



Brief report

PUBLIC HEARING ON OVERCHARGING AND PATIENT'S RIGHTS VIOLATIONS IN PRIVATE HOSPITALS DURING COVID-19

**MAHARASHTRA STATE LEVEL EVENT ORGANISED BY
JAN AROGYA ABHIYAN ON 5TH FEBRUARY 2021**

March, 2021

Jan Arogya Abhiyan



Background

During the COVID-19 epidemic, many private hospitals in Maharashtra have charged bills much higher than regulated government rates and have denied various patients' rights to people seeking healthcare. Based on documented testimonies and media reports along with feedback from different health rights NGOs, Jan Arogya Abhiyan (JAA, Jan Swasthya Abhiyan-Maharashtra), a state-wide network of organisations and individuals working on health rights, organised a Maharashtra State level Jan Sunwai (Public hearing) on 5th February 2021, in Pune. More than a hundred people attended the event online, and around thirty people participated in the event in person at the venue in Pune with public health precautions. ***The public hearing's objective was to provide patients and their families a platform to voice their grievances regarding their experiences of overcharging and denial of patient's rights in many private hospitals related to treatment of COVID 19 and other ailments during the COVID- 19 epidemic, in violation of the government's mandatory directive.***

JAA received around 30 testimonies of patients, out of which selected patient victims from rural and urban Maharashtra were asked to present their testimonies before a panel.

Introduction to the event

In their introductory remarks, JAA activists Shripad Konde and Shakuntala Bhalerao observed that despite a sustained movement for over 15 years for regulation and accountability in the private health sector, enactment of people-centred legislation on regulation and patient's rights has not happened. Mr Konde pointed out that a large number of people had suffered financial loss and incurred debt due to gross overcharging in private hospitals, despite the state government's mandatory directive to give Covid-19 patients either free treatment (in hospitals empanelled in the Mahatma Jyotirao Phule Jan Arogya Yojana (MPJAY) or at government regulated rates during the pandemic. In addition to this directive made by using power under the Disaster Management Act, 2005, the government made a provision to audit bills for COVID patients above the stipulated cap. However, many people were unable to get their bills audited. Testimonies presented in the hearing have vividly brought this forward.

A. SESSION 1 -

PATIENT TESTIMONIES ON OVERCHARGING, NON-TRANSPARENCY, AND LACK OF GRIEVANCE REDRESSAL SYSTEM.

Prior to the hearing JAA had received more than 100 phone calls from patients and their caregivers having complaints regarding private hospitals from various parts of Maharashtra, including places like Jalgaon, Hingoli, Solapur, Latur, Aurangabad, Nagpur, Jalna, Dombivali, Akola, Amaravati, Sangli, Ratnagiri and Thane. This overwhelming response indicated that the public hearing theme resonated with citizens who faced similar issues everywhere.

JAA representative, Shri Girish Bhave, moderated the session. Dr Anant Phadke, Dr Abhijit More, and Adv. Lara Jesani attended the testimonies session as panellists. JAA had documented 33 cases from different parts of Maharashtra. However, because of time constraints, eight cases were presented in the hearing. Summary of patient testimonies presented in the hearing-

1. “What is the use of government schemes if information about its benefits is not provided to people, or is deliberately concealed?” - Manisha Palekar (Kolhapur)

On being detected COVID positive in September 2020, Manisha Palekar’s husband (a schoolteacher) was admitted to a private hospital in Kolhapur on 14th September 2021. Hospital initially refused to accept the patient unless Rs 1.50 lakh was paid in advance. Finally, after pleas and requests, the hospital admitted the patient after paying Rs 50,000, mostly borrowed from relatives. Unfortunately, Manisha’s husband passed away on the morning of 8th October, and much to her shock hospital asked her to pay total bill of Rs 14 lakhs. Out of which Rs 3,90,000 were already paid. The hospital was adamant that the body of the deceased will be released only after full payment of the outstanding bill. The body was finally handed over to the family in the evening after delay of almost 12 hours, only after interventions from multiple supportive persons and making additional part payment of Rs 2 lakhs. **Notably, this particular hospital was empanelled with the MPJAY, entitling the patient to absolutely free care for COVID treatment, but patient relatives were given no information about this scheme by the hospital.** The hospital also did not provide Manisha with her husband’s medical records and a proper itemised bill. After three months of repeated requests and reminders, she was finally handed a bill of Rs 9.5 lakhs, whereas the hospital initially had asked her for payment of total bill of Rs 14 lakhs.

