

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
JAIPUR BENCH AT JAIPUR**

**D.B. CIVIL WRIT PETITION (PIL) No. 13807 /2015**

28937  
14/09/15

Petitioners:

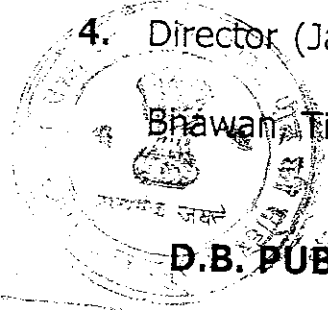
1. Jan Swasthaya Abhiyan Rajasthan having its office at Flat 202, Plot No. 158 Swage Farm, New Sanganer Road, Sodala, Jaipur(Rajasthan) through Convenor Dr. Narendra Gupta.   
 age about 62 years
2. Dr. Narendra Gupta S/o Shri Shyam Behari Lal, Convenor Jan Swasthaya Abhiyan, Residing at Flat 202, Plot No. 158 Swage Farm, New Sanganer Road, Sodala, Jaipur(Rajasthan).

PA: 11 DCIFGL 570 Mo-9414110328

Versus

Respondents:

1. State of Rajasthan through Chief Secretary, State of Rajasthan, Govt. Secretariat, Jaipur.
2. Principal Secretary, Department of Medical and Health, Jaipur (Rajasthan).
3. Mission Director, National Rural Health Mission, Swasthaya Bhawan Jaipur (Rajasthan).
4. Director (Jan Swasthaya), Medical and Health Services, Swasthaya Bhawan, Tilak Marg, Jaipur (Rajasthan).



**D.B. PUBLIC INTEREST LITIGATION PETITION UNDER  
ARTICLE 226 OF THE CONSTITUTION OF INDIA**

**AND**

**CHAPTER XXII-A, RULE 385 A TO 385 R**

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H. DHAKA  
OATH COMMISSIONER  
Raj. High Court Bench Jaipur

1. Particulars of the Cause /order against which the petition is made:

(i) Date of order / Notification/ Circular/ Policy decision etc.

Tender Notice dated 23/7/2015 passed by the respondent no. 2

(ii) Passed in (Case or file No.)-Nil

(iii) Passed by (Name and designation of the Court, Authority, and Tribunal etc.):-

The Director (Jan Swasthya), Medical and Health Services Rajasthan, Jaipur.

(iv) Subject matter in brief:-

D.B. CIVIL WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA

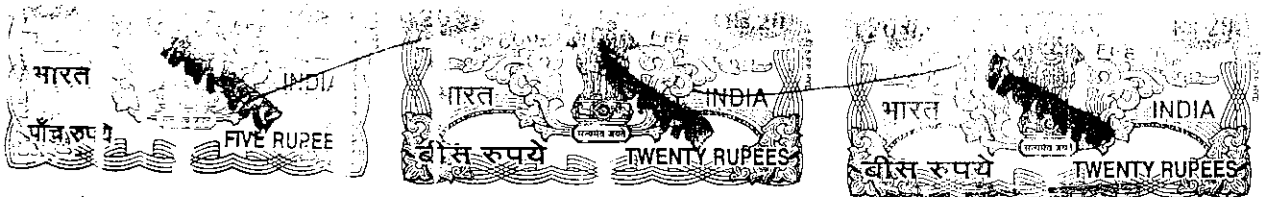
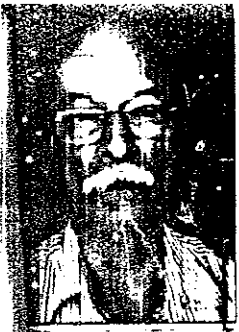
AND

IN THE MATTER OF:

HANDING OVER OF 300 PRIMARY HEALTH CENTRES (PHCs)  
TO PRIVATE PARTIES FOR RUNNING THEM ACCORDING TO  
"RUN A PHC SCHEME" VIDE IMPUGNED TENDER NOTICE  
DATED 23/7/2015.

To.

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**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
JAIPUR BENCH AT JAIPUR**

**D.B. CIVIL WRIT PETITION (PIL) No. 13807 /2015**

memo  
28937  
14/09/15

Petitioners:

1. Jan Swasthaya Abhiyan Rajasthan having its office at Flat 202, Plot No. 158 Swage Farm, New Sanganer Road, Sodala, Jaipur(Rajasthan) through Convenor Dr. Narendra Gupta.
2. Dr. Narendra Gupta S/o Shri Shyam Behari Lal, <sup>age about 62 years</sup> Convenor Jan Swasthaya Abhiyan, Residing at Flat 202, Plot No. 158 Swage Farm, New Sanganer Road, Sodala, Jaipur(Rajasthan).

