

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 15744 OF 2022****Dr.Kanithi Ravishankar****..... Petitioner****VERSUS****Mental Health Review Board, Thane & Ors. Respondents**

Mr.Rashmin Khandekar, a/w. Mr.Prateek Pai, Ms.Sita Kapadia, Tvishi Pant, Shuvam Agarwal, i/b. Keystone Partners for the Petitioner.

Mr.P.P.Kanade, G.P., a/w. Smt.R.M.Shinde, A.G.P. for the State.

CORAM: R. D. DHANUKA AND**M.M. SATHAYE, JJ.****DATE : 21ST DECEMBER, 2022****P.C:-**

The petitioner who is a renowned Neonatologist and runs a hospital has filed this petition for a writ of mandamus against the respondent no.1 to consider the application dated 9th October, 2022 annexed at Ex.R filed on behalf of his daughter Ms.Sowmya Kanithi to consider the said application expeditiously and not later than one week from the date of such order as this Court may pass.

2. We have perused the averments made in the writ petition filed by the petitioner and also the annexures thereto. According to the

petitioner, his daughter Ms.Sowmya's symptoms of mental illness are extremely severe. The Obsessive-Compulsive Disorder (OCD) has been found to have significant connection with suicidal thoughts and tendencies and particularly when coupled with Body Dysmorphic Disorder (BDD) (both of which have found to be present in Sowmya). Various findings about the health issues suffered by Sowmya are pointed out in the writ petition. Our attention is also invited to various medical reports obtained by the petitioner from various consulting psychiatric. On 9th October, 2022, Dr.Paresh K.Doshi had made an application for permission from the State Board of Psychiatry to perform Deep Brain Stimulation of Nucleus accumbens. The said application is still pending before the State Board of Psychiatry.

3. Learned counsel for the petitioner invited our attention to sections 96, 80(4) and 80(6) of the Mental Healthcare Act, 2017 and submitted that without permission of the Board, no surgery can be permitted. He submitted that in view of the critical condition of Ms.Sowmya who is the daughter of the petitioner, the Board shall be directed to consider the application for permission expeditiously. The said Ms.Sowmya is as on date under medical care of Dr.Paresh

K.Doshi. Dr.Paresh K.Doshi has already opined that he has experience of performing surgeries for OCD, successfully in around 8 patients of which 6 underwent lesion surgeries and two of them had successful deep brain stimulation.

4. Learned counsel for the petitioner also tendered a copy of the consent dated blank but appears to have been given on 20th December, 2022 for the Deep Brain Stimulation for OCD by the said Ms.Sowmya. The said consent is also countersigned by Dr.Paresh K.Doshi.

5. Mr.Kakade, learned Government Pleader for the respondent states that the Under Secretary, State of Maharashtra has already addressed a letter to the Board to hold the meeting on 4th January, 2023 in this regard.

6. However, considering the urgency and the critical condition of Ms.Sowmya, we direct the Board to prepone the said meeting to 26th December, 2022 at 11.00 a.m. The Board would be at liberty to consider various reports submitted by the petitioner annexed to the

petition and also the consent given by Ms.Sowmya and counter signed by Dr.Paresh K.Doshi before taking any decision under section 96 read with section 80 of the Mental Healthcare Act, 2017. If the Board is of the opinion that the limited surgery would be necessary, needful should be done at the earliest.

7. The Board shall communicate the decision within a period of five days in compliance with section 80(13) of the Mental Healthcare Act, 2017.

8. It is made clear that in the meeting proposed to be held and preponed by this order to 26th December, 2022, the Board would be at liberty to take the assistance of the petitioner and Dr.Paresh K.Doshi who may sit outside the meeting hall to come to a definite conclusion.

9. If the Board is of the opinion that any interaction is required with Ms.Sowmya, the same can be permitted on video conferencing. The petitioner in that event will make an appropriate arrangement for video conferencing for the purpose of interaction.

10. Writ petition is disposed off in the aforesaid terms. No order as to costs. The parties to act on the authenticated copy of this order.

[M. M. SATHAYE, J.]

[R. D. DHANUKA, J.]