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

+ **W.P.(C) 3048/2026**

GURPREET SINGH & ORS.

....Petitioners

Through: Mr. RK Sahni, Ms. Pooja Handa, Mr.
Parveen Gambhir, Mr. Ketan Narang, Advs.

versus

GOVERNMENT OF NATIONAL CAPITAL OF DELHI & ORS.

.....Respondents

Through: Ms Nitika Bhutani, Adv. for R1
Mr. Nitin Kumar, Asst. Manager, Punjab and Sind
Bank, R3

Mr. Vinay Sharma, Adv. for R4 with Mr Naveen
Kumar Tyagi, Branch Head, Axis Bank

Mr. Ankit Raj, SC for PNB, Mr. Ali Mohammed
Khan, Mr. Digvijay Singh, Advs. for R5

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **18.03.2026**

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:-

“a. Issue an order in favor of the Petitioner No. 1 declaring him as the lawful legal guardian of the Respondent No.2 in the interest of justice for her continuing and better treatment and for the purpose of managing all the saving bank accounts/FDR's/Lockers/Investments etc.

b. Allowing the Petitioner to act on behalf of the Respondent No.2 and to represent her when and wherever needed and for completing the necessary formalities and execution of documents as required.



c. Allowing the Petitioner for withdrawing the amounts deposited in the saving bank accounts of the Respondent No.2 and to encash the FDR's deposited in her name and also to have complete access to the lockers of the Respondent No.2;...”

2. The case of the petitioners is that the petitioner No. 1 is the husband of the respondent No. 2 (performa respondent) and, petitioner No. 2 and 3 are their children. On 21.05.2019, respondent No. 2 suffered severe chest pain and breathlessness and was rushed to the Hospital where while under observation, she suffered cardiac arrest due to which she fell into coma. On 20.07.2019, she was discharged and her present condition is known as ‘Persistent Vegetative State of Coma’ and her family has been taking care of her at home.

3. Hence, the present petition seeking the reliefs as reproduced above.

4. This Court has time and again invoked its *parens patriae* jurisdiction to appoint legal heir/spouse as the legal guardian. Reliance has been placed upon the judgment of ***Professor Alka Acharya v. State (NCT of Delhi), 2025 SCC OnLine Del 9690***, wherein a Coordinate Bench of this Court, after taking into consideration the Opinion of the Medical Examination and report of the SDM (South-West), appointed the wife as the legal guardian of the husband, who was stated to be in a vegetative/comatose state after suffering from an “Intracranial Haemorrhage”. The Court in the said judgement laid down the jurisprudence on *parens patriae* jurisdiction of this Court to appoint legal heir/spouse as the legal guardian as under:-

“19. In N.A v. Govt. of NCT of Delhi (supra), a coordinate Bench of this Court took note of the legal vacuum in the extant legal regime viz. appointment of legal guardian for an individual in



vegetative/comatose and held as under:—

“13. This Court notices that such persons who are in a vegetative state are unable to take decisions for themselves, however, there is no mechanism provided in law under the RPWD Act, 2016 or the Mental Healthcare Act, 2017 for appointment of guardians to take care of such persons and their assets. This legal vacuum was considered in detail by this Court in the judgment dated 29th October, 2021 passed in W.P. (C) 1271/2020 titled S.D. v. GNCTD where this Court had exercised parens patriae jurisdiction while constituting a guardianship committee. The relevant part of the said judgment is as under:

“215. ...

216. While exercising parens patriae jurisdiction, Courts used to apply the principle of “best interest of the individual”. However, with the introduction of the UNCRPD, “best interest” of the individual has to be in the light of the “wills and preferences” of the individual. The same could be determined by means of advance directives and in the absence of advance directives, facts and circumstances which point towards the wishes/intent of the concerned person. Thus, the “wills and preferences” of the mentally ill person have to be considered by the Court in deciding the manner in which care is to be given.

217. The MHA-2017 has no provision in respect of management of financial affairs, appointment of guardians or the manner in which the moveable/immovable property of the



mentally ill person is to be taken care of. Thus there is a clear statutory vacuum.

218. ...

219. In any event, this Court is of the opinion that the solemn nature of the said jurisdiction having been repeatedly recognised by the Supreme Court, the question as to which Court has to exercise it and in what manner is one of mere procedure. So long as the “wills and preferences” of the mentally ill person and the other factors set out in the rules are borne in mind by the Court exercising parens patriae jurisdiction, it cannot be held that the High Court exercising power under Article 226 is denuded of power in view of the provisions of the RPWD-2016 Act or the Rules thereunder.

