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RIGHT TO HEALTH IN INDIA

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ABSTRACT

In India, the right to health has been acknowledged as an essential component of the right to life under Article 21, despite not being specifically stated in the Constitution. According to judicial interpretations, its purview has been broadened to encompass access to a healthy environment, clean drinking water, basic healthcare, and sanitation. In particular, Public Interest Litigations (PILs) have been essential in the Indian judiciary's efforts to enforce health rights and hold the state accountable. Issues including poor infrastructure, a lack of workers, and unequal access still prevent all citizens from realizing this right, even in the face of progressive court decisions and legislative frameworks like the National Health Policy. Ensuring comprehensive healthcare delivery, bolstering legal frameworks, and increasing financial resources are still crucial to bringing the right to health to fruition in India.

Keywords: *Right to Health, Article 21, Indian Constitution, Public Interest Litigation, Healthcare Access, Judicial Interpretation, National Health Policy, Fundamental Rights, Public Health, Human Rights.*

INTRODUCTION

Health is more than just the lack of illness; it is a state of whole bodily, mental, and social well-being. Using the services provided by the medical nursing and top health professions, healthcare is the prevention, treatment, and management of disease as well as the maintenance of mental and physical well-being. Food, safe water, shelter, pollution, a peaceful environment, violence, and the availability of healthcare, employment, education, transportation, and recreational space are all components of health.

The right to health encompasses all rights. Typically, politicians and policymakers link the construction of hospitals and access to healthcare to the right to health. Health has been defined to mean a state of absolute mental, physical and social well being; and therefore is not only restricted to merely absence of diseases[1].

RIGHT TO HEALTH

Right to health includes:

1. The ability to obtain medical care, including mental health care. Emergency services, ambulance services, OPD/IP treatment, rehabilitation services/IP priority for marginalized populations (pregnant women, disabled children, elderly people, or poor gender minorities), community-based services, preventive and promotional services, and assistance for families of people with disabilities (high support needs).
2. The right to safe drinking water
3. The right to sanitary conditions and housing.
4. The right to a healthy diet
5. Right against abuse and violence.
6. Right to favourable working, environmental, and health conditions.
7. Right to pollution-free surroundings
8. The entitlement to leisure areas
9. The right to obtain community-based healthcare services free from prejudice and discrimination.
10. Right to secrecy and informed consent.
11. Information and medical records rights
12. Reproductive rights
13. Access to necessary medications

Core components of right to health includes:

Availability, accessibility, acceptable quality, and quantity, people-centeredness, equity, evidence-basedness, timelessness, and progressive realization with the use of all available resources are the fundamental elements of the right to health.

[1] Health as a Part of Fundamental Right under Article 21A: A Pursuit by India, Legal Service India E-Journal, Art. 450 (n.d.), available at https://www.legalserviceindia.com/legal/article-450-health-as-a-part-of-fundamental-right-under-article-21-a-pursuit-by-india.html (last visited July 26, 2025)

Right to health: A paradigm shift in thought

Because of the right to health, economic development and investment should view health as a goal rather than only an expense. In addition to public health and medicine, the right to health is a comprehensive, multisectoral notion that calls for work in the fields of agriculture, industry, education, housing, economics, and communications.

If the concept of the right to health is narrowly defined, it only addresses the treatment of disease, illness, disorder, insured, and disabled people; it does not address a full definition of health that includes preventative and promotional actions.
It might be referred to as "rise to access to healthcare" if its sole concentration is on healthcare access (rudimentary, narrowly focused).

When the Indian Constitution was drafted, the right to health was incorporated into the directive principles of state policy rather than being a basic right. Articles 38, 39, 42, 43, and 47 [India Const. arts. 38, 39, 42, 43 & 47.] of the DPSP[2]. Submit the application to the state to guarantee the successful realization of the right to health. The directorial principles of state policy, DPSP, contain provisions that are fundamental to the state's governance and cannot be enforced by any court.
According to Article 38, a social order must be established in order to further the welfare of the populace.