PAN NO ACIPG4757D MO-9414110328

Versus

Respondents:

1. State of Rajasthan through Chief Secretary, State of Rajasthan, Govt. Secretariat, Jaipur.
2. Principal Secretary, Department of Medical and Health, Jaipur (Rajasthan).
3. Mission Director, National Rural Health Mission, Swasthaya Bhawan Jaipur (Rajasthan).
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**D.B. PUBLIC INTEREST LITIGATION PETITION UNDER**

**ARTICLE 226 OF THE CONSTITUTION OF INDIA**

**AND**

**CHAPTER XXII-A, RULE 385 A TO 385 R**

H. DHAKA  
OATH COMMISSIONER  
Raj. High Court Bench Jaipur

01/03/15

1. Particulars of the Cause /order against which the petition is made:

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The Director (Jan Swasthya), Medical and Health Services Rajasthan, Jaipur.

(iv) Subject matter in brief:-

D.B. CIVIL WRIT PETITION UNDER ARTICLE 226 OF THE  
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AND

IN THE MATTER OF:

HANDING OVER OF 300 PRIMARY HEALTH CENTRES (PHCs)  
TO PRIVATE PARTIES FOR RUNNING THEM ACCORDING TO  
"RUN A PHC SCHEME" VIDE IMPUGNED TENDER NOTICE  
DATED 23/7/2015.

To,

The Hon'ble Acting Chief Justice and his other companion  
judges of the Rajasthan High Court at Jaipur Bench, Jaipur.

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R. DHANU  
OATH COMMISSIONER  
Raj. High Court Bench Jaipur

2. Particulars of the Petitioners:-

(i) That the Petitioners no.1 of Jan Swasthya Abhiyan (JSA) is a group of public service civil society organisations and individuals who came into being in the year 2000. Petitioner no.2 Dr. Narendra Gupta is the Convenor of JSA Rajasthan as a signatory. A resolution has been passed on dated 10/9/2015 in this regard to challenge the impugned Tender Notice dated 23/7/2015 by which it was decided to handover 90 Primary Health Centres (PHCs) to private parties for running them according to "Run a PHC Scheme". A Copy of the resolution passed on dated 10/9/2015 is being placed on record and marked as **Annexure-1**.

(ii) Petitioner has not been involved in any other civil, revenue or criminal litigations in an any capacity before any Court of Law or Tribunal.

3. Declaration and undertaking of the petitioner(s):

(i) The present petition is being filed by way of public interest litigation and the petitioner does not have any personal interest in the matter. The petition is being filed in the interest of public of the State of Rajasthan.

(ii) That the entire litigation cost, including advocate's fee and other charges is being borne by the petitioners. There are no other sources of finance. The entire litigation cost is being borne by the petitioners only.

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(iii) That a thorough research has been conducted in the matter raised through the public interest litigation. The petitioners have annexed with this public interest litigation writ petition copies of relevant documents by way of **Annexure-1 to Annexure-10** supported by an affidavit.

(iv) That to the best of the petitioner's knowledge and research the issue raised was not dealt with or decided and that a similar or identical petition was not filed earlier by him. The issue as has been raised by the petitioners through the present P.I.L. has not ever been raised earlier or decided by way of any such identical petition.

(v) The petitioners have understood that in the course of hearing of this petition the court may require any security to be furnished towards costs or any other charges and the petitioners shall comply with such requirements. The petitioners undertake to abide by such directions of Hon'ble Court if issued regarding furnishing the cost or any other charges and to comply with such requirements.

4. Facts in brief, constituting the cause:

1. That the Jan Swasthay Abhiyan is a *reputed* organisation which is operating nationally with specific chapters in different states. It has been operating since 2000 on issues relating to public health. Jan Swasthya Abhiyan (JSA) is a network of

public service civil society organisations and individuals who came into being in the year 2000. The origin of Jan Swasthya Abhiyan can be traced to the declaration made by the World Health Assembly of the World Health Organisation held in 1978 in the city of Alma Ata where all member countries including India pledged to ensure "Health for All by 2000" to the citizens of their respective countries. But, the health enquiries conducted by Jan Swasthya Abhiyan in the year 2000 revealed that a majority of the people in Rajasthan lacked access to basic essential quality health care. Therefore, it launched several campaigns for universal access to quality health care and successfully lobbied for launch of National Rural Health Mission with enhanced financial allocations for primary health care. One of the most notable campaigns of Jan Swasthya Abhiyan Rajasthan led to the launch of **Mukhya Mantri Nishulk Dava Yojana and Mukhyamatntri Nishulk Janch Yojana** by the Govt. of Rajasthan. Both these schemes provide all commonly used medicines and investigations absolutely free to all the patients seeking treatment from the publicly funded medical institutions of Rajasthan. This is a biggest ever relief to the citizens of Rajasthan and in drastic reduction of out of pocket expenditure in medical care and it has prevented several hundred thousands of families from falling into increasing penury. The then Chief Minister of Rajasthan complimented in writing to Jan Swasthya Abhiyan

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 Raj. High Court Bench Jaipur

Rajasthan vide letter dated 20/5/2011 for having suggested for this scheme. A copy of the letter written by the Chief Minister, Rajasthan to the petitioner no.2 on dated 20/5/2011 is being placed on record and marked as **Annexure-2**. JSA Rajasthan has been actively engaged into education of citizens on issues of patients' rights, community based action for better health with an overall objective to contribute for universal access to quality health care. JSA is a completely voluntary effort of several individuals and organisations of Rajasthan.

