



2026:DHC:8911-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on: 30.09.2026**
Judgment pronounced on: 09.10.2026

CNR No. DLHC010183882021

+ **W.P.(C) 5655/2021 & CM APPL. 17613/2021**

DELHI NURSES UNIONPetitioner

Through: **Mr. Harish Kumar Mehra, Adv.**

versus

UNION OF INDIA & ORS.Respondents

Through: **Mr. Om Prakash, Ms. Swati Mishra, Mr. Chandresh Yadav & Mr. Prince Yadav, Adv. for R-4.**

Mr. M.K. Singh, Adv. for R-5.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

AVNEESH JHINGAN, J.:

1. This petition is filed challenging the recruitment rules of respondent no.5 with the following prayer:

“a) issue a Writ of Mandamus and/or any other writ/order/direction against respondent No. 5 thereby quashing of Notification No. VPCI/Admn II/R/2019/4647 dated 14.03.2019 issued by respondent No. 5-Vallabh Bhai Patel Chest Institute, and Advertisement published in Employment News *(6-12 March 2021) with regard to appointment of Nursing Superintendent and further to direct the respondents to fill up the posts of Assistant Nursing Superintendent and to increase the nursing staff in Viswanathan Chest Hospital, in accordance with norms of



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Central Govt.”

2. The petitioner is a registered union of nurses having a branch at Vishwanath Chest Hospital of Vallabhbhai Patel Chest Institute, University of Delhi, New Delhi (hereinafter referred to as ‘VPCI’). VPCI is a institution of the University of Delhi under Ordinance XX(2) of the Delhi University Act (hereinafter ‘Ordinance XX(2)’) and is arrayed as respondent no.5. The University of Delhi is an autonomous organization under the administrative control of the Ministry of Education. It is pleaded that at the time of filing of the petition, VPCI had a capacity of 128 beds, including 8 ICU beds and 10 beds in the Emergency Ward.

2.1 The challenge in the present petition is to the recruitment rules dated 15.11.2017 framed by VPCI with the approval of the Ministry of Health and Family Welfare (hereinafter ‘MoHFW’) and implemented with effect from 14.03.2019. The challenge is that the recruitment rules are violative of the Norms for Nurses in Central Government Hospitals (for short ‘Norms’) issued pursuant to the report of the Staff Inspection Unit (SIU), Ministry of Finance.

2.2 In nutshell, the grounds of challenge are that a post of Nursing Superintendent is created in VPCI despite the bed capacity being 128 whereas the norms provide for such post in hospitals having 250 or more beds. The argument is that two years service as Deputy Nursing Superintendent is required for promotion to Nursing Superintendent, although no post of Deputy Nursing Superintendent exists in VPCI. The consequential relief sought is quashing of the advertisement published in Employment News dated 6-12, March 2021 for direct recruitment to the



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post of Nursing Superintendent.

3. Learned counsel for the petitioner contended that VPCI is funded by the Central Government and was recognised as a Central Government hospital by the Minister of State for Health and Family Welfare and the norms are applicable to it.

3.1 The argument is that the MoHFW *vide* letter dated 30.10.2017, directed VPCI to follow the National Institute of Tuberculosis and Respiratory Diseases (NITRD) nursing recruitment rules based on norms. It is submitted that All India Institute of Medical Sciences (AIIMS) follows the norms and has no post of Nursing Superintendent despite having 182 beds. The Employees State Insurance Corporation (ESIC) letter dated 24.09.2019 reflects the application of norms to nursing staff strength in its hospitals.

3.2 The contention is that the recruitment rules of 2017 for the nursing cadre, implemented on 14.03.2019 are contrary to the norms. The rules require two years service as Deputy Nursing Superintendent for promotion to the post of Nursing Superintendent, although no such post exists in VPCI. The post of Nursing Superintendent was advertised in March 2021 for direct recruitment thereby denying promotional opportunities to the existing staff.

3.3 It is emphasised that the recommendations of SIU dated 20.04.1992, prescribed nursing hierarchy and staffing norms for Central Government hospitals. The post of Nursing Superintendent is for hospitals having 250 or more beds and a Chief Nursing Officer for those with 500 or more beds. The grievance is that in violation of norms, the post of Nursing



Superintendent is created despite there being 128 beds in VPCI.