2. “We have been overcharged at every level, who will hear our grievance?” - Son of Dr Durgadas Chowdhary (Nashik, video testimony, documented by Video Volunteers).

Dr Chowdhary was admitted to a private hospital in Nashik with COVID symptoms. Despite being insured under Mediclaim, hospital insisted on cash advance, which patient had to accept. Written consent was taken without even basic information sharing with the

patient's relatives. Dr Chowdhary was in the hospital for 28 days, including 24 days on a ventilator. Unfortunately, he passed away, and relatives were given a bill of Rs 14 lakhs. This huge bill was manifold higher than the rates which should have been charged based on capping of rates by Maharashtra government. Further, some of the charges mentioned in the bill are plainly baffling. Relatives of the patient complained to the Municipal Corporation, but authorities summarily dismissed their complaint after a cursory perusal of the file in 10 minutes.

3. "Even authorities agree that it is a case of inflated and irrational charges" - Testimony of 85-year-old lady from Pune.

The patient was admitted into a private non-critical COVID Care Centre (CCC) by her nephew for supervision. He was given a bill of Rs 2,80,000 (2.8 lakhs) for a stay of 2 weeks, which was 1.5 times higher than the initial estimate provided to him. He noticed that the bill seemed to be grossly inflated with unjustified charges, such as charges for 114 PPE kits and oxygen that was supposed to have been used for four days, even though his aunt confirmed that she was never given oxygen. This charge, when pointed out, was dismissed as a clerical error by the administrator, and the hospital adjusted the bill to Rs 2,45,000. Not satisfied with the resolution, patient's relatives complained to the Municipal corporation, which also found the case to be overcharging and again adjusted the bill to Rs 1,45,000. On further analysis of the medical records, similar antibiotics and multivitamins were billed with multiple brand names in the same prescription! One day medications included 20 to 30 medicines even in the absence of any clinical and laboratory findings apart from just covid-19 positive report. Many unnecessary medications were prescribed and billed though not given. Even steroids were prescribed which is unindicated in mild COVID cases. Patient's kin highlighted these facts in front of the Additional Commissioner, who has referred the case to the Technical Committee in Sassoon Hospital in August 2020. A final resolution is still pending as of date (February 2021).

4. "We were charged Rs 16,000 for the ambulance to take my mother's body from hospital to crematorium which is merely 2 kilometres away" - Sandip Dhande (Yavatmal).

Sandip was asked to deposit Rs 80,000 before his mother's admission, out of which they could only manage to pay Rs 40,000. The hospital did a CT scan and tested her for COVID 19 when they should have also focused on her actual complaint, which was chest pain. The hospital informed patient's relatives that she was COVID positive, although they still have not received her actual COVID test results. Sandip's mother passed away after five days, and the hospital told him to settle the bill of 1.5 lakhs as precondition for taking her body. The ambulance charged Rs 16,000 to take the body to a crematorium which was mere 2 kilometres away!

5. "He was taken from one hospital to another, we had to pay hefty deposits" - Amar Kapse, Murbad village, Kolhapur.

Amar's brother Jeevan tested COVID positive and was admitted to a private COVID care centre in September 2020 in Kolhapur after paying an initial deposit of Rs 1.5 lakhs. Despite all efforts, his condition deteriorated. The patient's family decided to shift him to another hospital after ten days, when they realized that the hospital only had non-invasive

ventilators and stopped giving him oxygen during the night. The bill provided after ten days was Rs 3,00,000 including Rs 86,000 for medicines, consumables, PPE etc., which was more than three times higher than the maximum allowable rate for treatment of COVID patients, and about which the management had not informed anything in advance! (Besides, the family also procured nine doses of Remdesivir, as well as Tocilizumab for him.) They could only pay Rs 2,30,000 and transferred Jeevan to KBP hospital in Kolhapur, where they again had to pay a hefty deposit of Rs 2 lakhs before his admission. Doctors took him into the ICU at 7 pm on 18th October 2020. The very next morning, his condition worsened, and he passed away by midday. The hospital charged the family Rs 63,000 for two days and did not give the family any bill or medical records, including documents from the previous hospital.

