

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**58 CRIMINAL WRIT PETITION NO.1362 OF 2017
WITH APPLN/3992/2019 IN WP/1362/2017**

**PRAMOD S/O. DNYANESHWAR JAGDALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. M. M. Nerlikar, APP for the respondent/State

**CORAM : T. V. NALAWADE &
M. G. SEWLIKAR, JJ.**

DATED : 07-12-2020

P.C. :-

. Nobody present for the petitioner. This Court has gone through the file. It is unfortunate that the petitioner is asking the relief in respect of a person who is mentally suffering and who is his close relative and they want to see that he is permanently kept in the Government center. They do not want to take him to home. The provisions of Mental Health Act shows that such step cannot be taken and such order cannot be made in favour of the relative of the mentally sick person. It is unfortunate that only because they are not comfortable in the company of the sick person, they want to see that he is kept forever in government center.

2. Learned APP due the attention of this Court to paragraph Nos. 6 and 8 of the affidavit-in-reply and they are as under:-

"6. With reference to the contents at para no-2, I state and submit that, at the time when certificate was issued to the patient namely Mr. Dnyaneshwar Manikrao Jagdale by the Civil Surgeon, Govt. Medical College and Hospital, Aurangabad on 22.1.2007, the patient's mental status was unstable and therefore he needed hospitalization. Accordingly patient was admitted in the Regional Mental Hospital, Yerwada, Pune on Dt. 23.01.2007 through detention order No. 74/2007, dt. 22.1.2007 of Judicial Magistrate First Class Court, Aurangabad and was treated for his mental illness. As special mention to para 6 of said

certificate, the said concerns were addressed and treated subsequently by admitting the patient in Regional Mental Hospital, Yerwada, Pune.

8. I say and submit that, the Superintendent, Regional Mental Hospital, Yerwada, Pune issued a medical certificate for the patient name Dnyaneshwar Manikrao Jagdale on dt. 16-08-2010 mentioning the diagnosis as chronic schizophrenia and his disability as in the range of 45-70% and also has been advised lifelong treatment. This is Disability Certificate mainly issued to patient to get transport & Social pension benefit. Disability does not mean that patient has to be kept in custodial care for his life. Instead disability advises legally bound relatives to give special care, warmth and love to his patient. Lifelong treatment does not suggest custodial treatment, can be taken with regular follow up at outpatient department of Regional Mental Hospital, Yerwada, Pune."

3. Learned APP submitted that from 2007, the year in which detention order was passed by J.M.F.C. till 2018 the patient was kept in government center and only for the period of 2 years and 7 months the patient was in the company of petitioner and it shows that they are avoiding to take care of the mentally sick person. There is nothing on the record to show that the petitioner is paying the charges for the care of the patient was taken in government center. In view of this circumstance this Court holds that no direction can be given against the respondents to see that the patient is not released and he is not handed over to the care and custody of the petitioner. Appropriate orders can be made by J.M.F.C. in the proceedings filed for recovery of the charges from the petitioner and in that proceeding will take care and J.M.F.C. will see as to whether the petitioner is able to bear the expenses or not. With these observations petition stands disposed as dismissed. Other applications stands disposed of.

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE , J.]