

Ä~

W.P(C)No. 334 OF 2001
ITEM No.301
AT 10.25 AM

Court No. 7

SECTION PIL
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(Civil) No.334/2001

"IN RE: DEATH OF 25 CHAINED INMATES IN ASYLUM FIRE IN TAMIL NADU"
(with Office Report)

WITH

WP (C) No.562/2001

SAARTHAK REGISTERED SOCIETY & ANR.

.... PETITIONER

VERSUS

UNION OF INDIA & ORS.

.... RESPONDENTS

(WITH OFFICE REPORT)

Date : 12/04/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE BISHESHWAR PRASAD SINGH
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s) Dr.A.M. Singhvi,Sr.Adv. (A.C.)
Mr. Pranab Kumar Mullick,Adv.(AC)

Ms. Indu Malhotra, Adv.

for Impleadment Mr. DN Roy, Adv.
Mrs. Sumita Mukherjee, Adv.

Ms. Bina Madhavan, Adv. for
M/s Lawyer's Knit & Co., Advs.

For Respondent (s)
for State of T.N. Mr.K.Ramamurthy,Sr.Adv.,
Mrs.Revathy Raghavan,Adv.

for UOI Mr. Altaf Ahmed, ASG
Krishan Mahajan,Adv.
Ms. Sunita Sharma, Adv. for
Ms.Sushma Suri,Adv.

for Rajasthan State: Mr.Ranji Thomas,Adv.for
Mr.Javed Mahmood Rao,Adv.

for Karnataka State: Mr.Sanjay R. Hegde,Adv.

for Pondicherry State:Mr. V.G. Pragasam,Adv.

for Nagaland State: Mr.Sanjay K.Shandilya,Adv. for
Mrs.V.D.Khanna,Adv.

...2/-

for Sikkim State: Mr.A.Mariarputham,Adv., for
Ms. Aruna Mathur, Adv.

for Chhatisgarh State: Mr.Prakash Shrivastava,Adv.

for Arunachal Pradesh: Mr.Anil Shrivastav,Adv.

for A.P State. Mr.T.V. Ratnam,Adv.,
Mr.K.Subba Rao,Adv.

for Manipur State: Mr.KH Nobin Singh,Adv.

for Uttranchal State: Ms.Rachna Srivastava,Adv.,
Mr. Mahesh C Kaushiwa, Adv.

For J & K
Mr. Anis Suhrawardy, Adv.

for Goa State: Ms.A.Subhashini,Adv.,
Mr. Bhawanishankar V Gadnis, Adv.

for U.P.State. Mr. Ajay K. Agrawal,Adv.,

for Tripura State: Mr. Gopal Singh,Adv.,

for Assam State: Ms. Krishna Sarma, Adv.
Mr. VK Siddharthan, Adv.
Corporate Law Group.

for West Bengal State: Mr.Tara Chandra Sharma,Adv.,

for Kerala State: Mr.K.R.Sasiprabhu,Adv.

for Meghalaya State: Mr.Ranjan Mukherjee,Adv.

for Rajasthan State: Mr.Ranji Thomas,Adv.for
Mr.Javed Mahmud Rao,Adv.

for Gujarat State: Ms.Hemantika Wahi,Adv.,
and Mizoram

for Punjab State: Mr. Rajeev Sharma,Adv.

for UT of Chandigarh: Ms.Kamini Jaiswal,Adv.,

for Haryana State: Mr.J.P. Dhanda,Adv.

for State of M.P.: Mr. B.S. Banthia,Adv.

for Maharashtra State: Mr.S.V. Deshpande,Adv.

for Jharkhand Mr. Ashok Mathur, Adv.
Mr. Gopal Prasad, Adv.
Mr. SK Singh, Adv.

For State of Orissa Mr. JR Das, Adv.
Mr. Radha Shyam Jena, Adv.

For Karnataka State Mr. Sanjay R Hegde, Adv.

...3/-

For Himachal Pradesh Mr. Naresh K Sharma, Adv.

UPON hearing counsel the Court made the following
O R D E R

...L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Certain directions are issued to the State Governments, Union Territories, Chief Secretaries/Administrator/Commissioners and Health Secretary, Union of India in terms of the signed order.

It is also ordered that if any suggestions are to be made by any interested parties, the same may be submitted through Mr. Pranab Kumar Mullick, Advocate (Amicus Curiae).

List on 23-7-2002.

.SP1

(D.L. Chugh)
Court Master

(K.K. Chadha)
Court Master

Signed order is placed on the file

.PA

.PL55

.....L.....I.....T.....T.....T.....T.....T.....T.....J
IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.334 OF 2001@@
CC

"IN RE: DEATH OF 25 CHAINED INMATES
IN ASYLUM FIRE IN TAMIL NADU"

WITH

WRIT PETITION (CIVIL) NO.562 OF 2001@@
CC

SAARTHAK REGISTERED SOCIETY & ANR.Petitioner(s)

VERSUS

UNION OF INDIA & ORS.Respondent(s)

O R D E R@@
CCCCCCCC

...L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

We have heard learned Additional Solicitor General Mr. Altaf Ahmed and counsel for the parties.