2. That this petition impugns the state government's cabinet decision no. 124 of 2015 by which it was decided to handover 90 Primary Health Centres (PHCs) to private parties for running them according to "Run a PHC Scheme". Copy of this decision is not available to the petitioner or to members of the public. It appears that subsequently a further decision may have been taken by the cabinet to extend the handing over of 300 PHCs. This order is not in possession of the petitioners and is not available to the public. Hence prayer has been made in this petition for copies of the government decisions abovementioned to be produced in Court.

3. That Pursuant to this decision a Tender Notice inviting bids for the Primary Health Centres (PHCs) on PPP mode was issued on 23.7.15. A Copy of the impugned Tender Notice dated

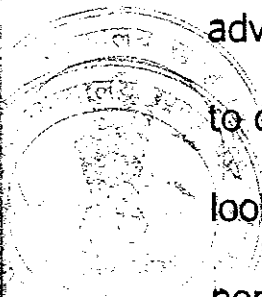
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 Raj. High Court Bench, Jaipur



23/7/2015 is being placed on record and marked as **Annexure-3**.

It is pertinent to mention here that the 300 PHCs proposed to be handed over will also include their sub centres and the village activities as hereinafter described. As per the condition of the advertisement the successful bidder will be given by the state government approximately Rs. 30 lakh per year to carry out the duties set out in the document. In the earlier tender bids were invited to be submitted by 31.8.15 but at the later stage it was amended by issuing a corrigendum on the basis of Pre-Bid Conference dated 10/8/2015 and according to the corrigendum the last date for submission of bids is 15/9/2015. The corrigendum issued in this regard by which 300 PHCs proposed to be handed over is also being placed on record and marked as **Annexure-4** hereto together with the terms of the invitation for bids.

4. That Petitioners impugns the cabinet decisions as well as the advertisement inviting bids and seeks an order from this Court to quash and set aside the same as it is the duty of the state to look after the ~~primary~~ health care issues and problems of the population. Free and proficient public healthcare services provided by the state is a fundamental right under the expanded definition of the Right to Life as set out in several decisions of the Supreme Court. The present impugned orders



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and the advertisement is an attempt by the state to abdicate its duties to provide public healthcare services in a free and fair manner by making a pretence that what was originally provided by the state through the PHCs can now be equally provided by private parties. Nothing could be further from the truth. On the surface it appears as if it is merely a change in the implementing party from public to private but a close scrutiny of the tender document will reveal that it is in fact an attempt by the state to commercialise public healthcare services, institutionalise the charging of fees for the services rendered which ought to be completely free, and though a pretence is made that the private parties will be held accountable for the standards set out in the tender document a closer scrutiny will reveal there is no independent and professional monitoring body available or constituted to carry out these functions. All this means that the private parties will get hold of the PHCs, the terms of the tender document shows that they can begin charging for additional services rendered in the PHCs and that the entire system is meant to operate in such a manner that the PHCs form a recruiting ground for poor patients who are sick to be charged first in the PHCs and then referred to private hospitals and clinics where they can be further charged. This is the invidious privatisation scheme that is ultimately designed to destroy the public healthcare system in Rajasthan.

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5. That dealing with the clauses of tender document, petitioners first deals with clauses regarding Additional services. A bare perusal of this clause shows that PHC operators can charge for additional services in the PHCs. What could be these additional services is not mentioned explicitly, but the additional services may include ECG machine, Sonography Machines, X-Ray Machines, services of specialists which are otherwise not part of the mandated services of PHCs as per the Indian Public Health Standards formulated by the Ministry of Health and Family Welfare, Govt. of India. These services are provided free at the community health centres and above. A Copy of the Indian Public Health Standards (IPHS) is being placed on record and marked as **Annexure-5**. Thus, if certain services are required and certain tests are needed to be done instead of referring the patient to the CHCs and elsewhere private parties will be permitted to take money from the poor persons who are sick. Secondly, and this is well known, the private practice system today in the country suffers from a basic problem of private practitioners prescribing a whole range of unnecessary and expensive tests and medication thereby fleecing the members of the public. This often results in over medication and huge payments. The difference in expenditures incurred by patients in public and private hospitals is several times high. The 71st report prepared by the NSSO "Key Indicators of Social Consumption in India - Health released in June 2015 shows

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that a hospitalised person in public hospital spends Rs. 6120/- while the average expenditure in private hospital is Rs. 25850/-. A Copy of the above report which describes the expenditure pattern in public and private health system is also being placed on record and marked as **Annexure-6**.

