SALENTA V. UTTAR PRADESH

Snehalata "Salenta" Singh belongs to the *chamar*[2] community in Uttar Pradesh (U.P.). She was 32-years old when she gave birth to her sixth child at the nearest primary health center (PHC). She had previously had five successful at-home deliveries. For her sixth, however, she decided to give birth at the local PHC upon the advice of the Ancillary Nurse Midwife (ANM), who had told her about the Janani Suraksha Yojana, a scheme that encourages rural women to undergo institutional deliveries by offering a cash incentive.

When **Salenta** went into labor on February 12, 2007, she was given an intravenous drip by the ANM and left unattended for three hours. When the ANM returned, she demanded that Salenta's husband purchase medicine despite the guarantee of free medicine for patients living below the poverty line under the government's National Rural Health Mission (NRHM).[3] Further, the ANM refused to discharge Salenta once she gave birth, illicitly demanding a fee; Salenta's husband was forced to borrow money to pay the illegal fee. At no time between arrival and discharge from the hospital was Salenta ever examined by a doctor.

After returning home, Salenta realized that she was discharging urine. When she went to the PHC five days later, they gave her medicine without thoroughly examining her and sent her home. Though her symptoms persisted and worsened into severe pain and high fever, doctors at various hospitals failed to diagnose Salenta's condition. At times, they even demanded more fees she could not pay, forcing her to go home untreated.

After visiting six different hospitals over five months, Salenta was finally accurately diagnosed with vesico-vaginal fistula. Yet, she

Why this case is important

Snehalata Singh v. The State of U.P. & Ors., W.P. No. 14588/2009 (U.P. High Court in Allahabad) is the first maternal morbidity case to be litigated in a High Court of India. Focusing on obstetric fistula,[1] the case reveals massive failures in the Indian public health system that lead to preventable pregnancy-related injuries. The petition further reveals the failure of an incentive-based policy intended to protect women's health and safety during pregnancy due to the poor quality of care, corruption, and lack of accountability in the health system.

The petition and accompanying legal memorandum submitted by the Center for Reproductive Rights highlight key obstacles to quality reproductive healthcare in the State of U.P. and frame maternal morbidity as both a constitutional and a human rights issue. This case questions the Indian Government's failure to implement its own health policies and service guarantees. It exposes the urgent need for institutional safeguards against the denial of timely and appropriate medical care for pregnant women and the poor quality of care provided to them, especially those belonging to marginalized social groups and living below the poverty line.

Fistula is a debilitating condition that directly impinges on women's health and implicates their rights to life, health, equality and non-discrimination, and to be free from cruel, inhuman, and degrading treatment.

For every woman who dies from pregnancy-related causes, 20 to 30 suffer short- or long-term morbidities, including damage to the reproductive organs, severe anemia, postpartum disability, chronic pain, and infertility.[4]

only received the necessary corrective surgery ten months later when Healthwatch Forum, a local NGO advocating for women's health and rights, intervened on her behalf. Salenta had her operation on May 2, 2008, but it took almost three months to remove her catheters. Because of persisting pain and injuries sustained from these egregious delays and the poor quality of healthcare received, she is still unable to work. Salenta's family survives on the sole income of her husband.

Claims and Remedies

Represented by Human Rights Law Network (HRLN), Salenta, her husband, and Healthwatch Forum, filed a Writ Petition against the State of U.P. in April 2009.[5]

The petition argues that Salenta's constitutionally protected rights to life, health, dignity, equality, and non-discrimination were violated as a result of poor quality of care and neglect.

The Center for Reproductive Rights submitted a memorandum, drawing on India's international legal obligations for the case, which include protection of the right to be free from cruel, inhuman, and degrading treatment.

The petition also seeks compensation for Salenta's medical expenses and the physical and mental suffering directly caused by the poor quality care she received. It requests that court orders be issued compelling the State to provide free maternal healthcare to poor women, to implement the healthcare guarantees of the NRHM regarding ante- and post-natal care, to create an effective referral system, and to establish a redress mechanism and a system for monitoring maternal deaths.

