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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1877/2023**

MS. JYOTI NAMBIAR

..... Petitioner

Through: Ms. Charu Sachdev, Ms. Himanshi Chugh, Mr. Gulshan Kumar Sachdev, Advocates along with the Petitioner – in person.

versus

GOVT. OF NCT. DELHI & ORS.

..... Respondents

Through: Ms. Monika Arora, CGSC with Mr. Yash Tyagi, Mr. Subhrodeep, Advocates for UoI
Ms. Archana Surve, GP with Ms. Roopali, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **14.02.2023**

CM APPL. 7164/2023 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 1877/2023

1. The instant Writ Petition under Article 226 of the Constitution of India has been filed by the Petitioner with the following prayers:

“i. To admit this petition as a public interest litigation and summon the respondents in public interest.

ii. To direct the Respondents to take an appropriate action on the representation/proposed

amendments/suggestions submitted by the Petitioner.

iii. To pass an order directing Respondent no. 1, 2,3 & 4 to submit report of progress, status and its action plan to amend/omit the 1953 ACT, and/or progress of enactment of any legislation, if any, within a time frame, before the Hon'ble Court.

iv. To pass order directing all the respondents to form guidelines for more vigilant and affirmative role in registering and inspecting Private Nursing homes, maternity centers and hospitals in NCT of Delhi and also taking into account the points mentioned in the present writ petition.

v. To pass the directions to all the respondents to submit report /data regarding registered and unregistered nursing Homes, medical centers and Hospitals operating in National Capital territory of Delhi on present date.

vi. To pass directions to all the respondents to submit report on what action is taken against the unregistered hospitals, Nursing Homes, maternity centers and how many have been subsequently registered after action is taken against them.

vii. To pass the directions to all the respondents to submit report /data regarding negligence cases that took place & complaint received by them which are pending or decided or disposed of against registered and unregistered nursing Homes, medical centers and Hospitals operating in National Capital territory of Delhi between 1 Jan 2008- 1 Jan 2020 and action taken by them.

viii. To pass directions to all the respondents to submit report on cases where the licenses have been cancelled and on cases where registration was refused

based on inspection of the private nursing home, hospital, maternity center.

ix. To pass the directions to the respondent no.1, 2 & 4 to submit report /data regarding the method/procedure adopted by them for inspection of registered and unregistered nursing Homes, medical centers and Hospitals operating in National Capital territory of Delhi.

x. To pass the directions to the respondent no.1, 2 & 4 to submit report /data on how they keep vigilance over the Private Nursing Homes, Maternity centers and Hospitals by either suo moto, or on application or on complaint.

xi. To direct all the respondents to adhere to the guidelines/rules framed by this Hon'ble court for taking action against registered or unregistered Nursing Home, Hospitals, medical centers who are found to be negligent or there is lack of infrastructural facilities or not adhered to rules formed in this context.

xii. To direct all the respondents to take action against registered and unregistered nursing Homes, medical centers and Hospitals operating in National Capital that are found to be negligent and against whom complaints are pending before them.”

2. This is the second round of litigation by the Petitioner involving the same subject matter. Earlier the Petitioner had filed W.P.(C) 5481/2020 seeking the same reliefs as sought for in the instant Writ Petition. This Court, while disposing of W.P.(C) 5481/2020 vide Order dated 20.08.2020 had passed the following order:

“1. This petition has been preferred as a Public Interest Litigation with the following prayers:

“(i) To admit this petition as a public interest litigation and summon the respondents in public interest.

(ii) To constitute an expert committee/commissions to look into the lacunas, loopholes, omission and ineffective and in complete provisions of Delhi Nursing Home Registration Act, 1953 and rules made there under.

(iii) To pass an order directing Respondent no. 1, 2, 3 &4 to submit report of the committee within a time frame, before the Hon'ble Court.

