



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 3rd JULY, 2023

IN THE MATTER OF:

+ **W.P.(C) 7439/2021 and CM APPL. 18969/2023**

MS. DEVINA SINGH(MINOR) (THROUGH HER FATHER)

..... Petitioner

Through: Ms. Sonia Mathur, Sr. Advocate with
Ms. Ronika Tater, Ms. Pratiksha
Mishra, Mr. Rahul Kumar, Ms.
Rupakshi Soni, Mr. Nikhil Chandra
Jaiswal and Mr. Simarjeet Singh
Saluja, Advocates.

versus

THE GOVT. OF NCT DELHI & ANR.

..... Respondents

Through: Mr. Tushar Sannu, Standing Counsel
with Mr. Yash Singh and Mr.
Abhishek Singh, Advocates with Mr.
Amit Khanna, Associate Professor for
Respondent/ IBHAS.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The present Public Interest Litigation has been filed by one Ms. Devina Singh, a minor, through her father, resident of New Delhi, praying for directions to the Respondent authorities herein, for implementation of provisions of the Mental Healthcare Act, 2017 and its accompanying rules in educational institutions, specifically at the school and collegiate level. The Petitioner has sought for the following directions:-

“A. Direct the Respondents to implement the Mental Healthcare Act 2017 at schools and colleges for the benefit of the students.



B. Direct the Respondents to constitute the mental health establishment (including clinic/centre) as per the Chapter X (Sections 65 - 72) read with Section 2(p) of the Act in each district, schools, and colleges of the district.

C. Direct the Respondents to mandate the presence of clinical psychiatrists, counsellors, social workers and mental health professionals in each school and college of the district.

D. Direct the Respondents to make diagnosis and assessment of mental health mandatory in each school and college.

E. Direct the Respondents to implement the National Mental Health programme as formulated along with awareness and promotion of mental health of students in each school and college.

F. Direct the Respondents to conduct mental health survey for data collection at schools and colleges for the mental health assessment of students on regular basis/periodic intervals.

G. Issue such other writ, direction, or order, which this Hon'ble court may deem fit and proper under the facts and circumstances of the case”

2. Respondent No. 1 is the GNCTD and Respondent No. 2 is the Institute of Human Behaviour & Allied Sciences (IHBAS), an autonomous body tasked with looking after mental health issues in Delhi.

3. Being concerned with rise of mental health issues in school and college going students, the Petitioner has filed the instant petition. It is submitted by the Petitioner that due to growing incidents of mental illness amongst school and college going students, the Government of India introduced Mental Healthcare Bill, 2013 in order to curb the number of



rising cases of mental illnesses such as stress, anxiety, fear, panic, depression, insomnia, isolation, disconnectedness, loneliness, trauma, lack of self-confidence, positivity and resilience etc. It is submitted that to ensure healthcare, treatment and rehabilitation of persons with mental illness as well as to protect and promote the rights of persons with mental illness during the delivery of healthcare, the Mental Healthcare Act, 2017 was enacted to protect and promote the rights of persons with mental illness and to ensure that healthcare, treatment and rehabilitation services be provided to persons with mental illness at mental health institutions.

4. The Petitioner states that the information relied upon by them in the instant petition are directly derived from publicly available documents, government surveys and from correspondences with public authorities under the RTI Act. Some of these documents include National Mental Health Survey of India 2015-16, the Mental Healthcare Bill 2013, government surveys and reports by international organizations including the likes of WHO, to highlight the increasing number of adverse cases of mental health diseases amongst the younger populations. The Petitioner, placing reliance on various documents and survey reports (Mental Healthcare Survey), has highlighted the myriad of issues pertaining to mental health and the lack of requisite institutional infrastructure to tackle with rising instances of mental health related cases prevalent in students of the school and college going demographic in the NCT of Delhi. The Petitioner, therefore, prays for effective implementation of provisions of the Mental Healthcare Act, 2017 that are purposed to provide adequate mental healthcare infrastructure and services for persons with mental illness and for matters connected with or incidental thereto.

5. The Petitioner has from time to time, sent communications to concerned government authorities. For instance, an RTI application was



filed before the DGHS which was subsequently transferred to the PIO, Respondent No. 2, seeking information pertaining to the extent infrastructure, policies in place and total budgetary allocation for mental health programs in the NCT of Delhi in accordance with provisions of the 2017 Act, government services for tackling mental health cases, and status of mental health surveys, if any, carried out in schools and colleges.