6. That even though it is stated in the tender document that the government will regulate the prices of these additional services, it is not so provided that government will pay for the same and it is specifically provided that the patients will be charged. According to the petitioner charging the poor in India for health care services in the public healthcare system is violative of the fundamental rights of the citizens.
7. That a careful scrutiny of the document will show that the conditions appear to be quite stringent at first glance. Why then our prominent private parties that are purely commercial entities that are solely interested in profits and super profits interested in the scheme? This is because of an unholy nexus that has and will develop between the private parties running the PHCs and the private medical establishments in the neighbourhood. The latter are most keen to poach away from government the poor patients that go to the PHCs. This is so that the private hospitals can once again extract as much money as they can from the poor patients. Thus it is clearly understood by public health experts that implied in the scheme

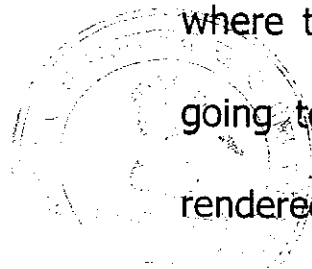
is the right of the private party running the PHC to refer the patients to private institutions. This right of referral will violate the fundamental rights of the poor patients.

8. That although several services are to be provided such as 100% immunisation, 95% safe motherhood services, family planning and so on as set out in clause 5 and elsewhere under the heading "Performance Outcome/Indicators," it is clear that this is only meant to mislead the public as there is no means of verifying or of monitoring whether the private party has met all its commitments. In the absence of an independent body of integrity that cannot be compromised by private parties seeking super profits and willing to pay bribes, these standards and indicators are rendered meaningless. There will be no way of ascertaining whether the said outcomes and indicators have been met and satisfied. Thus, over all, government will pay large sums of money to private parties to take over what is essentially a core governmental function and, additionally, the private parties will be free to exploit and extort money from the poor people and at the same time render the government institutions namely the PHCs, the CHCs, the district hospitals redundant and irrelevant. This is therefore a scheme to close down the public healthcare system.

9. That the situation of the poor in Rajasthan regarding public health care is well set out in the Annual Health Survey 2012-13 and for the sake of brevity the findings therein are not

reproduced herein. It is sufficient to say that a large part of the population of Rajasthan covered by the subsidy scheme in the National Food Security Act, 2012 is about 75% of the population of Rajasthan which means that they can be considered as poverty stricken people requiring state intervention. The documents also show that expenses due to healthcare expenditures is a second most important reason for indebtedness in the country and in the state of Rajasthan. A Copy of the Annual Health Survey 2012-13 is being placed on record and marked as **Annexure-7.**

10. That the original rationale for the scheme was, ironically, public interest. It was said that services could not be provided in rural and particularly remote areas. This rationale was also part of the pretence made that privatisation was intended to improve the public healthcare system. However, a careful look at the 300 PHCs proposed to be privatised shows that a majority of them are either in the urban areas or within a reasonable distance from an urban area. Thus, it is not the remote areas that are being brought into the scheme but the urban areas where the incomes are marginally higher and where persons going to the PHCs can be charged money for the services rendered therein which services are supposed to be provided free. This shows that the scheme is not at all in the public



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Raj. High Court

interest but is meant to help private parties, exploit the poor and vulnerable at times of their illnesses.

11. That, Jan Swasthaya Abhiyan, Rajasthan issued a Press Release in this regard and demanded to immediately revoke the decision of State Government and stop the process of privatization by handing over Primary Health Centres (PHCs) to private parties on PPP mode. A copy of the press release dated 5/8/2015 is being placed on record and marked as **Annexure-7A**. Many local news papers reported this issue; copies are being placed on record and collectively marked as **Annexure-8**. Petitioners submitted a representation on dated 11/9/2015 to the Chief Secretary, State of Rajasthan and sought information under RTI also to provide meeting minutes of the cabinet meeting through his colleague but the Respondent no.2 did not provide any information till date after the lapse of 30 days and now the last date for submission of bids is 15/9/2015 and looking to the urgency into the matter Hon'ble High Court's intervention is necessary. The copy of the representation dated 11/9/2015 and RTI application is being placed on record and marked as **Annexure-9 and Annexure-10** respectively.

5. Source of Information-

Since the petitioners are engaged in social activities, they are well aware of such orders. The impugned order dated 23/7/2015 is itself evident.

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6. Nature and extent of injury caused/apprehended:

The public injury is apparent that it will deprive the people to get the benefits of medical care.