(iv) To pass order directing all the respondents to form guidelines for more vigilant and affirmative role in registering and inspecting Private Nursing homes, maternity centers and hospitals in NCT of Delhi and also taking into account the points mentioned in the present writ petition.

(v) To pass the directions to all the respondents to submit report / data regarding registered and unregistered nursing Homes, medical centers and Hospitals operating in National Capital territory of Delhi on present date.

(vi) To pass directions to all the respondents to submit report on what action is taken against the unregistered hospitals, Nursing Homes, maternity centers and how many have been subsequently registered after action is taken against them.

(vii) To pass the directions to all the respondents to submit report /data regarding negligence cases that took place & complaint received by them which are pending or decided or disposed of

against registered and unregistered nursing Homes, medical centers and Hospitals operating in National Capital territory of Delhi between 1st Jan 2008 - 1 st Jan 2020 and action taken by them.

(viii) To pass directions to all the respondents to submit report on cases where the licenses have been cancelled and on cases where registration was refused based on inspection of the private nursing home, hospital, maternity center.

(ix) To pass the directions to the respondent no.1, 2, 3 & 4 to submit report /data regarding the method/procedure adopted by them for inspection of registered and unregistered nursing Homes, medical centers and Hospitals operating in National Capital territory of Delhi.

(x) To pass the directions to the respondent no. 1, 2, 3 & 4 to submit report /data on how they keep vigilance over the Private Nursing Homes, Maternity centers and Hospitals by either suo moto, or on application or on complaint.

(xi) To direct all the respondents to adhere to the guidelines/rules framed by this Hon'ble court for taking action against registered or unregistered Nursing Home, Hospitals, medical centers who are found to be negligent or there is lack of infrastructural facilities or not adhered to rules formed in this context.

(xii) To direct all the respondents to take action against registered and unregistered nursing Homes, medical centers and Hospitals operating in National Capital that are found to be negligent and against whom complaints are pending before

them.”

2. In the writ petition, the petitioner has sought to point out several deficiencies in the Delhi Nursing Home Registration Act, 1953. However, learned counsel appearing for the petitioner submitted that it would suffice for the disposal of this writ petition if liberty is reserved with the petitioner to make a detailed representation to the concerned respondent authorities, bringing to their notice the inadequate provisions in the Delhi Nursing Home Registration Act, 1953 and the said representation is decided by the respondents in accordance with law.

3. In view of the aforesaid limited submission, and also looking to the fact that the petitioner is in search of substantial amendments in Delhi Nursing Home Registration Act, 1953, the better course would be for the petitioner to make a representation instead of inviting an order of this Court since this Court cannot issue any writ, much less a writ of mandamus, giving a direction to amend the law.

4. Accordingly, the petitioner is at liberty to make a representation to the respondent authorities highlighting therein all the deficiencies or inadequacies in the Delhi Nursing Home Registration Act, 1953, as mentioned in this petition, as well as the suggestions for further provisions to be enacted in that regard. As and when any amendment(s) is/are to be brought in the Delhi Nursing Home Registration Act, 1953, the defects pointed out by the petitioner may be kept in mind by the concerned respondent authorities.

5. With these observations, the writ petition is disposed of.”

3. The aforesaid order makes it very clear that the Writ Petition was

disposed of by this Court with a liberty to the Petitioner to submit a representation to the authorities highlighting all the deficiencies or inadequacies in the Delhi Nursing Home Registration Act, 1953 and the Respondents were directed to consider the said representation.

4. Learned Counsel for the GNCTD has submitted before this Court that the representation made by the Petitioner has been received and the same shall be considered and the State will pass appropriate orders in accordance with law. He prays for eight weeks' time to dispose of the representation. He has assured this Court that all the genuine prayers made by the Petitioner shall be looked into.

5. In light of the aforesaid, no further orders are required to be passed in the instant Writ Petition.

6. Accordingly, the Writ Petition is disposed of, along with the pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

FEBRUARY 14, 2023

Rahul