$~27.

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

\+ W.P.(C) No.3651/2015

INDIAN ASSOCIATION
FOR SOCIAL PSYCHIATRY ..... Petitioner
Through: Ms.Roma Bhagat, Adv.

Versus

UNION OF INDIA & AND ANOTHER ..... Respondents
Through: Mr.Amit Mahajan, Adv. for R-1/UOI.
Mr.T.Singhdeo, Adv. for R-2/MCI.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R

% 15.04.2015

1. The petitioner has preferred this petition under Article 226 of the Constitution of India, as a Public Interest Litigation (PIL), pleading;-

(i) that as a professional body it has been greatly concerned about the state of mental health in the country due to paucity of trained manpower and the resultant lack of service delivery;

(ii) that even though mental health is an essential component of the right to health, mental illness is not getting adequate attention from the State in its health policy and programmes;

(iii) that as a result, mentally ill people are deprived of their right to treatment;

(iv) that on the basis of past surveys, 5-7% of the population of India has some form of chronic mental illness and a further 15% of the population has some mild form of mental ailment;

(v) that there are only about 5,000 psychiatrists available in India;

(vi) there are only 42 mental hospitals in the country with the bed availability of 20,893 in the government sector; in the private sector, there are 5096 beds;

(vii) that as per the present curriculum, only 20 hours of theory classes and two weeks of clinical posting are allotted to psychiatry in MBBS and there is no separate examination in the subject – per contra in the curriculum of B.Sc. (Nursing) there is theory class for 120 hours and practical training for 360 hours in psychiatry leading to the conclusion that a person who has completed 4 years B.Sc. (Nursing) is better trained in psychiatry than an MBBS doctor;

(viii) the dearth of psychiatrists in the country is leading to the rise in the number of suicides and cases of addiction;

(ix) that even though most general hospitals have psychiatry wards, but many of these are not functioning due to inadequate staff;

(x) that in other countries, the subject of psychiatry is allotted about 7% of the total time in Graduate Medical Education;

(xi) that the curriculum of MBBS course ought to be modified by giving equal, if not better prominence to psychiatry than ophthalmology and ENT;

(xii) that a representation dated 13th May, 2011 was made to the respondents no.1 & 2 i.e. Ministry of Health and Family Welfare, Government of India and Medical Council of India (MCI) in this regard;

(xiii) in response thereto, the curriculum of psychiatry for MBBS course was modified by:-

(a) increasing the teaching hours from 20 to 40 hours;

(b) increasing the clinical posting in psychiatry from 2 to 4 weeks;

(c) doubling of the marks to 20 in the theory paper for medicine and by making the questions on psychiatry mandatory;

(d) making internal assessment in psychiatry mandatory for final examination;

(e) making psychiatry posting in internship mandatory instead of elective;

(f) making the teaching of the subject in an integrated manner;

(g) including certain other topics which were suggested in the curriculum;

(h) covering important aspects of psychiatry with pre / para / clinical subjects in an integrated manner; and,

(i) placing a foundation course in psychiatry at the beginning of the year.

(xiv) however the said changes made are not sufficient.

Accordingly, the petition has been filed claiming the reliefs of directing the Union of India and MCI to, (i) ensure at least 7% of clinical teaching time in MBBS for psychiatry; (ii) to make provisions for compulsory examination and evaluation in psychiatry; and, (iii) reserve at least 8% of the beds in the medical college hospitals for psychiatry department.

2. We have at the outset enquired from the counsel for the petitioner as to how we can assess the claim of the petitioner when in pursuance to the representation of the petitioner the MCI, a statutory body comprising of experts in the subject, entrusted *inter alia* with medical education in the country has after considering the representation of the petitioner deemed it proper to though make changes but to the aforesaid extent only and not fully as the want of the petitioner.

3. The counsel for the petitioner states that the assessment by the MCI is erroneous and this Court in exercise of its power of judicial review ought to

interfere in the same to protect the fundamental right of the citizens to availability of mental health care in abundance in the country.

4. We however do not find the petitioner to have made out any case to demonstrate that the decision taken by the MCI on the representation of the petitioner is erroneous. We cannot be unmindful of the fact that ours is a country of admitted deficiencies in health care. The Supreme Court in ***State of Punjab Vs. Ram Lubhaya Bagga*** (1998) 4 SCC 117 in this context has held that no State or country can have unlimited resources and provision of facilities cannot be unlimited and that the Courts would not interfere with any opinion formed by the Government. The direction for providing health / medical care cannot be made without regard to the funds available with the Government therefor. Similarly in ***State of Rajasthan Vs. Mahesh Kumar Sharma*** (2011) 4 SCC 257 it was held that the Government having formulated the rules permitting reimbursement of medical expenses in certain situations and upto a certain limit, the Court could not give a direction for reimbursement in other situations / beyond that limit also. We also, recently in ***Fight for Human Rights Vs. Union of India*** MANU/DE/3507/2014 have held that no direction for providing

unlimited health care to all can be issued.

5. Though the petitioner claims that 7% of the time of MBBS course should be allocated to psychiatry but without telling as to in what proportion is the MBBS course time allocated to diagnosis and treatment of various ailments. The petitioner has filed this petition with single minded approach with respect to the field of psychiatry with which it is concerned and without any regard to proportionality. The same cannot be permitted. Without all such data, the relief as claimed by the petitioner qua its own field of medicine only, disregarding the needs and requirements of the other fields of medicine cannot be granted.

6. In fact the counsel for the MCI appearing on advance notice has contended that this is a very dangerous trend and if allowed may lead to the associations concerned with different fields of medicine approaching the Courts for allocation of more time to their own field of medicine. He also states that the MCI presently is in the process of having re-look at the syllabus of the MBBS course and is holding consultations with all stakeholders and will thereafter be making a recommendation to the Central Government for effecting change in the Regulations on Graduate Medical

Education.

7. In view of the aforesaid statement of the counsel for the MCI, we do not deem it necessary to entertain the present petition at this stage and dismiss the same.

No costs.

CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

APRIL 15, 2015
'pp'