7. Any representations etc. made:

Petitioners have submitted a representation to the Chief Secretary of Govt. of Rajasthan on dated 11<sup>th</sup> September 2015. However there was no inclination to reconsider the matter. Prior to it a press release dated 5/8/2015 was issued in this regard by Jan Swasthya Abhiyan, Rajasthan to immediately revoke the decision of State Government and stop the process of privatization to handover Primary Health Centres (PHCs) to private parties on PPP mode. An application under RTI has also been submitted to the respondents but no response whatsoever has been given to the petitioner.

8. **Grounds:**

A. Because, the impugned order dated 23/7/2015 is unconstitutional, illegal, and in violation of fundamental rights enshrined in the constitution of India.

B. Because, the impugned order in violation of Article 14, 16, 21 and Article 38 of the Constitution of India.

C. Because, the origin of Jan Swasthya Abhiyan can be traced to the declaration made by the World Health Assembly of the World Health Organisation held in 1978 in the city of Alma Ata where all member countries including India pledged to ensure



"Health for All by 2000" to the citizens of their respective countries.

- D. Because, the health enquiries conducted by Jan Swasthya Abhiyan in the year 2000 revealed that a majority of the people in Rajasthan lack access to basic essential quality health care. Therefore, it launched several campaigns for universal access to quality health care and successfully lobbied for launch of National Rural Health Mission with enhanced financial allocations for primary health care.
- E. Because, one of the most notable campaigns of Jan Swasthya Abhiyan Rajasthan led to the launch of **Mukhya Mantri Nishulk Dava Yojana and Mukhyamatntri Nishulk Janch Yojana** by the Govt. of Rajasthan. Both these schemes are providing all commonly used medicines and investigations absolutely free to all the patients seeking treatment from the publicly funded medical institutions of Rajasthan is a biggest ever relief to the citizens of Rajasthan in drastic reduction of out of pocket expenditure in medical care and prevented several hundred thousands of families from falling into increasing penury.
- F. Because, under the garb of the Tender Notice dated 23/7/2015 not only the 90 PHCs but also 300 PHCs at Rajasthan proposed to be handed over will also include their sub centres.
- G. Because, it is the duty of the state to look after the public health care issues and problems of the population. Free and

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H. DHARA  
OATH COMMISSIONER  
Raj. High Court Bench

proficient public healthcare services provided by the state is a fundamental right under the expanded definition of the Right to Life as set out in several decisions of the Supreme Court. The present impugned orders and the advertisement is an attempt by the state to abdicate its duties to provide public healthcare services in a free and fair manner by making a pretence that what was originally provided by the state through the PHCs can now be equally provided by private parties.

- H. Because, a close scrutiny of the tender document will reveal that it is in fact an attempt by the state to commercialise public healthcare services, institutionalise the charging of fees for the services rendered which ought to be completely free, and though a pretence is made that the private parties will be held accountable for the standards set out in the tender document a closer scrutiny will reveal there is no independent and professional monitoring body available or constituted to carry out these functions.
- I. Because, the private parties will get hold of the PHCs. The terms of the tender document shows that after handing over on PPP mode, private parties can begin charging for additional services rendered in the PHCs and that the entire system is meant to operate in such a manner that the PHCs form a recruiting ground for poor patients who are sick to be charged first in the PHCs and then referred to private hospitals and

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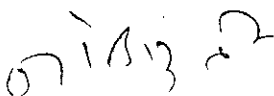
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- J. Because, PHC operators can charge for additional services in the PHCs. What could be these additional services is not mentioned explicitly, but the additional services may include ECG machine, Sonography Machines, X-Ray Machines, services of specialists which are otherwise not part of the mandated services of PHCs as per the Indian Public Health Standards formulated by the Ministry of Health and Family Welfare, Govt. of India. These services are provided free at the community health centres and above. Thus, if certain services are required and certain tests are needed to be done instead of referring the patient to the CHCs and elsewhere private parties will be permitted to take money from the poor persons who are sick.
- K. Because, the private practice system today in the country suffers from a basic problem of private practitioners prescribe a whole range of unnecessary and expensive tests and medication thereby fleecing the members of the public. This often results in over medication and huge payments. The difference in expenditures incurred by patients in public and private hospitals is several times high. The 71st report prepared by the NSSO "Key Indicators of Social Consumption in India - Health released in June 2015 shows that a hospitalised person

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in public hospital spends Rs. 6120/- while the average expenditure in private hospital is Rs. 25850/-.

- L. Because, even though it is stated in the tender document that the government will regulate the prices of additional services, it is not so provided that government will pay for the same and it is specifically provided that the patients will be charged. According to the petitioner charging the poor in India for health care services in the public healthcare system is violative of the fundamental rights of the citizens.
- M. Because, a careful scrutiny of the document will show that the conditions appear to be quite stringent at first glance. Why then our prominent private parties that are purely commercial entities that are solely interested in profits and super profits interested in the scheme? This is because of an unholy nexus that has and will develop between the private parties running the PHCs and the private medical establishments in the neighbourhood. The latter are most keen to poach away from government the poor patients that go to the PHCs. This is so that the private hospitals can once again extract as much money as they can from the poor patients. Thus it is clearly understood by public health experts that implied in the scheme is the right of the private party running the PHC to refer the patients to private institutions. This right of referral will violate the fundamental rights of the poor patients.



