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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 16625/2022 & CM APPLs. 52339/2022, 52340/2022

SMT SHANTI MALHOTRA

..... Petitioner

Through: Mr. Pankaj Sinha and Mr. Anand
Kumar Dwivedi, Advs.
(8468940206)

versus

STATE NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Aman Naqvi, Advocate for Mr.
Shadan Farasat, ASC (GNCTD) for R-
1 & 2 along with SI Nishant Kumar,
PS Roop Nagar.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 06.12.2022

1. This hearing has been done through hybrid mode.

CM APPL.52340/2022 (for exemption)

2. Allowed, subject to all just exceptions. **CM APPL.52340/2022** is disposed of.

W.P.(C) 16625/2022 & CM APPL.52339/2022(for interim relief)

3. The Petitioner - Smt. Shanti Malhotra - who is the mother of Dr. Amit Malhotra, has filed the present writ petition seeking access to her son, for herself and other family member, such as her daughters, husband, etc. The son of the Petitioner is currently residing in his wife's-Mrs. Arch Bhatia/Respondent No.3's (*hereinafter "Respondent No.3"*) parental home at House No.26/95, Shakti Nagar, Delhi.



4. As recorded in the previous order dated 5th December, 2022, the case of the Petitioner is that her son met with an accident and was found with severe head injuries at Kangra, Himachal Pradesh and had also suffered cardiac arrest. The present condition of the Petitioner's son is stated to be unknown as he has been treated in various hospitals namely Medanta, Fortis, etc. The Petitioner, including her daughter and other members of the family are, however, not being permitted to visit the premises where Respondent No.3 is residing, in order to meet him or even to ascertain her son's condition. It is also pleaded that the Petitioner's daughter i.e., the sister of the Petitioner's son, tried to visit her brother but was prevented from meeting him by Respondent No. 3. It is submitted that the Petitioner wishes to meet her son.

5. The Petitioner's husband had earlier filed ***W.P.(Crml.) 2224/2021*** titled ***Ram Lal Malhotra & Anr. v. Govt. of NCT of Delhi & Ors.*** where the Petitioner was allowed to meet her son vide order dated 25th November, 2021. The said meeting took place on 25th November, 2021, however it is stated that the same was not held in a congenial manner, as various relatives of Respondent No.3 were present at that time. They are stated to have caused disturbances and disharmony. Thereafter, the Petitioner has repeatedly faced hurdles in meeting her son and is concerned that he is not being adequately cared for in the absence of his blood relatives. Accordingly, the prayers in the present writ petition are as under:

“A) issue a writ of Mandamus or any other writ order or direction in the nature of Mandamus directing the respondent no. 1 to provide proper care and treatment by providing appropriate environment to the son of the petitioner so as to enable him to live his life independently with respect and dignity.

B) issue a writ of Mandamus or any other writ order or



direction in the nature of Mandamus directing the respondent no, 1 to provide all medical facility including the medical examination of the son of the petitioner and to file and elaborate medical report before this Hon'ble Court.

C) issue a writ of Mandamus or any other writ order or direction in the nature of Mandamus directing the respondent no. 1 & 2 to facilitate the Petitioner and her other family member including her Husband, both daughters etc. to meet her son to insure the physical, mental, intellectual as well as sensory well-being of the son of the petitioner.

D) issue a writ of Mandamus or any other writ order or direction in the nature of Mandamus directing the respondent no. 3 to not to obstructs the care and treatment provided by the concerned authority as well as petitioner and her family members including her Husband, both daughters etc. to the son of petitioner.

E) issue a writ of Mandamus or any other writ order or direction in the nature of Mandamus directing the respondent 1 & 2 to file a detailed report/status report regarding the financials transitions of the Bank Account of the son of the petitioner as well as the medical treatment provided by different hospitalised in the writ petition.

F) Pass any other orders(s) that this Hon'ble high Court may deem fit and proper in the facts and circumstances of the case,”

6. Yesterday, i.e., on 5th December, 2022, the Court had issued notice to the GNCTD/Respondent No.1, as also the police authorities/Respondent No.2. Instructions were also to be sought as to whether the Petitioner's son could be examined by a medical practitioner at Respondent No.3's residence.

7. Today, Mr. Shadan Farasat, Id. ASC, has reverted with instructions. He submits that Respondent Nos.1&2 would be able to arrange a meeting of the



Petitioner and her family in the presence of the two officials - Ms. Poonam, ASI, and Mr. Raj Malik, Inspector, as also two medical practitioners, which would include a psychiatrist from the Hindu Rao Hospital.

8. Accordingly, considering that the Petitioner has been unable to meet her own son, despite repeated Court orders and police assistance and her son is facing such dire medical issues, the following directions are issued:

- (i) The Petitioner shall visit Respondent No.3's premises at House No.26/95, Shakti Nagar, Delhi and is permitted to meet her son - Dr. Amit Malhotra at the said residence, in the presence of the two police officials named above and the two medical practitioners from Hindu Rao Hospital, including a psychiatrist and a general physician. The Petitioner may be accompanied by one other person from the family. No other person shall be present except an attendant, if required, at the said time.
- (ii) The said meeting is fixed for **8th December, 2022, at 11:30 a.m.**, for an effective period of at least 2 hours.
- (iii) On the said date, the Petitioner, along with one other person, may visit the police station at Roop Nagar from where she would be accompanied by two medical practitioners and the two police personnel.
- (iv) The medical practitioners shall assess the medical condition i.e., physical and mental health of Dr. Amit Malhotra and submit a report to the Court in this regard. The said report would also consider the living conditions of Dr. Amit Malhotra, and the quality of medical facilities being provided to him at present. Copies of the latest medical records/ prescriptions shall also be collected by them and placed before the



Court. Let a comprehensive report by the Practitioners, be filed within two weeks from the visit.

(v) If the Petitioner wishes to meet her son thereafter, she would be permitted to do so along with the same two police personnel at a convenient date, at least two more times, by the next date of hearing. The SHO of the concerned area shall also file a status report relating to all the meetings, at least one week before the next date of hearing.

(iv) It is directed that no impediment or obstruction shall be caused by Respondent No.3 or any of her family members in the Petitioner meeting her son.

9. It is made clear that if there is any obstruction caused by any person in the implementation of this order, parties are permitted to mention the matter.

10. Mr. Farasat, Id. Counsel submits that a psychiatrist has already been identified and the Medical Superintendent of the Hindu Rao Hospital would designate a physician, to carry put the directions in the above order. Let the needful be done today.

11. List on 24th January, 2023.

12. *Dasti.*

PRATHIBA M. SINGH, J.

DECEMBER 6, 2022

dj/ms