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W.P(C)No. 334 OF 2001

ITEM No.32

Court No. 1

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

RE DEATH OF 25 MENTAL ASYLUM PATIENTS

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(With office report)
(For further directions)

Date : 15/10/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

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

For Respondent (s) Mr. Harish Salve, SG
Mr. Krishan Mahajan, adv.
Ms. Sunita Sharma, adv.
Mrs. Sushma Suri, adv.

Mr. K. Ramamurthy, Sr. adv.
Mrs.Revathy Raghavan, Adv.
Ms. Shweta Garg, adv.

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

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The Union of India as well as the State of Tamil Nadu have filed their affidavits in response to the notice issued by this Court on 7th August, 2001.

From a perusal of the two affidavits, we find that it was only after serious concern was expressed by this Court regarding the treatment of mentally challenged patients housed in the mental asylum at Erwadi in
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Ramanthapuram District, where more than 25 such inmates were reported to have been charred to death, the State as well as the Union of India started taking some initiative in the matter.

From the affidavit filed on behalf of the State of Tamil Nadu, we find that after the gruesome tragedy, the district administration "as an interim measure" sent intimation to the family members of the patients who had survived to take them back to their homes in their native places and also to allow inmates to be retained in the 'homes' only on condition that a companion from the family will stay with the inmates and not to permit any female inmate in the home. As a result of this action, out of 571 inmates, 254 inmates are reported to have been sent back to their native places with their relatives, while 20 inmates are reported to have been admitted to government hospitals. Whether these patients were sent back after proper psychiatric examination and on the basis of medical report that they did not require any further treatment, is not forthcoming from the affidavit.

The affidavit further discloses that on 10th August, 2001, the Chief Minister of Tamil Nadu conducted a meeting to discuss measures to be taken for regulating the functioning of the homes for mentally ill and it was decided in that meeting that 16 homes for mentally ill located around Erwadi "will be closed down immediately and the inmates will be taken into the care of the State Government". It is further stated that those who are

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"actually mentally ill" be admitted to the Mental Institutions run by the State Government but those "who are not really mentally ill, they will be returned to their families". At the meeting, it was also disclosed that apart from Erwadi, in other parts of the State of Tamil Nadu "similar homes exists where similar practices are being followed". 18 such homes were identified in the State and in order to tackle the problem, following measures were directed to be taken:-

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"a) All District Collectors will make an immediate inspection of all such Homes located in their respective Districts. In future, such Homes will be required to obtain a licence under the Mental Health Act, 1987 before being started. All existing homes will be given a month to obtain the license.

b) There will be a Monitoring Committee in each District headed by the District Collector. This Committee will include the Joint Director (Health), a trained Psychiatrist and other Medical personnel. Periodical inspection will be carried out by the Committee to ensure that these Centres are maintained as per the guidelines. All Mental Asylums located in thatched sheds in other parts of the State will be closed immediately. Wherever mentally ill patients are found to be in chains, they will be unchained immediately. Those with violent tendencies will be admitted in Government Mental

Institutions for further care.

c) In respect of inmates who are found to be not mentally ill but abandoned by their families, Old Age Pension under the category of destitute persons will be sanctioned to them by the District Collectors. Further, those who do not have homes

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to return to will be admitted in the Old Age Homes or Destitute Homes run by the State Government and reputed Non Governmental Organisations.

d) The District Mental Health Programme for Ramanathapuram and Madurai districts with an outlay of Rs.2 crores will be implemented immediately.

e) Out of 25 District Headquarters Hospitals, only 11 hospitals have Psychiatrists posted as of now. Hence it was decided by the Chief Minister that Psychiatrists will be posted in the remaining 14 districts also immediately.

f) All the recommendations of the National Human Rights Commission and the State Human Rights Commission will be implemented scrupulously.

g) A Commission of Inquiry headed by a retired District Judge would be constituted to go into the incidents of death due to fire in Erwadi."

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Measure (c) (supra) records that in respect of inmates who are found "to be not mentally ill but abandoned by their families", Old Age Pension under the category of destitute persons will be sanctioned to them by the District Collectors. Whether all those 254 patients who had been sent back to their native places along with their relatives have been granted Old Age Pension or not, is not forthcoming from the record.

The State of Tamil Nadu is directed to state on affidavit as to what follow up action, if any, has been taken in so far as these measures are concerned. The affidavit shall specifically disclose whether the monitoring committee has commenced its work and the result of its

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"periodical inspections".

From the affidavit filed on behalf of Union of India by the Director, Union Home Ministry, we find that Central Government has also set up an authority under Section-3 of the Mental Health Act, 1993. The composition of the Committee has been disclosed in para -8 of the affidavit. The Union Government is stated to have written to the Chief Secretaries of all State Governments to have all the asylums in their respective States inspected by a competent authority and to submit a report regarding the conditions in the asylums including the facilities available and treatments of the patients in such asylums. The Chief Secretaries have further been directed to identify the illegal asylums and take action against them as per law.

The learned Solicitor General submits that as a first step towards dealing with the case of mentally challenged, it may be desirable that the authority set up under Section 3 by the Central Government be directed to conduct a survey on an All India basis with a view to identify registered and un-registered asylums as also about the state of facilities available in such asylums for treating mentally challenged. We agree and issue a direction accordingly. The committee is directed to submit a report in this behalf within three months. Besides this, it appears appropriate to us to get following information :

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State	Whether Authority u/s 4 of Mental Health Act constituted (if yes, composition thereof and recommendations made by it)	Whether Mental Hospital or Nursing Homes established u/s 5 of Mental Health Act (if yes, district wise details as per Anx.I)	Whether rules framed under Mental Health Act	Whether District Mental Health program initiated (Districtwise details	Whether visitors appointed u/s. 37 of Mental Health Act	Whether Visitors conducts monthly inspections during 2000-2001	Whether NHRC recommendations accepted /Action Taken Report
1.	2.	3.	4.	5.	6.	7.	8.

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.SP2 The information, as sought for above, from Columns (1) to (8) shall be furnished by the State Government/Union Governments on an affidavit of a competent authority. We expect that needful shall be done within three months.

Post the matter for further directions after three months.

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(Neena Verma)
Court Master

(Prem Prakash)
Court Master