6. "I lost my job since I had to stay in the hospital during the lockdown with my ailing mother. Although I lost my mother, my only expectation is that the government should help poor people like us to avail of schemes for free care, since we are completely helpless in such situations" - Dada Jadhav, Pune.

Dada narrated the case of his 65-year-old mother, a waste-picker who was advised for urgent surgery after being diagnosed with a twisted ovarian cyst. After being turned away from Kamala Nehru Municipal Corporation public hospital, Dada admitted his mother to a supposedly 'charitable' private hospital. When she was tested COVID positive, her operation was delayed for over four days, even as the initial estimate was revised to Rs 80,000. During the 12 days after his mother's operation, Dada applied for free care under the MPJAY scheme, only to be informed that MPJAY did not cover the procedure. Assisted by the social worker from the wastepickers organisation KKP KP, Dada contacted various officials, approached the District Coordinator of the MPJAY scheme, and even filed an online complaint with the State MPJAY committee but all to no avail. Despite being eligible for MPJAY, Shahari Garib Yojana (of Pune Municipal Corporation) and Trust Hospital Schemes, the family of this waste-picker was not allowed to claim any benefits. Completely disheartened with all the red tape and the hospital's complete lack of cooperation, Dada finally took a personal loan at monthly interest of 10% and this poor family has borrowed money from friends, relatives, and employers to settle the hospital bill of Rs 1,07,000.

7. "Hospital was reluctant to provide MPJAY benefits" - Pratik Kalekar, Pune.

Pratik's mother tested positive for COVID 19 and was admitted in a charitable private hospital on 21st July 2020. He was asked to pay a deposit of 30,000, but he could only pay Rs 10,000 at that time. He submitted all the documents for the MPJAY Scheme to the hospital helpdesk the very next day. However the management delayed the approval, asking him to go to the ration card office to update the ration card ID, even though his mother was critical. The administration then refused his application for MPJAY on the grounds that his mother tested negative for COVID 19 in the hospital, even though she had an ICMR positive report at the time of admission. Finally, after a state-level committee came to the hospital to audit pending applications, the case was approved for MPJAY. The bill for stay of Pratik's mother in the hospital for 18 days came to Rs 1.2 lakhs, out of which only Rs 60,000 were covered by MPJAY, and he was asked to pay the balance amount totalling Rs 60,000. Pratik realized that despite his applying promptly the scheme was approved only four days after admission. When he asked for an explanation, the hospital

management behaved very arrogantly and acted as if they had done a favour by approving the application. Completely frustrated with the management, he finally paid additional Rs 20,000 and got his mother discharged from the hospital. He is still waiting for the resolution of his complaint from the MPJAY grievance committee.

8. “MPJAY only gave partial benefit” - Abhaysingh Thorat (Kolhapur).

Only after paying an initial deposit of Rs 25,000, Abhaysingh's father was admitted to a private hospital in Sangli for COVID 19 treatment. After staying in the hospital for 11 days, Abhay's father passed away due to COVID complications. Even though patient's application was approved for the MPJAY benefit, the hospital told them that the bill was for Rs 1, 41,000 out of which only 1 lakh was sanctioned through the Yojana. They had to pay the remaining 41,000 rupees before their father's body was released to them after 9 long hours of waiting.

9. Lockdown and preemptory closure of dialysis centres - Nisreen Ebrahim (Mareez Hakk Abhiyan).

When the lockdown was suddenly announced, dialysis centres were sealed, causing enormous suffering to dialysis-dependent patients who were left in the lurch as neither the centres nor the government made any alternative arrangements for them. Especially, patients having kidney failure suffered grave consequences, with data reflecting increased mortality in this vulnerable group during the epidemic. Patients were forced to seek dialysis in private centres after paying 4500 rupees for a COVID test. Their condition often deteriorated over the two days when they had to wait for COVID results and dialysis was delayed. Some hospitals which were converted into COVID Care Centres did not consider the impact of this decision on patients using dialysis centres attached to the hospitals.