In continuation of our order dated 5th February, 2002 and considering various provisions of the Mental Health Act, 1987, particularly Section 5 which inter alia provides that Central Government may in any part of India or State Government may within the limits of its jurisdiction establish or maintain psychiatric hospital or psychiatric nursing homes for the admission, treatment and care of mentally ill persons at such

places as it thinks fit, it is directed as under:

1. Every State and Union Territory (UT) shall undertake a comprehensive Need Assessment survey and file the Report thereof on the following aspects:

- 2 -

(a) Estimated availability of Mental Health Resource personnel in the State, including psychiatrists, psychologists, psychiatric social workers and psychiatric nurses in both the public and private (licensed) sector;

(b) Type of Mental Health Delivery System available in the State, including the available bed strength, outpatient services and rehabilitation services in the public and private (licensed) sector;

(c) An estimate of the Mental Health Services (including personnel and facilities) that would be required having regard to the population of the State and the incidence of mental illness.

2. The Chief Secretary of each State and Administrator/Commissioner of every UT shall file an Affidavit stating clearly:

i) Whether any minimum standards have been prescribed for licensing of Mental Health Institutions in the State/UT and in case such minimum standards have been prescribed, full details thereof;

ii) Whether each of the existing registered Mental Health Institutions in the State/UT, whether private or run by the State, meet such minimum prescribed standards as on date of

- 3 -

passing this order and if not, what steps have been taken to ensure compliance of licensing conditions and/or withdrawal of the licence.

iii) How many unregistered bodies, by whatsoever name called, purporting to offer psychiatric/mental health care exist in the State on date of this order and whether any of them comply with minimum standards and are entitled to grant of licence and if not, whether steps have been taken to close down the same;

iv) Whether any mentally challenged person has been found to be chained in any part of the State/UT;

v) Conclusions on the basis of the Need Assessment Survey undertaken in terms of direction (1) above.

It is made clear that each affidavit must specifically and comprehensively deal with each of the queries set out above.

3. The Report of Need Assessment Survey and Affidavit as set out in Directions (1) and (2) above shall be submitted to the Health Secretary, Union of India so as to reach him latest by 1st July, 2002. The Health Secretary, Union of India shall thereafter compile and collate the information as above and present the same in the form of a self-explanatory Note/chart to this Court along with his conclusions. The Affidavits filed by

- 4 -

the States/UTs shall be annexed to the Note/chart. The Health Secretary, Union of India shall file the said Note/chart in this Court by 15th July, 2002.

It is further directed that the Chief Secretaries of all States and Commissioners of all UTs who fail to file such

Affidavit with the Health Secretary, Union of India by 1st July, 2002 shall have to personally remain present on the next date of hearing and explain the default.

4. Further Union of India is directed -

a) To frame a Policy and initiate steps for establishment of at least one Central Government run Mental Health Hospital in each State (As provided under Section 5 of the Act);

b) To examine the feasibility of formulating uniform rules regarding standard of services for both public and private sector Mental Health Institutes;

c) To constitute a committee to give recommendations on the issue of care of mentally challenged persons who have no immediate relatives or who have been abandoned by relatives;

d) To frame norms for Non-Government Organisations working in the field of Mental Health and to ensure that the services

- 5 -

rendered by them are supervised by qualified/ trained persons.

5. All State Governments are also directed to frame Policy and initiate steps for establishment of at least one State Government run Mental Health Hospital in each State. It is clarified that a Mental Health Hospital as stated above means a full-fledged Hospital catering only to mentally challenged persons and does not include a separate psychiatric ward in a Medical college or Government Hospital.

6. LEGAL AID@@
CCCCCCCC

Under Section 43 of the Mental Health Act (MHA), a patient is required to apply to the Magistrate in order to be discharged. The procedure prescribed under the Section, on occasions causes difficulties to the patients inasmuch as many patients may not be in a position to make the requisite applications before a Magistrate, nor would they be aware of their rights, and the procedure to seek discharge.

Hence it is directed that two members of the Legal Aid Board of each State be appointed to make monthly visit to such Institutions, so as to assist the patients and their relatives in applying for discharge from the Institutions if they have fully recovered, and do not require institutional assistance any longer or to find out whether as a matter of fact they require any such treatment as indoor patients.

- 6 -

7. RIGHTS@@
CCCCC

1. INFORMING PATIENTS OF THEIR RIGHTS@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

Patients and their guardians shall be explained their rights by a team of 2 members of the Legal Aid and a Judicial Officer, under the Mental Health Act, in a language known to them, at the time of the admission to any Institute. They should also be informed whom to approach in case their rights are being infringed.

2. INSPECTION BY THE BOARD OF VISITORS@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

Section 37 provides for inspection of psychiatric hospital and psychiatric nursing home. In view of the said Section a Board of Visitors must be formed by the State Mental Health Authority in every State within a time bound period, and a

(BISHESHWAR PRASAD SINGH)@@

BB

.....J@@

BB

(H.K. SEMA)@@

BBBBBBBBBBBB

New Delhi,
April 12, 2002