N. Because, although several services are to be provided such as 100% immunisation, 95% safe motherhood services, family planning and so on as set out in clause 5 and elsewhere under the heading "Performance Outcome/Indicators," it is clear that this is only meant to mislead the public as there is no means of verifying or of monitoring whether the private party has met all its commitments. In the absence of an independent body of integrity that cannot be compromised by private parties seeking super profits and willing to pay bribes, these standards and indicators are rendered meaningless. There will be no way of ascertaining whether the said outcomes and indicators have been met and satisfied. Thus, over all, government will pay large sums of money to private parties to take over what is essentially a core governmental function and, additionally, the private parties will be free to exploit and extort money from the poor people and at the same time render the government institutions namely the PHCs, the CHCs, the district hospitals redundant and irrelevant. This is therefore a scheme to close down the public healthcare system.

O. Because, a large part of the population of Rajasthan covered by the subsidy scheme in the National Food Security Act, 2012 is about 75% of the population of Rajasthan which means that they can be considered as poverty stricken people requiring state intervention. The documents also show that expenses due



to healthcare expenditures is a second most important reason for indebtedness in the country and in the state of Rajasthan.

P. Because, the original rationale for the scheme was, ironically, public interest. It was said that services could not be provided in rural and particularly remote areas. This rationale was also part of the pretence made that privatisation was intended to improve the public healthcare system. However, a careful look at the 300 PHCs proposed to be privatised shows that a majority of them are either in the urban areas or within a reasonable distance from an urban area. Thus, it is not the remote areas that are being brought into the scheme but the urban areas where the incomes are marginally higher and where persons going to the PHCs can be charged money for the services rendered therein which services are supposed to be provided free. This shows that the scheme is not at all in the public interest but is meant to help private parties, exploit the poor and vulnerable at times of their illnesses.

Q. Because, Jan Swasthaya Abhiyan, Rajasthan demanded to immediately revoke the decision of State Government and stop the process of privatization to handover Primary Health Centres (PHCs) to private parties on PPP mode. Petitioner sought information under RTI also but the Respondent no.2 did not provide any information till date after the lapse of 30 days and now the last last date for submission of bids is 15/9/2015 and

looking to the urgency into the matter Hon'ble Court's intervention is necessary.

R. Because, the other points will be raised at the time of arguments.

9. Delay, if , any, in filing the petition and explanation therefore:

No delay is occurred in the instant matter since the cause of action is a continuous one and the petitioners demanded to immediately revoke the decision of State Government and stop the process of privatization to handover Primary Health Centres (PHCs) to private parties on PPP mode but no response has been given till date.

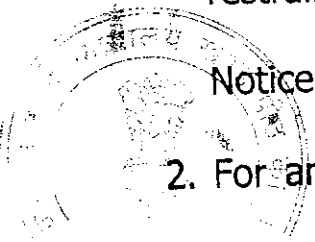
10. Relief(s) prayed for:

(Specify the relief(s) prayed for)

It is most humbly prayed that this Hon'ble Court may kindly be pleased to:

1. For an appropriate writ, order or direction quashing and setting aside the Tender Notice dated 23/7/2015 handing over Primary Health Centres (PHCs) to private parties and also to restrain the state from taking any steps pursuant to the tender Notice dated 23/7/2015(Annexure-3).

2. For an order directing the State of Rajasthan to operate the PHCs in the state of Rajasthan by the government alone and to continue to provide all services therein free of charge to the public as is the practice today.



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3. For an order directing the State of Rajasthan to ensure that all referrals made by the PHCs are only to the CHCs and district hospitals where services will be provided free to the public and not to any private party.
4. For an order directing the state of Rajasthan to ensure that no person in a PHC is charged any amount for any service under any circumstances.
5. For an order directing the State of Rajasthan to establish and independent monitoring body of integrity comprising of public health experts, demographers, statisticians, researchers and members of civil society organisations who do not have any conflict of interest which can take comprehensive view of the issue and make suggestions for the best possible framework of implementation to deliver quality medical and health services.
6. For an order directing to systematically study as to whether the public healthcare services that are required to be provided to the public as set out in the tender document are in fact so provided and to make regular monitoring reports to the government and to make such reports public.

Any other order or direction, which Hon'ble Court deems fit and proper, may kindly be passed in favour of the petitioners.

**11.** Interim order, if prayed for:

(Give the nature of interim order prayed for with reasons)

It is most humbly prayed that this Hon'ble court be pleased to stay the operation/execution of the impugned order dated

6/10/2013



23/7/2015 passed by the respondent no.2 during the pendency of this writ petition.

