Competitive Exams: Right To Health

The right to health has been perhaps the least difficult area for the court in terms of justiciability, but not in terms of enforceability. Article 47 of DPSP provides for the duty of the state to improve public health. However, the court has always recognized the right to health as being an integral part of the right to life Francis Coralie Mullin, note 3 above; Parmanand Katara v. Union of India (1989) 4 SCC 286. The principle got tested in the case of an agricultural laborer whose condition, after a fall from a running train, worsened considerably when as many as seven government hospitals in Calcutta refused to admit him as they did not have beds vacant. The Supreme Court did not stop at declaring the right to health to be a fundamental right and at enforcing that right of the laborer by asking the Government of West Bengal to pay him compensation for the loss suffered. It directed the government to formulate a blue print for primary health care with particular reference to treatment of patients during an emergency (Paschim Banga Khet Majoor Samity v. State of West Bengal (1996) 4 SCC 37).

State of Punjab v. Ram Lubhaya Bagga (1998) 4 SCC 117, para. 29, p. 130. A note of caution was struck when government employees protested against the reduction of their entitlements to medical care.

The court said:

No State or country can have unlimited resources to spend on any of its projects. That is why it only approves its projects to the extent it is feasible. The same holds good for providing medical facilities to its citizens including its employees. Provision on facilities cannot be unlimited. It has to be to the extent finances permit. If no scale or rate is fixed then in case private clinics or hospitals increase their rate to exorbitant scales, the State would be bound to reimburse the same. The principle of fixation of rate and scale under the new policy is justified and cannot be held to be violative of article 21 or article 47 of the Constitution.