3.4 It is submitted despite the requirement of approximately 177 nurses under the norms, the respondents have engaged 17 permanent and 22 nursing officers on a contractual basis, affecting the efficient functioning of the hospital.

3.5 It is argued that the post of Assistant Nursing Superintendent is vacant since 2017, despite availability of eligible serving candidates no promotion is being made yet the advertisement for direct recruitment to the post of Nursing Superintendent is issued restricting the promotional avenues for the existing staff.

4. *Per Contra*, VPCI is an institution maintained by the University of Delhi, governed by its own Governing Body under Ordinance XX(2) and is fully funded by the MoHFW. The norms do not apply to VPCI as the recommendations dated 20.04.1992 covered only seven Central Government hospitals specified therein and VPCI does not find mention.

4.1 It is submitted that in the absence of separate recruitment rules for the nursing cadre, VPCI with the approval of MoHFW dated 15.11.2017 framed the recruitment rules on the lines of NITRD rules. The rules were implemented w.e.f. 14.03.2019.

4.2 It is canvassed that nursing staff strength is determined by bed occupancy and patient workload and shortages if any are being managed through contractual appointments while the process of creating additional posts is underway.

4.3 It is contended that the sanctioned strength comprises one post each of Nursing Superintendent and Assistant Nursing Superintendent, five



Senior Nursing Officers and seventeen Nursing Officers. The first two posts are vacant, while 22 Nursing Officers are engaged on a contractual basis.

4.4 It is further submitted that the respondents have sought approval from MoHFW for creation of the post of Deputy Nursing Superintendent to maintain the nursing hierarchy and the approval is awaited.

4.5 The argument is that none of the serving Senior Nursing Officers in VPCI fulfil the prescribed qualifications for promotion to the post of Assistant Nursing Superintendent. The recruitment rules in such circumstances cannot be faulted on the ground that the existing staff has been denied promotional opportunities.

4.6 It is argued that the MACP Scheme has been extended to the nursing staff of VPCI and that the Institute is governed by a Governing Body under the University of Delhi Act, Statutes and Ordinances.

5. Before proceeding further, it would be apposite to reproduce the relevant portions of the norms and the notification dated 15.11.2017 approving the posts of nursing cadre:

“NOTIFICATION DATED 15.11.2017

The Recruitment Rules (RRs) for the following Nursing Cadre posts in VPCI as approved by the Governing Body, VPCI and the Ministry of Health & Family Welfare, Govt. of India, are attached herewith for information of all concerned. The soft copy of the same is also hosted in the VPCI website at the link: <http://www.vpci.org.in>. Suggestion/Comments, if any, in this regard may be sent in the prescribed format attached herewith, to the undersigned within 30 days from the date of hosting the Recruitment Rules in the official website of VPCI.



- (i) Staff Nurse
- (ii) Nursing Sister
- (ii) Assistant Nursing Superintendent
- (iv) Nursing Superintendent

This issues with the approval of the competent authority.”

“NORMS FOR NURSES IN CENTRAL GOVERNMENT HOSPITALS”

1.1. The Ministry of Health & Family Welfare, Directorate General of Health Services have seven hospitals its Administrative Control, to cater to public health. They are Safdarjung Hospital, Dr. Ram Manohar Lohia Hospital, Smt. Sucheta Kriplani Hospital, Kalawati Saran Hospital all in Delhi, Central Institute of Psychiatry in Ranchi, JIPMER in Pondicherry and CLTRI, Chengl-pattu (Tamil Nadu).

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5.4 The Asstt. Nursing Superintendents are recommended in the ration of 1 Asstt. Nursing Superintendent to every 4.5 Nursing Sisters. The Asstt. Nursing Superintendent should be entrusted with the non nursing job mentioned in para 4.4 of this report presently done by Nursing Sisters and perform duty in shift also.

5.5 The posts of Deputy Nursing Superintendent may continue at the level of 1 Deputy Nursing Superintendent to every 7 Asstt. Nursing Superintendent.

