

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Public Interest Litigation No.121/2015
(Living with Dignity Dying with Respect, through its representative
Ravindra Bhusari .vs. The State of Maharashtra, through the Chief
Secretary, Mumbai and ors.)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders or directions
 and Registrar's orders

Court's or Judge's orders.

Mr. Asim Sarode and Ms. Smita Sarode- Singalkar, Advocates for
 Petitioner.

Mrs. B.H. Dangre, Government Pleader for Respondent Nos. 1 to 3.

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CORAM : B.R. Gavai & P.N. Deshmukh, JJ.

DATED : December 17, 2015.

1. The petition has been filed for following reliefs
 in addition to various other reliefs:-

*"A. Committee of Expert Doctors
 may kindly be appointed at the District
 level to decide the Applications of
 persons who wish to demand passive
 Euthanasia.*

*B. Directions may kindly be
 given to include some social scientist,
 clinical psychologists and social thinkers
 as well as other experts like lawyers who
 have worked on this issue in such
 District Level Committees to help in
 making the applications for passive
 Euthanasia.*

*C. A time bound period be
 decided for the Committee so formed to
 take decisions on Applications filed
 before them so that it is not kept
 pending unnecessarily."*

2. Mr. Sarode, learned counsel appearing on

behalf of the petitioner submits that in view of the judgment of the Hon'ble Apex Court in the case of **Aruna Ramchandra Shanbaug .vs. Union of India and ors.** reported in **(2011) 4 Supreme Court Cases 454**, it is necessary that the Committee of Expert Doctors is required to be appointed at every District Level so that the applications for grant of passive Euthanasia are considered and decided expeditiously.

3. The learned Government Pleader submits that the reliefs claimed in the petition travel much beyond the directions issued by the Apex Court in the case of **Aruna Shanbaug** (supra).

4. The Apex Court in the said case in para 124 has till the Central enacts a law in this regard, issued certain directions which are required to be followed in the matter of grant of permission for withdrawal of life support. In para 130, the Hon'ble Apex Court held that such a permission can only be granted by the High Court. It will further be appropriate to refer to paragraph Nos. 134 and 135 of the said judgment:-

"134. When such an application is filed the Chief Justice of the High Court should forthwith constitute a Bench of at least two Judges who should decide to grant approval or not. Before doing so the Bench should seek the opinion of a committee of three reputed doctors to be nominated by the Bench after consulting such medical authorities/medical practitioners as it may deem fit. Preferably one of the three doctors should be a neurologist, one should be a psychiatrist, and the

third a physician. For this purpose a panel of doctors in every city may be prepared by the High Court in consultation with the State Government/Union Territory and their fees for this purpose may be fixed. The committee of three doctors nominated by the Bench should carefully examine the patient and also consult the record of the patient as well as take the views of the hospital staff and submit its report to the High Court Bench. Simultaneously with appointing the committee of doctors, the High Court Bench shall also issue notice to the State and close relatives e.g. parents, spouse, brothers/sisters etc. of the patient, and in their absence his/her next friend, and supply a copy of the report of the doctor's committee to them as soon as it is available. After hearing them, the High Court bench should give its verdict.

135. The above procedure should be followed all over India until Parliament makes legislation on this subject."

5. The perusal of the aforesaid judgment would reveal that the procedure which has been mandated to be followed throughout India, until Parliament makes a legislation on the said subject, begins with an application to be filed before the Chief Justice of the High Court and the learned Chief Justice is required to constitute a Bench of two Judges. The Bench of the Judges constituted by the Chief Justice is required to constitute a committee of three reputed doctors after consulting such medical authorities/medical practitioners etc. Their Lordships of the Apex Court further observed that preferably one of the three doctors should be a

neurologist, one should be a psychiatrist and the third a physician. No doubt that the Hon'ble Apex Court observed that a panel of doctors in every city may be prepared by the High Court in consultation with the State Government/Union Territory. However, it is not mandated that for every city or every district there has to be a panel.

6. To a specific query made by the Court as to how many persons have applied to the Hon'ble Chief Justice, the learned counsel for the petitioner fairly concedes that not a single person has so far applied to the Hon'ble Chief Justice. He, however, submits that the petitioner-association has organised camps at five places and in the said camps there was an unanimous suggestion that at every district place there has to be a panel of doctors.

7. When the Hon'ble Apex Court does not mandate a panel to be constituted at every district and leaves the option with the concerned High Court, merely because in the seminars conducted by the petitioner-association a suggestion has been given to constitute a panel of doctors for district level, cannot be the reason to issue such directions. We find that if any such direction is issued by us, it will travel beyond the scope of the judgment and order delivered by Their Lordships of the Apex Court. Insofar as prayer B is concerned, it is totally beyond the scope of the orders passed by the Hon'ble Apex Court. When the Hon'ble Apex Court itself has directed a panel to be constituted of three doctors

and preferably one of the three doctors should be a neurologist, one should be a psychiatrist and the third a physician, the direction to include some social scientist, clinical psychologists and social thinkers as well as other experts like lawyers would totally be in conflict with the directions issued by the Hon'ble Apex Court.

8. In that view of the matter, we find that the reliefs claimed in the petition cannot be granted. The petition is, therefore, rejected.

JUDGE

JUDGE

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