POWER TO MAKE LAWS STATE Vs CENTRE

HEALTH STATE VS. CENTER POWER TO MAKE LAWS

According to the Indian Constitution, states shall have the authority to enact laws and regulations for the benefit of their residents, including those pertaining to hospitals, dispensaries, and public health and cleanliness[3].
Entry six: Mental insufficiency and insanity, including facilities for the treatment or admission of mentally ill people.
Entry, 26 professions such as law, medicine, and others.

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[2] India Const. art. 38-47

[3] Munashe Siwadi, *Right to Health as a 'Fundamental Right'*, Law Column (Nov. 20, 2022), https://lawcolumn.in/right-to-health-as-a-fundamental-right/ (last visited July 26, 2025)

Article 21 [India Const. art. 21.] of the Indian Constitution provides fundamental rights, including the right to health and personal liberty, which are essential to living a dignified life. Article 21 [India Const. art. 21.] protects people's lives and personal freedoms, stating that no one can be deprived of either unless it is necessary to follow a legally mandated process[4].

JUDICIAL ANALYSIS

1. Siddharth Dalmia vs Union Of India (2025)

Facts

The petition was submitted in 2018 as a public interest lawsuit under Article 32. The petitioners' mother had breast cancer and had received radiation, chemotherapy, and surgery. Throughout her care, they saw that private hospitals forced patients to buy medications, implants, or consumables only from on-site or affiliated pharmacies, which cost much more than market or MRP prices.

Issues

1. Is it possible to govern private hospitals' pricing policies for medications, implants, and consumables by administrative or legislative means?
2. If so, how and to what degree should such legislation be formulated?
3. What body or system is suitable for putting such a regulation into effect and enforcing it?

Judgement

According to Article 21 [India Const. art. 21.], the Supreme Court recognized that having access to healthcare facilities is a necessary part of the right to life. The Court acknowledged that the insufficiency of public medical facilities necessitated the inclusion of private hospitals in the healthcare system. The Court pointed out that controlling every facet of private institutions could deter investment in the medical field. The Court stressed the necessity for State Governments to think on suitable policy measures to prevent patient exploitation, but it declined to issue mandatory directives. The petition was dismissed by the court, which instructed each state government to investigate the matter and develop any necessary policies.

[4] India Const. art. 21

The Court underlined that it had just brought attention to the public's concerns and had not offered an opinion on the case's merits[5].

2. Dr. Snigdha Prava Mishra v. State of Odisha (2025)

Facts

On February 28, 2024, Dr. Snigdha Prava Mishra, a 56-year-old physiology professor at MKCG Medical College in Berhampur, was sent to SRM Medical College in Bhawanipatna. She objected to this assignment and requested reassignment to Shri Jagannath Medical College inPuri.

She requested medical leave when her transfer appeal was denied, and on June 24, 2024, she filed for voluntary retirement (VRS), stating that her gradual vision loss and heart problems made it impossible for her to continue serving. On September 17, 2024, the Health & Family Welfare Department rejected the proposal, stating that it was against the "larger public interest" due to a severe lack of medical faculty.

Issues

1. Does Dr. Mishra's fundamental rights under Articles 14, 19, and 21 are violated when her VRS is denied due to a faculty shortage?
2. Does such a rejection fall within the current provisions (Rule 42) of the Odisha Civil Services (Pension) Rules, 1992?
3. If not, should the Odisha government be ordered to change its pension regulations to specifically permit denials based on the public interest justification?

Judgement

Judge S.K. Panigrahi's single-judge bench, February 14, 2025
acknowledged that courts frequently balance the right to personal freedom with the state's obligation to maintain public health.Notably, Rule 42 does not permit rejection on the grounds of public interest, but it does give VRS after 20 years with three months' notice.
Highlighted instances from other states (West Bengal, Tamil Nadu, and Uttar Pradesh) where doctors' voluntary retirement can be refused in order to avoid a systemic breakdown.
Voiced worry over the increasing number of doctors leaving Odisha and ordered the state to change the pension rules in order to give protections within three months**.**

[5] Siddharth Dalmia v. Union of India, (2025) SCC OnLine SC

Upheld the State's VRS denial and dismissed Dr. Mishra's writ case, but demanded that modifications be made to stop unchecked escapes.