5.6 There will be a post of Nursing Superintendent for every Hospital having 250 or more beds.

5.7 There will be a post of Chief Nursing Officer for every Hospital having 500 or more beds.”

6. The foundation of this petition is the violation of the norms. From the reading of clause 1.1 of the norms, it is evident that the norms relied upon by the petitioner were framed for the seven hospitals specified therein



and does not include VPCI. No provision extending the application of the norms to VPCI has been pointed out in the pleadings of the writ petition. This is despite the fact that in the reply dated 22.09.2021 issued by the MoHFW pursuant to the representation made by the petitioner, it was stated that the norms were not extended to VPCI. Thus, the foundation for filing the writ petition does not exist and the challenge to the *vires* of the recruitment rules cannot be sustained.

7. Be that as it may, the grievance that the post of Nursing Superintendent could not have been created in a hospital not having 250 or more beds, is ill-founded. Clause 5.6 of the norms is a positive assertion that there will be a post of Nursing Superintendent in every hospital having 250 or more beds. The language of clause is not to prohibit the creation of Nursing Superintendent post in a hospital having less than 250 beds. The creation of a post is a policy and administrative decision to be taken by the management based on the requirements of the hospital.

8. The argument that in absence of a post of Deputy Nursing Superintendent there can be no promotion to the post of Nursing Superintendent need not be dilated upon. Suffice to say that it is specifically pleaded by the respondents that the process for creation of the post of Deputy Nursing Superintendent has been initiated and the matter is pending with the MoHFW for approval.

9. It cannot be lost sight of that VPCI, *albeit* is funded by the Central Government is an institution maintained by the University of Delhi, governed by Ordinance XX(2) and has its own Governing Body. The recruitment rules were framed on the lines of NITRD rules with the



approval of the MoHFW.

10. The comparison drawn on the basis of information received under the Right to Information Act, 2005 from AIIMS and the ESIC is of no avail. The norms were not extended to VPCI and the decision regarding recruitment and the number of staff required is to be taken in accordance with the requirements of the hospital.

11. The argument that the post of Assistant Nursing Superintendent is lying vacant and that direct recruitment to the post of Nursing Superintendent restricts promotional avenues is misconceived. A specific unrebutted stand taken by the VPCI is that none of the serving nursing staff is eligible for promotion to the post of Assistant Nursing Superintendent. In these circumstances, the advertisement for recruitment to the post of Nursing Superintendent issued for the smooth functioning of the hospital cannot be faulted with.

12. The second prayer in the writ petition seeks directions to the respondents to fill the post of Assistant Nursing Superintendent and to increase the nursing staff in VPCI in accordance with the norms, needs no adjudication. As discussed above the norms are not applicable to VPCI. Moreover, the writ court cannot interfere with policy decisions relating to creation of posts, as the number of posts required is a matter of policy and administrative necessity. Reference in this regard be made to the decision of the Supreme Court in *Union of India v. Ilmo Devi, (2021) 20 SCC 290*:

“13. The observations made in para 9 are on surmises and conjectures. Even the observations made that they have worked continuously and for the whole day are also without any basis and for which there is no supporting evidence. In any case, the fact remains that the respondents served as



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part-time employees and were contingent paid staff. As observed above, there are no sanctioned posts in the Post Office in which the respondents were working, therefore, the directions issued by the High Court in the impugned judgment and order are not permissible in the judicial review under Article 226 of the Constitution. The High Court cannot, in exercise of the power under Article 226, issue a mandamus to direct the Department to sanction and create the posts. The High Court, in exercise of the powers under Article 226 of the Constitution, also cannot direct the Government and/or the Department to formulate a particular regularisation policy. Framing of any scheme is no function of the Court and is the sole prerogative of the Government. Even the creation and/or sanction of the posts is also the sole prerogative of the Government and the High Court, in exercise of the power under Article 226 of the Constitution, cannot issue mandamus and/or direct to create and sanction the posts.”

(emphasis supplied)

13. The writ petition is dismissed.

14. Pending application stands disposed of.

AVNEESH JHINGAN, J

SHAIL JAIN, J

OCTOBER 09, 2026/‘ha’

Reportable:- Yes