6. Further, from time to time, the Petitioner has sent multiple communications to the Respondent authorities, apprising them generally of the severity of problems posed due to an increase in adverse mental health related cases in school and college going children. It appears that the Petitioner's main concern is for implementation of mental health services at school and college levels, so as to pre-emptively ensure that not all cases are referred solely to counselling at hospitals in the NCT of Delhi.

7. Notice in the instant petition was issued on 02.08.2021. Status Report has been filed.

8. In the status report, it is mentioned that the Respondent No. 2/IHBAS is a government-controlled apex tertiary care neuro-psychiatric institute dealing with cases pertaining to mental health care in the state of Delhi. The Respondent authorities have also placed on record that the Municipal Corporation of Delhi with its three divisions as well as Cantonment Board schools and the New Delhi Municipal Centre have schools under their control that are already taking preventive steps through conducting tests and identifying potential cases as well as raising awareness about mental health issues for children. At the collegiate level, the Delhi Government has been conducting awareness programs and cases requiring further treatment are referred to centres in Delhi. A perusal of the Status Report shows that there are 7 multi-speciality hospitals, 7 hospitals extending treatment for de-addiction facilities, 31 registered private mental health establishments, 5



District Mental Health Program Clinics in sub-districts of New Delhi (Chattarpur, Jehangiripuri, Timarpur, Dwarka, Moti Nagar) offering mental health treatment to all age groups, 72 substance use disorder treatment and rehabilitation centres across districts of Delhi as per provisions of the Mental Healthcare Act, 2017. The Status Report also makes mention of the School Health Scheme implemented by the Director General of Health Services under the aegis of Respondent No. 1. The School Health Scheme seeks to incorporate mental health as a component in the general health assessment of children. Further, there are 388 Educational and Vocational Guidance Counsellors (EVGC's) in 1029 schools spread across sub-districts and functioning under the Department of Education of Respondent No. 1, who are tasked with increasing the identification and screening of prevalent mental health issues amongst school going children. For the sake of convenience, relevant portions of the Status Report dated 17.11.2021 are being reproduced herein and the same reads as under:

“4. It is respectfully submitted that as compared to other States, Delhi IS faring much better in terms of awareness and implementation of school based mental health programs, human resource specialized 111 identification and screening of mental health problems in children and adolescents and the existing health infrastructure both in Government and Private sector registered under Mental healthcare Act, 2017. IHBAS is the apex Tertiary Care Neuro-Psychiatric Institute dealing with brain and mind problems and State Mental Health related work in the State of Delhi.

Further, there are 7 hospitals under Government of NCT of Delhi, providing outpatient and inpatient treatment facilities for Child and Adolescent patients under MBA 2017. The names of these hospitals are as under:

1. Institute of Human Behaviour & Allied Sciences (IHBAS);



II. GB Pant Hospital;

III. Dr BR Ambedkar Hospital;

IV. Indira Gandhi ESI Hospital,

V. ESI Hospital, Basai Darapur;

VI. ESI Hospital, Rohini.

VII. Bara Hindu Rao Hospital (MCD Hospital)

There are seven hospitals providing outpatient and in patients treatment for de-addiction for children and adolescents as per directions of Juvenile Justice Committee under Government of NCT of Delhi as under:

I. Lal Bahadur Shastri Hospital;

II. DDU Hospital;

III. Deep Chand Bandhu Hospital;

IV. Pt Madan Mohan Malviya Hospital;

V. Dr BR Ambedkar Hospital;

VI. GB Pant Hospital;

VII. Institute of Human Behaviour & Allied Sciences (IHBAS).

In addition to the above, there are 31 Registered Private Mental Health Establishments as per MHA, 2017 in various districts of Delhi. A copy of list of registered private mental health establishments as well as government mental health establishments in Delhi. The details of these establishments are available at (www.smhadelhi.org) and is annexed as Annexure-I.



There are Five District Mental Health Program Clinics (DMHP's) in Delhi in Chattarpur (South district), Jehangirpuri (North-west), Timarpur (North), Dwarka (South-west), Moti nagar (West) in different districts in Delhi, which offer mental health treatment to all age groups including Children and Adolescents and if required refer to nearby General Hospitals or Tertiary care centres such as IHBAS.