**12. Caveat:**

That though no notice has been received of lodging a caveat by the opposite party but still a copy of this petition has been supplied to the learned Advocated General of the State.

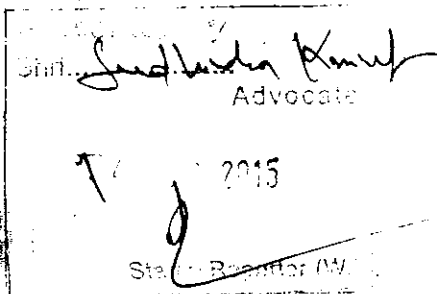
Jaipur: 14/9/2015  
Date

गिरीश शर्मा

(Prem Krishan Sharma/ Sudhindra Kumawat)  
(Nishant Vyas/Vishnu Sharma/ Nripendra Sinsinwar  
Advocates

**NOTES:**

1. No such Writ petition(PIL) has been filed by the petitioner either in this Hon'ble Court or Hon'ble Supreme Court of India.
2. That, P.F., notices and extra sets shall be submitted within the stipulated time.
3. This has been typed by my private steno who is not a staff member of the High Court.
4. It has been typed on stout papers, as pie papers are not readily available.



COUNSEL FOR THE PETITIONERS

गिरीश शर्मा

गिरीश शर्मा

गिरीश शर्मा

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
JAIPUR BENCH AT JAIPUR**

**D.B. CIVIL WRIT PETITION (PIL) No. /2015**

**Jan Swasthaya Abhiyan Raj. and Anr. Vs State of Raj. & Ors.**

**AFFIDAVIT IN SUPPORT OF WRIT PETITION**

I, Dr. Narendra Gupta S/o Shri Shyam Behari Lal <sup>age 62 years</sup>, Convenor Jan Swasthaya Abhiyan, Residing at Flat 202, Plot No. 158 Swage Farm, New Sanganer Road, Sodala, Jaipur(Rajasthan), do hereby take oath and state as under:-

1. That, I am convenor of the Jan Swasthaya Abhiyan Rajasthan as well as Petitioner no.2 in the above noted writ petition(PIL) and as such am well conversant with the facts involved in the case. Therefore I am entitled to swear this affidavit, before this Hon'ble Court.
2. That, the annexed writ petition (PIL) has been drafted by my counsel under my instructions and the contents whereof have been read over to me which I have fully understood.
3. That the contents of Para No.1 to 12 of the writ petition are true to my personal knowledge and are based on legal advice.
4. That the contents of Para No. A to R of the grounds part of the writ petition is true to my personal knowledge and are based on legal advice.

*(Signature)*  
Deponent

**Verification:**

I, the above named deponent, do hereby solemnly affirm and verify that the contents of para 1 to 4 of my affidavit are true and correct to the best of my knowledge. Nothing material has been concealed therein and no part of it is false. So help me God.

No. 47 DATE 14/05/15  
 SORN BY SHRI N. Gupta  
 S/o S. B. Lal  
 WHO IS IDENTIFIED BY SHRI S. B. Lal

*(Signature)*  
Deponent

H. DHAKA  
OATH COMMISSIONER  
Raj. High Court Bench Jaipur

*(Handwritten notes and stamps)*  
 3  
 10  
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 10



(25)

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN**

**JAIPUR BENCH AT JAIPUR**

**D.B. CIVIL MISC STAY APPLICATION NO. 12189/2015**

**IN**

**D.B. CIVIL WRIT PETITION (PIL) No. 13807/2015**

28938  
14/09/15

Petitioners:

1. Jan Swasthaya Abhiyan Rajasthan having its office at Flat 202, Plot No. 158 Swage Farm, New Sanganer Road, Sodala, Jaipur(Rajasthan) through Convenor *DR. Narendra Gupta.*
2. Dr. Narendra Gupta S/o Shri Shyam Behari Lal, *aged about 62 years* Convenor Jan Swasthaya Abhiyan, Residing at Flat 202, Plot No. 158 Swage Farm, New Sanganer Road, Sodala, Jaipur(Rajasthan).

PAY NO AC/PG 4757F1 MO- 9411110328

Versus

Respondents:

1. State of Rajasthan through Chief Secretary, State of Rajasthan, Govt. Secretariat, Jaipur.
2. Principal Secretary, Department of Medical and Health, Jaipur (Rajasthan).
3. Mission Director, National Rural Health Mission, Swasthaya Bhawan Jaipur (Rajasthan).
4. Director (Jan Swasthaya), Medical and Health Services, Swasthaya Bhawan, Tilak Marg, Jaipur (Rajasthan).

**D.B.Civil Misc. Stay Application under Article 226  
of the Constitution of India for staying the  
operation/execution of the impugned tender**

R. DHAKA  
OATH COMMISSIONER  
Raj. High Court Bench Jaipur

01/03/15

**notice dated 23/7/2015 during the pendency  
of this writ petition.**

To,

The Hon'ble Acting Chief Justice and his other companion  
judges of the Rajasthan High Court at Jaipur Bench, Jaipur.

