



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE

PUBLIC INTEREST LITIGATION NO. 43 OF 2022

Dr. Harish Shetty. ... Petitioner.  
V/s.  
The State of Maharashtra and others. ... Respondents.

Mr. J. P. Sen, Senior Advocate as Amicus Curiae.  
Ms. Pranati Mehra for the Petitioner.  
Mr. P. P. Kakade, GP with M. M. Pable, AGP for the State.  
Mr. Vishwajit P. Sawant, Senior Advocate with Mr. Shekhar Mane  
i/b. Mr. Prabhakar N. Jadhav for Respondent No. 2.  
Ms. Rebecca Gonsalves for the Respondent- MSLSA.

SANJAY  
KASHINATH  
NANOSKAR

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**CORAM :** NITIN JAMDAR, AND  
MANJUSHA DESHPANDE, JJ.

**DATE :** 11 October 2023.

**P.C. :**

Heard the learned counsel for the parties.

2. We passed a detailed order on 29 August 2023 and adjourned the petition till today, giving substantial time to the State Mental Authority ("Authority" for short). With this detailed order running in 9 pages, we had expected an equally detailed response. As of today, we have no affidavit on the part of the Authority. The Minutes of the Tenth meeting of the Authority are placed before us with certain resolutions and letters. The first two clauses of the

Minutes of the meeting refer to confirmation of the earlier Minutes and scrutiny of the status of applications received for vacant posts.

3. Four initiatives can be taken by the Authority, the Legal Services Authority, and the State Government, and they can be taken concurrently. They are as follows:

4. Identification of the patients who are currently in the mental health establishments: The scrutiny conducted under the earlier directions has revealed a position of serious concern. As per the chart given to us on the earlier date, 1022 patients were stated to be fit for discharge. We had directed that special emphasis be given to the cases of 475 patients who have been in mental health establishments for more than ten years. We are informed that apart from routine examination by one Psychiatrist as far as 475 patients are concerned, the process of examination by two Psychiatrists was carried out and is in progress. As of today, 379 patients have been certified by two Psychiatrists as fit for discharge. That would mean that 379 patients in mental health establishments, even after more than ten years, could be discharged yet continue to live in these establishments. This is indeed serious. We are informed that the opinion of these two Psychiatrists has to be placed before the Review Board headed by the District Judge, and upon directions issued by the Review Board, further action would be taken. But the fact remains that these two Psychiatrists have found them to be fit. The Authority also informs us that the process of examination by two

Psychiatrists in respect of the remaining patients out of 475 would be completed within two to three weeks, and thereafter, their cases will be placed before the Review Board. Thus, even though these patients have been in mental health establishments for ten years, further progress will depend on the decision of the Review Board. If the patients who have been certified by two Psychiatrists as fit to be discharged, then the Review Board must take up their cases on a priority basis, as any continuation of such patients in the mental health establishments with other patients may not be a healthy situation for them. The learned AGP states that the State Government will issue necessary communication based on our observation to all the Review Boards to take up the matters of the above class of patients on a priority basis. All the Chairpersons of the Review Boards are requested to take up these matters of this class on a priority basis.

5. Rehabilitation of the patients fit to be discharged:

As regards the issues that were raised by us in the earlier order and were to be taken in the meeting for detailed consideration, the same are referred to in clause-3 of the Minutes, which read thus:

*“1. Patient data should be in one format; there shouldn't be separate data for the same variables.*

*2. As per the Hon. High Court's directions, a representative of the Social welfare department attended a meeting of SMHA. Dr.Prachi Chivate explained the discharge process of the fit patients. Undersecretary, PwD Welfare department explained the GR issued on 1<sup>st</sup> September 2023*

*about accommodating discharged persons from Mental Hospitals.*

*3. There is a need to address the issue of schooling of adult Intellectually disabled persons who have been discharged from mental hospitals.*

*4. As per Hon., the High Court gave directions regarding addressing the issue of discharged patients effectively. SMHA members gave inputs about involving grassroots-level health workers in the comprehensive plan.*

*Hon. Commissioner, sir, instructed to make a comprehensive and holistic plan for rehabilitation of patients living with mental illness with the active involvement of a psychiatrist from MHRB and District Health Officer.”*

Thus, on this important issue of rehabilitation of cured patients, all that the Authority records is that some members of the Authority gave inputs of grassroots-level health workers in the comprehensive plan. The Commissioner asked to make a holistic plan for the rehabilitation of patients living with mental illness. There is nothing concluded as yet. Even for a mere outline of the plan, the Authority informs us that details would be provided on the next date. Therefore, as of today, the Authority has no comprehensive plan. We wonder how the Authority would take the cause further without any comprehensive plan to guide. Unfortunately, the actions of the Authority are not commensurate with the gravity of the issue. The Authority should keep in mind that it has lost substantial time to reach its goal because it started functioning with a five-year delay. Be that as it may, since commitment is given to us at least that an outline of the comprehensive plan will be placed before us on the

next date, we leave the matter at that for the present. The learned Senior Advocate for the Authority states that each case would be examined independently on its own merits. That may be true, but infrastructure and step-wise procedures must be in place. The Mental Healthcare Act of 2017 provides for the procedure, and the Rules framed thereunder contemplate the creation of half-way homes, shelter accommodation, supported accommodation and hospital and community-based rehabilitation establishments. We are informed by the State Government that there are 12 half-way homes as of today. Regarding shelter accommodations, support accommodations and hospital and community-based rehabilitation establishments, no data is placed before us. The State Government will place before us the entire data regarding these establishments, without which seamless rehabilitation is not possible.

6. Rights of prisoners with mental illness (section 103 of the Act).

On this position, the learned counsel representing the Legal Services Authority has placed before us the compilation and advisory issued by the National Human Rights Commission to all Secretaries of States and Union Territories on 19 June 2023 referring to the provisions of the Mental Healthcare (Rights of Persons with Mental Illness) Rules, 2018 and highlighting the issue of deliberate self-harm and suicide attempts. Some of the aspects may not strictly fall within the ambit of this Public Interest Litigation; however, we do note that, as we have noted earlier, the National Legal Services

Authority has framed a scheme named NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015 which also include a visit to jails apart from legal aid given to the prisoners. The learned counsel for the Legal Services Authority states that the Legal Services Authority will examine the scheme, provisions of the Act and Rules and place before the Court the action which the Authority proposes to take to complement the efforts of the State Government and the Authority in furtherance of the Act of 2017.

7. Patients with other disabilities:

The learned Senior Advocate for the Authority submits that since several patients suffer from other forms of disabilities, the Commissioner for Persons with Disability be involved in this initiative. It is open to the Authority to call upon the Commissioner for Persons with Disability in that regard, and we have no doubt that the Commissioner will extend all cooperation once such a request is made by the Authority.

8. Collective effort is required to address the issue of mental health as envisaged under the Act of 2017. We also direct that for compliance with the directions that we have issued and for the purposes of implementation of the Act of 2017 and Rules of 2018, if the Authority requires assistance from any other statutory authorities or Government departments, these statutory authorities and Government departments will extend all the cooperation as may be permissible in law.

9. The Authority will consider holding periodical meetings on video conferencing when the officers from other statutory authorities/ departments are invited to attend the meetings convened by the Authority.

10. To report further progress, stand over to 8 November 2023 at 2.30 p.m. The affidavit should be filed by the Authority in advance.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)