.
- l. Consent should not be obtained under coercion or when the client is under sedation, and that the client must sign the sterilization consent form before the surgery.
- m. All sterilization camps must be organized in established health care facilities – either CHCs or PHCs. (Section 2.1) the facility must have a well-ventilated, fly-proof room with concrete/tiled floor, which can be cleaned thoroughly, running water, and electricity with a generator and other light source. (Annexure 1).
- n. The space should have a reception area, waiting area, private counseling area, laboratory, clinical examination room, preoperative preparation room, hand washing area, sterilization room, isolated operation theater with adequate lighting, a spacious and well ventilated recovery room with beds, adequate toilets, and an office area.

- o. Each surgeon should restrict to conducting a maximum of 30 laparoscopic tubectomies, 30 vasectomies or 30 minilap tubectomies (Section 2.2) or to 50 surgeries with additional surgeons, support staff, instruments, equipment, and supplies. (Section 2.2).
- p. All sterilization camps should take place between 9am and 4pm (Section 2.3).
- q. All sterilization camps should be adequately staffed With one male worker/clerk (at registration), one medical officer and one staff nurse (history and clinical assessment), one health supervisor (counseling area), one lab technician and one cleaner (laboratory examination), one staff nurse (pre-operative preparation), one OT attendant and one ward boy (Instrument and reusable items processing/sterilization area), 1 staff nurse, OT attendant, and one cleaner (operation theater), 1 medical officer and 1 ANM (post-operative room), 1 accountant and one compounder/pharmacist (office-cum-store), and two ANMs (for other procedure room). The visiting team should include one empanelled surgeon, one anesthetist, and one OT assistant. (Section 4(a)).

- r. The District Nodal Officer for Family Planning in every district should ensure communication to the operating teams, keep a list of standby staff, stock equipment and arrange for repairs, ensure that all necessary supplies are available, and to ensure that funds are ready for disbursement. (Section 3(b)).
- s. The Camp manager or CHC or PHC should coordinate team activities, ensure availability of local team members, ensure availability of equipment, instruments, and supplies. (Section 3(c)).
- t. The camp manager, site medical officer, staff nurse/ANM, and visiting surgeon *inter alia* should fulfill their duties outlined in Section 3(II) of the Standard Operating Procedures during the camp in particular that the camp manager should ensure all visiting members reach on time, assign responsibility for the facility staff, check that the OT has been disinfected, ensure that all supplies are available.
- u. The site manager should ensure that all clients are counseled properly, conduct a full clinical assessment of clients and document the same, provide pre-procedure instructions to the clients, provide post-procedure check-ups and instructions (both verbal and written), take care of post-procedure follow-up of clients for any problem inclusive of stitch removal,

counseling and providing other contraceptive services to clients.

- v. The ANM should provide counseling for all the clients, ensure documentation of informed consent, ensure sufficient material including linen, instruments, ensure emergency equipment, confirm the pre-procedure check-up of clients, and monitor clients during the procedure and assist in post-operative care.
- w. The surgeon/gynecologist should ensure that each client has been adequately counseled and screened, fill a checklist before conducting the procedure, ensure requisite equipment/instruments and supplies, ensure emergency and surgical procedures, to document post-operative instructions on the records of all cases, to do a post-operative check-up, and deal with emergencies.
- x. All sterilization camp staff should adhere to the mandatory infection prevention procedures laid out in Section 5. In particular, All staff should wash their hands, wear gloves, maintain proper methods of environmental cleanliness, ensure the proper processing of instruments and other items, and follow proper waste disposal practices.

- y. Before surgeries, the floor should be cleaned with a mop soaked in 0.5% chlorine solution and the table/counter top should be cleaned with a cloth soaked in 0.5% chlorine solution.
  - z. All post-operative procedures in Section 1.5 are followed, in particular The client is monitored; the client is only discharged at least 4 hours after the procedure then the vital signs are stable and the client is fully awake, has passed urine, and can walk, drink, and talk, and the client has been evaluated by a doctor. The client must be accompanied by a responsible adult while going home and any medicines must be prescribed as necessary.
  - aa. Clients should have a discharge card with the name of the institution, date, type of surgery, and the date and place for follow-up.
  - bb. ASHA workers must follow up with clients 48 hours after surgery and women should report to a health facility after seven days to have their stitches removed.
  - cc. These instructions must be provided verbally and in a written form in a language the client understands.
- C. For an order directing all states and Union Territories to ensure that the Village Health and Sanitation Committees,

the Block Monitoring and Planning Committees, the District Health Monitoring and Planning Committees, and the State Health and Monitoring Committee, monitor all sterilization camps operating within their jurisdiction, ensure full compliance with the Standard Operating Procedures for Female and Male Sterilization (2006), Quality Assurance Manual for Sterilization Services (2006), Standard Operating Procedures for Sterilization Services in Camps (2008) and maintain a written record of the said monitoring and inspections duly signed by the members of the said committees and posted on a website.

D. For an order directing all states and Union Territories to induct on the District Health Monitoring and Planning Committees as well as the State Health Planning and Monitoring Committee, as well as the sterilization District Quality Assurance Committee and the State Quality Assurance Committee a nominee of the National Alliance for Maternal Health and Human Rights.

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E. For an order directing the establishment of a Court Commission headed by Mr A R Nanda, retired Secretary of Family Welfare and retired Executive Director of Population Foundation of India, who shall put together a

team of Co-Commissioners from the States/UTs who are eminent health experts to

- a. Conduct periodic visits to states with high sterilization rates to hold high level review meetings with the senior officials and to assess compliance with guidelines, compensation, and redress provided under the Family Planning Insurance Scheme.
- b. The Commission will solicit public information through hearings and testimonies.
- c. The Commission will respond reactively by taking suo moto cognizance of incidents that are brought to its notice.
- d. And to make periodic reports to this Hon'ble Court to seek further directions if necessary.

F. For an order directing the Respondents to publish in the state languages the order of the Supreme Court dated 1.1.2005 in Ramakant Rai's case as well as the order passed in this matter and to have the said orders pasted on all PHCs, CHCs, and District Hospitals throughout the State.

G. For an order directing the Respondents to publicize on radio and television the substance of the orders passed by

the Supreme Court in Ramakant Rai's case as well as in this case, and the Family Planning Insurance Scheme.

- H. For an order directing the Respondents No. 2 (State of Bihar) to provide 5 lakh in compensation to the women sterilized at the Kapafora sterilization camp in Araria District Bihar. A list of the women is included at Annexure P-7 of the petition.
- I. For an order to the Respondents to review and update the state lists of empanelled doctors as directed in Ramakant Rai's case.
- J. For an order to the Respondents to provide and publicize written information in local languages about the Family Planning Insurance Scheme laid down in this Court's Ramakant Rai decision.