

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
GUARDIANSHIP PETITION NO. 10 OF 2018**

Dayanand Bhaskar Nayak	...Petitioner
<i>And</i>	
Uma Ramkrishna Prabhu	...Respondent

Mr RN Bhagatjee, *for the Petitioner.*
Dr SD Nanandkar, *Dean, JJ Group of Hospital, Mumbai, is present.*
Dr Maithili Umate, *Associate Professor, Department of Psychiatry, JJ Group of Hospital, is present.*

CORAM: G.S. PATEL, J
DATED: 4th May 2018

PC:-

1. On 9th April 2018 and later on 25th April 2018 I noted that the certificates issued by the JJ Group of Hospitals in respect of the Respondent, Uma Ramkrishna Prabhu, used an inappropriate language. Today, at 3.00 pm I have heard Mr Bhagatjee, Dr SD Nanandkar and Dr Maithili Umate. Dr Nanandkar has filed a report dated 4th May 2018. It is taken on record.

2. As far as the present matter is concerned, there is a fresh certificate of 24th April 2018. This is a proper and appropriate Mental Health Report in the form of an intellectual disability

certificate. I will accept this report and certificate. It is taken on record and marked “X1” for identification with today’s date.

3. In view of this, and for the reasons set out in the order dated 25th April 2018, the Petition is made absolute in terms of prayer clause 19(a).

4. I note that the confirming Affidavit of the sister and brother, Mamta Prakash Shanbag and Harish R Prabhu giving their no objection is on record.

5. The Petition will stand disposed in these terms and the guardians may proceed accordingly.

6. However, there is an outstanding issue that emerges. The JJ Group of Hospitals is one of the cluster of about 45 to 50 such centres that are authorized by the State Public Health Department of the State Government to issue such certificates. Medical Certificates are routinely issued for various reasons and in regard to various disabilities. So far as speech, hearing or physical impairments are concerned, there is no difficulty. It is in regard to mental health that the certificates prescribed are in inappropriate form and language. These forms are specified by the Public Health Department and individual certificate-issuing hospitals or centres are required to issue certificates only in those prescribed formats. It is not acceptable or legally permissible for these State Government-prescribed forms to use the words such as “mentally retarded” when assessing mental health issues for any person. The suggested

phraseology of “intellectual disability” seems to be an accepted non-pejorative standard phrasing. Either this or some appropriate phraseology consistent with the two applicable statutes¹ and modern practices dealing with mental health must be immediately instituted by the State Government.

7. Issue notice to the Secretary, Public Health Department, Government of Maharashtra, Mantralaya, Mumbai returnable on 25th June 2018 at 3.00 pm in Court.

8. A copy of this order and the previous orders dated 9th April 2018 and 25th April 2018 along with the report filed by Dr SD Nanandkar dated 4th May 2018 may also be forwarded to the learned Advocate General for his urgent attention.

9. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J)

¹ Rights of Persons with Disabilities Act 2016, (“**RPD Act**”) 2016 and Mental Health Care Act 2017 (“**MHC Act**”).