220. Thus, both, while exercising jurisdiction under Article 226 and even in terms of the proviso to Section 14(1) of the RPWD-2016 and under the MHA-2017, this Court has the power to entertain the present petition seeking appointment of a guardian. (ii) Who can be the guardian/nominated representative? (Legal Position)

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14. Subsequent to the decision in S.D. v. GNCTD (Supra) the Bombay High Court in W.P. (C) 1266/2021 titled Lubina Mohamed Agarwal v. Union of India decided on 13th December, 2021 has also considered the same issue and has observed as under:

“12. ...



13. Overriding all these is the doctrine of *parens patriae*, one that was discussed by the Supreme Court in *Aruna Ramchandra Shanbaug v. Union of India*, and more recently in *Shafin Jahan v. Asokan K.M.* The Supreme Court has said that the *parens patriae* doctrine may be invoked in a Constitutional Court in exercise of its jurisdiction wherever the welfare of the person, be it a child or a person who is mentally ill, needs protection. The doctrine is invoked to meet the ends of justice. It is not to be applied blindly in every case, but in exceptional cases where the subject of the petition is not mentally or physically capable (or is of a very young age) and where there is no other parent or legal guardian. This is perhaps a reversal of the usual guardian-and-ward doctrine. There, a birth parent is the natural guardian of the person and property of the minor child. But reverse situations have often come to court, where it is the parent who needs care from the child. The law does not explicitly or automatically recognise the child as the legal guardian of the parent, and it is for this purpose that the parents *parens patriae* principle is invoked to provide precisely such relief. ...

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15. We also chose to reproduce paragraphs 17.1 to 17.3 of the decision in *Salgaonkar* below:

“17.1. In that case it was held that when a person is in coma or in a comatose condition or in a vegetative state, it cannot be construed that such a person is a physically challenged person or a mentally



challenged person as is understood under the relevant statutes. Nor such a person can be construed to be a minor for the purpose of appointment of guardian. In the circumstances it was held that statutes like the Guardians and Wards Act, 1890, Mental Healthcare Act, 2017 etc. would not be applicable to persons in a comatose condition or in a vegetative state. It was also held that there is no legislation in India relating to appointment of guardians to patients lying in comatose or vegetative state.

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20. *Further in Shobha Gopalkrishnan v. State of Kerala, 2019 SCC OnLine Ker 739 a Division Bench of the Kerala High Court, after addressing the said issue at length, laid down certain procedures/guidelines for dealing with the same, till proper legislation is formulated in regards thereto. The relevant portion of the said judgment reads as under:—*

“42. Considering the role of this Court, jurisdiction under Article 226 of the Constitution of India springs up, when no remedy is provided under any Statute to persons like patients in ‘comatose state’. It is something like ‘parens patriae’ jurisdiction. A reference to the verdict in Nothman v. Barnet London Borough Council, [[1978] 1 WLR 220] (at 228) is also relevant. In such cases, it is often said, Courts have to do what the Parliament would have done. A reference to the verdict in Surjit Singh Karla v. Union of India [(1991) 2 SCC 87 explaining the principle of ‘causes omissus’ is also brought to the notice of this Court; to the effect that if it is an accidental omission, court can supply/fill



up the gap. This Court however does not find it appropriate to “re-write” the provision, as it is within the exclusive domain of the Parliament. This is more so, when the relevant statutes like Mental Health Act, 1987 and PWD Act, 1995 came to be repealed, on introducing the new legislations, such as the Mental Healthcare Act 2017 and The Rights of persons with Disabilities Act, 2016 in conformity with the mandate of U.N. Convention, 2006. This Court does not say anything whether any amendment is necessary, also in respect of the National Trust Act for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (National Trust Act, 1999) with reference to the U.N. Convention 2006. It is for the Government to consider and take appropriate steps in this regard, as it is never for the Court to encroach into the forbidden field. This Court would only like to make it clear that, in so far as the case of a patient lying in ‘comatose state’ is not covered by any of the statutes, (as discussed above), for appointment of a Guardian, the petitioners are justified in approaching this court seeking to invoke the power under Article 226 of the Constitution of India. It is declared accordingly.

43. Coming to the incidental aspects; since no specific provision is available in any Statutes to deal with the procedure for such appointment of Guardian to a victim lying in ‘comatose state’, it is necessary to stipulate some ‘Guidelines’, based on the inputs gathered by this Court from different corners, as suggested by the learned counsel for the petitioners, the learned Government



Pleader and also by the learned Amicus Curiae, till the field is taken over by proper legislation in this regard. This Court finds it appropriate to fix the following norms/guidelines as a temporary measure:

i) petitioner/s seeking for appointment of Guardian to a person lying in comatose state shall disclose the particulars of the property, both movable and immovable, owned and possessed by the patient lying in comatose state.

ii) The condition of the person lying in comatose state shall be got ascertained by causing him to be examined by a duly constituted Medical Board, of whom one shall definitely be a qualified Neurologist.

iii) A simultaneous visit of the person lying in comatose state, at his residence, shall be caused to be made through the Revenue authorities, not below the rank of a Tahsildar and a report shall be procured as to all the relevant facts and figures, including the particulars of the close relatives, their financial conditions and such other aspects.

