

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11757 OF 2018

Sikha Arijit Bhattacharya

... Petitioner

V/s.

The Union of India & Ors.

... Respondents

Mr.S.S.Kanetkar for the Petitioner.

Mr.Ravi Kadam AGP for the Respondents.

**CORAM: S. C. GUPTE AND
MADHAV J. JAMDAR, JJ.**

**DATE : 27TH OCTOBER, 2020.
(THROUGH VIDEO CONFERENCING)**

P.C:-

1. The Petitioner, who is wife of Dr.Arijit Bhattacharya, has approached this Court for declaring the Petitioner as Guardian of Dr.Arijit Bhattacharya. It is the case of the Petitioner that Dr.Arijit Bhattacharya retired from National Chemical Laboratory in October 2010 as a Senior Scientist. He suffered severe Thalamic bleeding (Hemorrhage) due to venous sinus thrombosis on 20th August, 2016, as a result of which he was hospitalised for four months and was unconscious and has been almost in a vegetative state since then.

2. The Petitioner's further case is that it was practically difficult to keep Dr.Arijit Bhattacharya in hospital for indefinite period of time. Therefore, the Petitioner decided to shift Dr.Arijit Bhattacharya to their residential flat. For that purpose one room in the flat was converted into a special room equipped with special bed and suction machine and other medical instruments. Dr.Arijit Bhattacharya is provided with 24 hours nursing. Dr.Arijit Bhattacharya is being able to breathe by Tracheotomy and is being fed through PEGg (stomach feeding through syringes).

3. It is the case of the Petitioner that NCL, where Dr.Arijit Bhattacharya was serving as Senior Scientist, paid for medical expenses until he was admitted in hospital and from the period Dr.Arijit Bhattacharya was shifted to their residence, she is bearing all medical expenses and taking his care. It is her case that the said medical expenses are more than Rs.1 lakh per month. The Petitioner has produced along with petition, medical report at Exhibit-A issued by Grant Medical Foundation's Ruby Hall Clinic, Pune. The Petitioner has also filed additional affidavit dated 12/10/2019 pursuant to oral direction dated 25/9/2019 placing on record medical certificate dated 30/9/2019 stating that Dr.Arijit Bhattacharya is in comatose stage since 20/8/2016 and that there is no improvement and none is expected in future.

4. The Petitioner had also filed Affidavit-cum-Declaration dated 20/3/2019 of their daughter Nandini Arijit Bhattacharya. She has inter alia stated that she is the only heir of Dr.Arijit Bhattacharya apart from her mother and she has no objection if her mother is appointed as guardian of her father.

5. As for the Respondents, though served, nobody appears except learned AGP for the State. Learned AGP does not oppose the petition.

6. This Court in similar situation by an order dated 13th October, 2017 passed in Writ Petition (Stamp) No.28269 of 2017, by exercising writ jurisdiction under Article 226, has issued declaration by which the Petitioner therein was appointed as guardian of her husband, who was in comatose condition.

7. In the present case, keeping in view medical report of Ruby Hall Clinic dated 21/12/2016 as also report dated 30/9/2019 of Dr.Shivram Bhonagiri and also affidavit dated 20/3/2019 of daughter – Nandini, we allow the petition in terms of prayer clauses (a), (b) and (c) which read thus :

“(a) This Hon’ble Court be pleased to issue an appropriate Writ and/or any other Writ, Order or Direction and be further pleased to declare the Petitioner as a Guardian of Dr.Ariji Bhattacharge, retired Senior Scientist from NCL, Pune who is in a vegetative state since August 2016;

(b) This Hon’ble Court be pleased to issue an appropriate Writ, Order or Direction thereby permitting the Petitioner to deal with and/or dispose of and/or operate the movable properties of Dr.Arijit Bhattacharya as per Schedule annexed to this petition and immovable properties mentioned in this petition,

(c) This Hon’ble Court be pleased to issue a Writ of Mandamus and/or any other appropriate Writ, Order or Direction in the nature of Mandamus, thereby directing Respondent Nos.3 to 8 to allow the Petitioner to operate and/or deal with the accounts, investments and other financial affairs of Dr.Arijit Bhattacharya.”

8. The Writ Petition is disposed of in above terms. All concerned as well as bank authorities to act on authenticated copy of this order.

9. This order will be digitally signed by the Private Secretary of this Court. Associate of this Court is permitted to forward the parties copy of this order by e-mail. All concerned to act on digitally signed copy of this order.

[MADHAV J. JAMDAR, J.]

[S. C. GUPTE, J.]