Panelist responses

1. “Rate regulation in private hospitals will not succeed in the absence of effective enforcement mechanism and supervision from the government, with civil society monitoring” - Dr Anant Phadke

Dr Phadke pointed out that even though the Maharashtra government did introduce rate regulation in private hospitals under the aegis of the Disaster Management Act, 2005, it was only partly successful as many hospitals did not comply with the directives, as evident from several cases presented. Dr Phadke pointed out to all the patient victims that allegations of irrational treatment needed careful analysis by medical experts before they can be indeed labelled as such. It would be advisable to focus on overcharging, the patients' rights violations in the cases such as denial to share medical records, give proper bills, insistence on payment of a deposit before admission, denial of scheme benefits - all in violation of the government's mandatory directive. Almost all testimonies were illustrative of the large extent of out-of-pocket expenditure and the impact of catastrophic health expenses on the family.

- 2. "Health activists have been demanding since a long time that the government should appoint official representatives in all hospitals who should counsel patients and assess their eligibility for different schemes. This task cannot be left to the hospital social workers. Effective implementation will only be possible with appropriate publicity about such schemes and monitoring its implementation on the ground." - Dr Abhijit More***

Dr More pointed out failure of the state to ensure compliance of private hospitals with government's mandatory directive about free Covid-19 treatment in hospitals empanelled in MPJAY and rate capping in other hospitals, where state-regulated charges were applicable to 80 % of Covid-beds. For the latter, A 3-tier system was created wherein charges for COVID 19 isolation wards were Rs 4000/day, ICU stay without ventilator was pegged at Rs 7500/day, and with ventilator, it was pegged at Rs 9000/day. Though such hospitals, not under MPJAY were allowed to charge extra for certain items like PPEs (@ hospital's purchase price plus 10%), some special investigations and medicines like Remdesivir and Tocilizumab etc, many were overcharging and charging in an opaque manner. Cases like that of Manisha Palekar showed that the MPJAY empanelled hospital, which should have given free treatment for all COVID-19 patients with difficulty in breathing needing ICU care, did not even inform her about this provision, and then demanded charges of Rs 14 lakhs. The hospital's refusal to hand over medical records and a reasonable bill was also an extortionist violation of her patient's rights.

Observations like pre-admission deposits, overcharging including excessive ambulance billing, points to the trend of unregulated commercialization of the healthcare sector. Such hospitals should be held accountable for false representation of facilities and services and refusal to provide patient with proper bills. He recommended that the government should institute an independent mechanism/cell to assess the eligibility of patients for MPJAY, to modify the current procedure centric nature of the Scheme, and to develop a centralised real time database for the status of bed availability in all such hospitals, which would be readily available to the public online.

- 3. "Rate capping in private hospitals was further extended from August to November 2020, and contentious charges, including the cost of PPE, were also capped. Therefore, while many cases in June and July 2020 were of gross arbitrary overcharging in the absence of properly established supervision and audit mechanism, cases from August and September 2020 showed that hospitals started using loopholes to inflate bill costs – PPE, N95, unnecessary drugs and investigations etc. Top hospitals in Mumbai were not disclosing the number of free beds available with them, to contravene the 80/20 rule imposed by the Government. If there are no laws to protect patients, what should we do to demand these laws in our campaign? And wherever regulations do exist, how can we ensure that hospitals are accountable for their actions?" - Adv Lara Jesani***

Adv Jesani pointed out that testimonies in the public hearing show multiple ways in which many private hospitals have managed to engage in profiteering, using the unprecedented nature of the COVID 19 epidemic as an excuse. Firstly, there was non-transparency given the caretakers' inability to be by the patient's side. It was not possible to monitor if medicines were actually being given as stated, and whether facilities like oxygen, ventilator, PPE were provided as claimed. Adv Jesani also suggested that cases could be collectively analysed for patient rights violations and presented to the NHRC COVID-19

committee. For example, detention of the dead body till settlement of dues is a clear violation of the NHRC Patient Rights Charter. Additionally, JAA can conduct a survey to see whether hospitals are proactively sharing information about public insurance schemes, and if patients are made aware of said schemes. While discussing legal options, she mentioned that JAA could explore the possibility of issuing notices to erring hospitals, and possibly demanding the institution of district-level fora where people could claim compensation for denied scheme benefits despite being eligible for them.