Context

India consistently has the highest incidence of maternal death worldwide with around 63,000 women dying from pregnancy-related causes each year.[6] For every woman who dies from pregnancy-related causes, 20 to 30 suffer short- or long-term morbidities.[7] Based on this estimate, there could potentially be 1,260,000-1,890,000 cases of pregnancy related injuries and disabilities every year. Maternal morbidities such as fistula remain largely undocumented in India.

Salenta's negative experience with the Indian health system is not an isolated incident. The mistreatment of low-income pregnant women is endemic in U.P. In 2008, in *Smt. Shakuntala Devi v. State of U.P. & Ors.*,[8] the High Court of U.P. (Lucknow) explicitly recognized and condemned the appalling treatment of Sarvesh Kumari, a woman who was denied medical assistance at a PHC and forced to deliver her baby on the street. The Court denounced the behavior of the health officials involved, describing the treatment of Sarvesh as a "highly inhuman act on the part of officials and staff posted at the Community Health Center" and ordered the State government to implement appropriate measures to check the recurrence of such incidents,[9] which they characterized as a "shame for entire humanity."[10]

Cases like Salenta's and Sarvesh's expose the deficient status of maternal healthcare in India, as well as the reality of the shocking treatment provided to low-income pregnant women in health centers managed by the Government of U.P.

Current Status

The Writ Petition was filed by HRLN in April 2009. Though the case was listed many times, it was not heard for months. HRLN submitted a revised petition in August 2010. On October 27, 2010, the Court admitted this petition and its accompanying documents. The Court has ordered the Government to reply. The next hearing is pending.

Endnotes

1 A. Prual et al., *Severe Maternal Morbidity from Direct Obstetric Causes in West Africa: Incidence and Case Fatality Rates*, 78 Bulletin of the WHO 597 (2000) (citing WHO, *Measuring Reproductive Morbidity: Report of a Technical Working Group* (1989)). *See also* P. Hilton, *Vesico-Vaginal Fistulas in Developing Countries*, 82 Int'l J. Gynec. & Obstet. 285, 286 (2003). Fistula is a serious injury directly caused by prolonged and neglected obstructed labor without necessary medical intervention—emergency obstetric care (EmOC)—to relieve pressure on the vaginal wall and prevent tissue death. Obstetric fistula is a hole or tear in the soft tissue wall between the vagina and the bladder (vesico-vaginal) or rectum (recto-vaginal), or both, resulting in incontinence of urine or feces or both.

2 *Chamar*, a sub-caste of the *Dalit* caste in India, is a socio-economically disadvantaged sub-caste mainly found in the northern states of India, such as Uttar Pradesh, Punjab, Haryana, Himachal Pradesh, and Bihar.

3 The National Rural Health Mission is a government scheme aimed at providing health care services to rural households throughout India.

4 WHO, *Why do so many women still die in pregnancy and childbirth?*, http://www.who.int/features/qa/12/en/indexhtml; Human Rights Watch, No Tally of the Anguish: Accountability in Maternal Health Care in India (Oct. 7, 2009).

5 Petition, *Snehalata Singh v. The State of U.P. & Ors.*, W.P. (Civ.) No. 14588/2009 (U.P. High Court, Judicature at Allahabad).

6 World Health Organization (WHO), et al., Trends in Maternal Mortality: 1990 TO 2008: Estimates Developed by WHO, UNICEF, UNFPA and the World Bank 1 (2010), *available at* http://whqlibdoc.who.int/publications/2010/9789241500265_eng.pdf.

7 WHO, *Why do so many women still die in pregnancy and childbirth?*, *supra* note 4.

8 Order dated Aug. 29, 2008, *Smt. Shakuntala Devi v. State of U.P. & Ors.*, W.P. (Civ.) No. 4999 of 2008 (U.P. High Court, Lucknow Bench).

9 *See* Petition, *Smt. Shakuntala Devi v. State of U.P. & Ors.*, W.P. (Civ.) No. 4999 of 2008 (U.P. High Court, Lucknow Bench), paras. 2, 3, 7, 11, 12.

10 HT Legal Correspondent, *State told to check recurrence of 'deliveries by the roadside,'* Hindustan Times, Sept. 3, 2008 (from the Court's decision).