iv) The person seeking appointment as Guardian of a person lying in comatose state shall be a close relative (spouse or children) and all the persons to be classified as legal heirs in the due course shall be in the party array. In the absence of the suitable close relative, a public official such as 'Social Welfare officer' can be sought to be appointed as a Guardian to the person lying in 'comatose state'.

v) The person applying for appointment as Guardian shall be one



who is legally competent to be appointed as a Guardian

vi) The appointment of a Guardian as above shall only be in respect of the specific properties and bank accounts/such other properties of the person lying in comatose state; to be indicated in the order appointing the Guardian and the Guardian so appointed shall act always in the best interest of the person lying in 'comatose state'.

vii) The person appointed as Guardian shall file periodical reports in every six months before the Registrar General of this Court, which shall contain the particulars of all transactions taken by the Guardian in respect of the person and property of the patient in comatose state; besides showing the utilization of the funds received and spent by him/her.

viii) The Registrar General shall cause to maintain a separate Register with regard to appointment of Guardian to persons lying in 'comatose state' and adequate provision to keep the Reports filed by the Guardian appointed by this Court.

ix) It is open for this Court to appoint a person as Guardian to the person lying in comatose state, either temporarily or for a specified period or permanently, as found to be appropriate.

x) If there is any misuse of power or misappropriation of funds or nonextension of requisite care and protection or support with regard to the treatment and other requirements of the person lying in comatose state, it is open to bring up the matter for further consideration of this Court to re-open and revoke the power, to take appropriate action against the person concerned, who was



appointed as the Guardian and also to appoint another person/public authority/Social Welfare Officer (whose official status is equal to the post of District Probation Officer) as the Guardian.

xi) It shall be for the Guardian appointed by the Court to meet the obligations/duties similar to those as described under Section 15 of the National Trust Act and to maintain and submit the accounts similar to those contained in Section 16.

xii) The Guardian so appointed shall bring the appointment to the notice of the Social Welfare Officer having jurisdiction in the place of residence, along with a copy of the verdict appointing him as Guardian, enabling the Social Welfare Officer of the area to visit the person lying in 'comatose state' at random and to submit a report, if so necessitated, calling for further action/interference of this Court.

xiii) The transactions in respect of the property of the person lying in 'comatose state', by the Guardian, shall be strictly in accordance with the relevant provisions of law. If the Guardian appointed is found to be abusing the power or neglects or acts contrary to the best interest of the person lying in 'comatose state', any relative or next friend may apply to this Court for removal of such Guardian.

xiv) The Guardian appointed shall seek and obtain specific permission from this Court, if he/she intends to transfer the person lying in comatose state from the jurisdiction of this Court to another State or Country, whether it be for availing better



treatment or otherwise.””

(Emphasis added)

5. In the present case, when the matter was listed on 11.03.2026, this Court directed the SDM of the concerned area to verify the medical condition of the wife of the petitioner No. 1 i.e., respondent No. 2 and submit a report.

6. The report of the SDM (South west) in compliance of the order dated 11.03.2026 has been handed over in the Court. A perusal of the same shows that the SDM has verified that the wife of the petitioner No. 1 i.e., respondent No. 2, is bed ridden since 2019 and since 2019 has been in the same state. One attendant and one nurse have been hired since 2019 and are being paid Rs. 1 lakh per month by petitioner No. 1. Further, it has been stated that two independent witness/ neighbours have confirmed devoted care and there no conflict of interest of litigation has been noticed.

7. Since the wife of the petitioner No. 1 i.e., Smt. Ramneet Kaur (respondent No. 2) is in ‘Persistent Vegetative State of Coma’, the petition is allowed and it is directed as under:-

- a. The petitioner No.1 i.e., Mr. Gurpreet Singh, (husband of Smt. Ramneet Kaur) is appointed as the legal guardian of Smt. Ramneet Kaur i.e., respondent No. 2, for the purpose of managing all her saving bank accounts/FDR's/Lockers/Investments etc.
- b. The petitioner No.1 i.e., Mr. Gurpreet Singh, (husband of Smt. Ramneet Kaur) is permitted to act on behalf of Smt. Ramneet Kaur i.e., respondent No. 2, and to represent her wherever needed and for completing the necessary formalities and execution of documents as required.
- c. The petitioner No.1 i.e., Mr. Gurpreet Singh, (husband of Smt.



Ramneet Kaur) is permitted to withdraw the amounts deposited in the saving bank accounts of Smt. Ramneet Kaur i.e., respondent No.2, and to encash the FDR's deposited in her name and also to have complete access to the lockers of the respondent No.2.

8. The report of the SDM (South west) handed over in the Court is taken on record.

JASMEET SINGH, J

MARCH 18, 2026/AS