MAY IT PLEASE YOUR LORDSHIPS,

The humble applicants respectfully submit this stay application as  
under:-

1. That, the applicants has filed the above titled Public Interest  
Litigation against the impugned Tender Notice dated 23/7/2015  
before this Hon'ble Court today along with this Stay Application.
2. That, from the facts and material on record a strong prima-facie  
case is made out in favour of the petitioners and it has every hope  
of success in it.
3. That, in order to avoid repetition, the facts and grounds taken in  
the annexed public interest Petition may kindly be treated as part  
and parcel of this stay application and read as such.
4. That, if in case ad-interim stay order sought for, is not passed than  
the petitioners will suffer from huge an irreparable losses which  
cannot be compensated in any terms.

*[Handwritten signature]*

R. DHAKA  
OATH COMMISSIONER  
Raj High Court Bench Jaipur

5. That, the balance of convenience is also in favour of the applicant/petitioner.

### PRAYER

It is therefore, most humbly prayed that your lordships may graciously be pleased to allow this stay application and further pleased to stay the operation of the impugned Tender Notice dated 23/7/2015 and further pleased to restrain the Respondent State from taking any steps pursuant to the tender Notice dated 23/7/2015(Annexure-3) during the pendency of this writ petition.

Any other order or relief, which this Hon'ble High Court deems fit and proper, may also be passed in favour of the petitioners.

Presented by  
Shri. *Sudhindra Kumawat*  
Advocate

14 July 2015

State Reporter (W)

*07/07/2015*  
Humble Petitioners  
Through Counsel

*3/07/15*  
(Prem Krishan Sharma/ Sudhindra Kumawat)  
(Nishant Vyas/Vishnu Sharma/ Nripendra Sinsinwar  
Advocates

### Notes:-

1. No Such stay application has been filed previously by the applicant/petitioners.
2. It has been typed by my private steno on stout papers as pie paper are not readily available.
3. The P.F. Notices will be filed as per order of the court.

*07/07/2015*  
*07/07/2015*  
COUNSEL FOR THE APPLICANT/PETITIONERS

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
JAIPUR BENCH AT JAIPUR**

**D.B. CIVIL MISC STAY APPLICATION NO. -----/2015  
IN**

**D.B. CIVIL WRIT PETITION (PIL) No. /2015**

**Jan Swasthaya Abhiyan Raj. and Anr. Vs State of Raj. & Ors.**

**AFFIDAVIT IN SUPPORT OF STAY APPLICATION**

I, Dr. Narendra Gupta S/o Shri Shri Shyam Behari Lal, <sup>age 62</sup> <sup>year</sup>  
Convenor Jan Swasthaya Abhiyan, Residing at Flat 202, Plot No. 158  
Swage Farm, New Sanganer Road, Sodala, Jaipur(Rajasthan), do  
hereby take oath and state as under:-

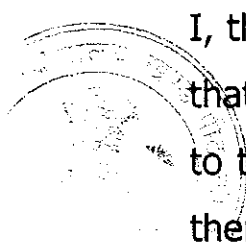
1. That I am the I am convenor of the Jan Swasthaya Abhiyan Rajasthan as well as petitioner no.2 in this stay application and as such am well conversant with the facts involved in the case. Therefore I am entitled to swear this affidavit, before this Hon'ble Court.
2. That, the stay application has been drafted by my counsel under my instructions and material furnished by me. Legal submission is on legal advice.
3. That, the contents of the stay application for clarification are true and correct to the best of my knowledge.

*Id by  
Abhiyan*

*(Signature)*  
Deponent

**Verification:**

I, the above named deponent, do hereby solemnly affirm and verify that the contents of para 1 to 3 of my affidavit are true and correct to the best of my knowledge. Nothing material has been concealed therein and no part of it is false. So help me God.



No. 49 DATE 14/5/15  
SORN BY SHRI S. B. Gupta  
S/o S. B. Gupta F/O Jan Swasthaya Abhiyan  
WHO IS IDENTIFIED BY SHRI (Signature)

*(Signature)*  
Deponent

*28-10-15*

*(Signature)*  
Deponent

In The High Court of Judicature for Rajasthan  
Jaipur Bench, Jaipur

**ORDER**

D.B. Civil Writ Petition (PIL) No.13807/2015

Date : 1-10-2015

Hon'ble Mr. Justice Ajay Rastogi  
Hon'ble Mr. Justice Anupinder Singh Grewal

Mr. P.K. Sharma Adv. with  
Mr. Sudhindra Kumawat Adv., for petitioner.

Issue notice to the respondents. Copy of the petition along with documents annexed thereto may be additionally served in the office of learned Advocate General.

List on 26-10-2015.

(Anupinder Singh Grewal), J.

(Ajay Rastogi), J.

VS/

