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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3032/2020 & CM APPL. 10552/2020

KARAN SETH

..... Petitioner

Through: Mr. Darpan Wadhwa, Senior Advocate with Mr. Arjun Syal, Ms. Manjira Dasgupta, Ms. Mithu Jain, Ms. Vidisha Kumar & Mr. Akhil Wahal, Advocates and petitioner in person.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Anjana Gosain & Ms. Himanshi Aggarwal, Advocates for the respondent No.1/ UOI.
Mr. Anand Varma, Advocate for the respondent/AIIMS.
Mr. Rahul Mehra, Standing Counsel with Mr. Chaitanya Gosain & Mr. Gautam Narayan, Ms. Shivani Vij, Advocate for respondent/ GNCTD.
Mr. Parvinder Chauhan, Advocate for the respondent/ DUSIB.
Mr. Vaibhav Pratap Singh, Advocate for and along with Ms. Rachna Malik/ proposed proforma respondent.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

07.07.2020

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1. Respondent No.4/ AIIMS has filed a further affidavit in compliance

of our last order.

2. We are happy to note that AIIMS has re-considered its decision in view of what we had observed in our last order. AIIMS has now stated that in relation to the night shelter accommodation, it shall not levy any charge from the patients/ their attendants, who are permitted to occupy the same.

3. So far as the stay at the night shelter beyond 7+7 days is concerned, if the treating doctor recommends further stay on account of active medical treatment of the patient, the patient/ his/her attendants could be permitted to occupy the night shelter for the period in excess of 14 days.

4. Mr. Varma states that any patient who comes to AIIMS for treatment in the OPD is required to produce an identity proof. Any patient who is recommended for grant of accommodation at the night shelter, would be required to produce the same identity proof at the time of grant of accommodation. It is not necessary for the patient/ his/her attendants to produce the BPL Card.

5. The aforesaid aspects, we are happy to note, address the concerns that we had raised in our last order. AIIMS shall remain bound by its statements made in this regard in its affidavit now filed.

6. The only other aspect that remains to be dealt with by us, is in relation to the facility provided to Ms. Rachna Malik by the DUSIB, in the night shelter – when the night shelter was being run by the DUSIB.

7. In our order dated 10.06.2020, we had noticed in paragraphs 11 & 12 as follows:

“11. As noticed hereinabove, AIIMS would be taking over the night shelter on and from 12.06.2020. Ms. Malik has expressed her concerns that with AIIMS taking over the night shelter, her accreditation granted by DUSIB may not be honoured. She further submits that she has been taking educational classes for children – who are either the patients, or residing at the night shelter, to keep them occupied and to impart learning. For that purpose, she has table and chairs, apart from a small Almirah within the precincts of the night shelter. She submits that the same may not be diverted to be removed, and she may be permitted to take the classes as before even after takeover of the night shelter by AIIMS.

12. Mr. Varma submits, on instructions, that since Ms. Malik has been rendering voluntary service for a good cause, the administration of AIIMS – looking after the night shelter, would be receptive to her suggestions and contribution. Mr. Varma also submits that AIIMS would have no objection to Ms. Malik visiting the night shelter – even after its being taken over by the AIIMS, to impart education to children, and that her existing table, chairs and Almirah would not be disturbed even after the takeover of the night shelter.”

8. Mr. Varma submits that while making the statement – as recorded in our order dated 10.06.2020 and taken note of hereinabove, he had not received instructions from the higher authorities. Mr. Varma submits that AIIMS recognises the good work done by Ms. Malik and she is welcome to render her voluntary services at the night shelter. However, he submits that AIIMS – as an institution, cannot make exceptions and provide a Table, a Chair or Almirah to Ms. Malik, since there are several other NGOs who are working with AIIMS, and they may also claim similar facilities in case Ms. Malik is accommodated in the manner as recorded in the above extract. Mr. Varma submits that since long stays at the night shelter would be a thing of

the past, the need for Ms. Malik to hold classes for children of the night shelter does not survive.

9. On the other hand, Mr. Vaibhav Pratap Singh and Ms. Rachna Malik – who are both present, have explained that Ms. Malik was not just rendering educational services to the patients/ their attendants, but was also providing succour to the sick & terminally ill and needy patients by reading stories to them, teaching them good habits, and providing moral education to them. She was also providing stationary items to them. For the women folk, she would provide sanitary pads, as and when required. Similarly, she was providing clothing for the poor & needy occupants of the night shelter – which she would store in the Almirah. The picture of the Almirah, the Table and the Chair has been projected before us by Mr. Singh. Ms. Malik states that she does not have, or claim, any right over the above and her only request is that AIIMS may provide her permission to use the said facility in the night shelter, only till so long as she is in a position to render the said service for the incumbents of the night shelter.

10. Ms. Malik has made tremendous contribution not only in these proceedings but – as we gather, also in the matter of providing facilities to the inmates of the night shelter. Our own experience has been that she knows the incumbents of the night shelter on a personal basis by their first name; she knows the ailments from which they suffer; and she is also well-aware of their needs and difficulties. She has rendered selfless and genuine service to the incumbents of the night shelter, even in these difficult times.

11. In these circumstances, we are of the view that without it creating a

right in her, AIIMS should permit her to continue to use the facility of a Table, a Chair and an Almirah, over which she does not claim in propriety right. We also make it clear that this would not constitute a binding precedent – either for Ms. Rachna Malik, or for this Court, since it is in exceptional circumstances – taken note of hereinabove, that we are making this order.

12. We record our appreciation for the contribution made by Mr. Darpan Wadhwa, Sr. Advocate, Mr. Vaibhav Pratap Singh, Advocate, Mr. Anand Varma, Advocate and Mr. Rahul Mehra, Standing Counsel for the GNCTD, the AIIMS and, above all, Ms. Rachna Malik in ameliorating the suffering of the poor and needy occupants of the Night Shelter at AIIMS Vishram Sadan.

13. With the aforesaid directions, this petition stands finally disposed of.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 07, 2020

B.S. Rohella