B. SESSION 2

WHAT NEEDS TO BE DONE AT A POLICY LEVEL?

The moderator Dr Abhay Shukla introduced the panel discussion, noting a common thread connecting all the testimonies in the public hearing, of *violation of the government's mandatory directive* and which involved overcharging, and patients' rights violations in several private hospitals, even in the midst of this most serious public health epidemic.

Panellists for the session were Vivek Velankar, senior RTI activist and founder of Sajak Nagrik Manch, and Advocate Shivangi Rai from C-HELP, ILS Pune.

Dr Shukla asked "Who is to heal the malaise of corruption and commercialization in a sick health system which is supposed to heal the ill and the suffering? It is us, the people, who need to take a united stand and demand the government to introduce accountability and transparency in the private healthcare sector."

Panellists emphasised that the public hearing's definite outcome should be to flag these issues in front of the government and demand a law to regulate private health care establishments and to protect patients' rights. Secondly, JAA should present evidence of the denial of access to MPJAY despite eligibility to the authorities, with the demand that hospitals reimburse such patients for their excess medical expenses. The public hearing can be an important next step for a campaign calling for regulation of the private healthcare sector. The Clinical Establishment Act (CEA) 2010, which was formulated with the intention to regulate the private health sector, has not yet been effectively implemented in any state of India. **Maharashtra still has an archaic, obsolete BNHRA act which was formulated way back in 1949. It is now the need of the hour to introduce a state-specific Clinical Establishment Act which, amongst other things, regulates rates and makes it mandatory for hospitals to give patients detailed bills, medical records, case summaries, which is the most basic right of a consumer.** The Charter of Patient's Rights and Responsibilities should also be displayed in all hospitals. Lastly, there should be an independent grievance redressal mechanism that offers a speedy resolution to aggrieved consumers, similarly to MAHRERA that introduced the regulation in the hitherto unregulated real estate and construction industry. It is equally important to give teeth to such grievance redressal mechanisms so that they can take punitive action against erring healthcare institutions.

In Pune city alone, auditors determined overcharging to the tune of Rs 12 crores and instructed hospitals to return the monies to the aggrieved patients. This is the best evidence of the need for the state to step in and regulate prices in this sector. Individual patients usually do not have the power, knowledge, or the ability to negotiate prices with hospitals, as

opposed to government or private insurance companies that purchase services in bulk and have the purchasing power to negotiate rates with the private health sector.

The 17-point NHRC Patient's Rights Charter, which should be made legally enforceable, has two critical rights in this context - Right to Information and transparency. The price list of all categories of services must be displayed on the hospital premises, on their website, and be handed out in the form of booklets to patients. Similarly, hospitals should have to provide patients with an initial estimate on admission, and an itemized detailed bill and medical records on discharge. There should be a complaint redressal mechanism in hospitals, and at the government level as well. **At the end of the session, panelists suggested that JAA should demand that Maharashtra government enact a regulatory act (such as CEA) including the following seven key provisions:**

1. Rate transparency and rate display in hospitals
2. Rate standardisation - capping rates
3. Observance of the 17-point NHRC Charter of Patient's Rights
4. Laying down Standard Treatment Guidelines
5. Institution of an independent and accessible Grievance Redressal Mechanism
6. Multistakeholder bodies at district and state level to provide oversight to regulation of hospitals.
7. Adequate humanpower and infrastructure to enable effective implementation of this act.

The Public hearing concluded with a public call to post experiences during the Covid-epidemic of problems in seeking healthcare on social media, using hashtags *#patientprotectionlawmaharashtra* and *#stopovercharginghospitals*.