Chief Justice Harish Tandon and Justice M.S. Raman, Division Bench, 8 July 2025 overturned the single-judge order as well as the State's rejection.
It was decided that the State's action lacked legal validity because Rule 42 does not permit retirement denials based on public interest.
Ordered that Dr. Mishra's VRS application be reconsidered within two weeks, taking into account her medical condition[6].

3. Francis Coralie Mullin v Union territory of Delhi (1981)

In its contribution to Article 21 [India Const. art. 21.] of the Constitution, the Supreme Court held that the phrase "life" does not exclude animal existence or the possibility of suffering throughout one's lifetime, but rather encompasses AL and the possibility of eradicating physical disability and illness.
As stated in Article 21 [India Const. art. 21.] of the Constitution, the fundamental right to food, clothes, and shelter is part of the right to life[7].

4. Parmanand Katara v Union of India (1989)

In its historic ruling on treatment, the Supreme Court ruled that all doctors, whether working in government hospitals or not, have a professional duty to provide expert care in order to save lives, regardless of whether the patient is an innocent person or a criminal who faces legal repercussions.
Emergency care rights and ethical duties were made legally binding[8].

5. Paschim Banga Khet Mazdoor Samity v State of West Bengal (1994)

In another historic ruling, the Supreme Court fought the scope of Article 21 [India Const. art. 21.] and ruled that the state government's principal responsibility in a welfare state is to ensure the welfare of its citizens, as well as to provide them with access to quality healthcare. If not, they must reimburse the patient for receiving care elsewhere[9].

6. Sachin Jain v Union of India (2020)

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[6] Dr. Snigdha Prava Mishra v. State of Odisha & Ors., W.P.(C) No. 27920 of 2024 (Orissa HC July 8, 2025)
[7] Francis Coralie Mullin v. Admin., Union Territory of Delhi, (1981) 1 SCC 608 (India)
[8] Parmanand Katara v. Union of India, AIR 1989 SC 203
[9] Paschim Banga Khet Mazdoor Samity v. State of W.B., (1996) 4 SCC 37

On August 31, 2020, an advocate submitted a petition for the government to control the cost of COVID healthcare, control the cost of private hospitals, and stop the private health sector from commercializing health care.
All states were instructed by export to create public health laws, and those that currently have public health acts may be encouraged to model their current laws after the 2009 National Health Bill (in the public interest)[10].

7. Consumer education and Research Centre v Union of India (1990)

This case held that held that a worker's right to health and medical care to safeguard their well-being during their employment and after retirement is a fundamental right guaranteed by Article 21[11].

8. Indian medical Association and Anr v Union of India and Ors (2011)

The Supreme Court ruled that consumers' rights to know the efficacy of items given by manufacturers and marketers are part of their basic right to health[12].

9. MC Mehta v Kamal Nath and Ors (1997)

The public trust concept should not be expanded to encompass all ecosystems that operate inside our natural resources, according to a Supreme Court ruling[13].

CONCLUSION

The Supreme Court and the High Courts have repeatedly interpreted the right to health in Article 21 [India Const. art. 21.] of the Constitution, exercising their authority under Articles 32 and 226 respectively. Even if these powers might fall outside the purview of the judiciary,

[10]Sachin Jain v. Union of India, (2020) 10 SCC 687
[11] Consumer Educ. & Research Ctr. v. Union of India, (1995) 3 SCC 42 (India)
[12] Indian Medical Association & Anr. v. Union of India & Ors., (2011) 7 SCC 179 (India)
[13] M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388 (India)

such rulings are greatly appreciated. The necessity and obligation of the state to do so are further reinforced by the existence of Directive Principles of State Policy.

Since the State is making every effort to establish health and medical facilities and to guarantee that the facilities are accessible to the general public, the hypothesis is shown to be false. However, there are a few, albeit smaller, cases where medical personnel have failed to provide the public with proper facilities. We must realize that none of this can be accomplished in a day or two. There is undoubtedly a dearth of funding, but the state has been attempting to work in concert with private actors as well, i.e., through Private Public Partnerships, to get beyond this obstacle.

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