There are 72 Substance Use disorder treatment and Rehabilitation centres registered as per provisions of MHA, 2017 in various districts of Delhi. A copy of list of substance use disorder treatment and rehabilitation centres in NCT of Delhi. The list of these centres IS available at (www.smhadelhi.org) and is annexed as Annexure-II.

5. It is respectfully submitted that data/ inputs were called from various Institutions/Departments dealing with Mental Health like School health Scheme, Directorate of Education, North MCD, South MCD, East MCD, New Delhi Municipal Council, Department of Social Welfare, Department of Higher Education, Department of Training and Technical Education, Baba Saheb Ambedkar Hospital, Madan Mohan Malviya Hospital, Five District Mental Health Clinics in Delhi and IHBAS/Respondent No.2.

6. The School Health Scheme, DGHS, is engaged in preventive and promotive health activities in schools and upon discussion it was decided that they will be incorporating mental health component as part of the general health assessment of children and co-ordinate with the 388 Educational and Vocational Guidance Counsellors (EVGC's) in 1029 schools under the Department of Education. This would further increase the identification and screening of mental health issues in children as rightly pointed out by the Petitioner.



7. *The Municipal Corporation of Delhi with its three divisions namely North, South and East MCD; the Delhi Cantonment Board schools and the New Delhi Municipal Centre schools have a large number of schools under them where preventive, promotive and identification and screening of mental health issues in children are being carried out already.*

8. *Seven schools for specially abled children are being run by the Department of Social Welfare and the mental health issues of these children is dealt with sensitively by the concerned department and if need arises these children are referred to higher centers.*

9. *The Directorate of Higher Education and Department of Training and Technical Education have fully funded and partially funded Colleges under the Delhi Govt and have been conducting awareness programs, preventative and promotive mental health activities to support the Adolescents and young persons in Colleges. The primary interventions in mental health are chiefly carried out by the concerned departments in schools and colleges and in case there is need for treatment, are referred to higher centers in the State of Delhi.*

10. *The Directorate of Education has already implemented the "Happiness Curriculum" as per its submission and this is being implemented since 2018 which caters to the preventive and promotive mental health components for the well being of children.*

11. *Further, considering the six prayers of the petitioner, these are being addressed as follows:*

a) That the Mental Healthcare Act, 2017 (MHA, 2017) was notified on 07.04.20 17 and a period of nine months had been provided for implementation of MHA, 2017 in the Official Gazette. That the Central Government had to frame the Rules for the implementation of MHA, 2017. The draft Rules for



implementation of the Act were notified by the Government of India on 20.09. 2017 and a Gazette Notification of Government of India was published on 02.01.2018 regarding extension of implementation of MHA 2017 from 07.07.2018. That the MHA 2017 applies to the whole of India and specifically does not need to be implemented in schools and colleges as erroneously interpreted by the Petitioner herein.

b) The List of hospitals registered with the SMHA IS available at (www.smhadelhi.org) and listed as Annexure-I & II.

c) All Concerned Departments have submitted details of the available Human Resource in schools and colleges for preventive, promotive and identification and screening of mental health issues in children and Adolescents. Further, it is apprised that it was not possible to depute Counsellors in every school and they would be deputed as per need and the concerned departments have been advised regarding the same.

d) There is no provision in Mental healthcare Act, 2017 that make diagnosis and assessment mandatory in schools and colleges. However, as per the Act, only a 'Mental Health Professional' as defined in section 2 (r), MHA, 2017 is qualified to make a diagnosis of Mental disorder and such children in schools and Colleges can be referred to any of the registered MHE's or private Clinics where such professionals are working.

e) Implementation of School mental health program as part of the larger National Mental health program is already in place and carried out by concerned department engaged in education and care of children and adolescents in schools and Colleges.

f) Mental Health surveys have been carried out in the past by the Directorate of Education and IHBAS shall provide scientific and technical expertise for such



surveys when required in the future being the agency having expertise in the matter.”

9. In light of the information provided in the Status Report and also considering the measures taken by the concerned authorities towards implementation of the Mental Healthcare Act, 2017, no further orders are required to be passed by this Court.

10. Accordingly, the Writ Petition is disposed of, along with the pending applications.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JULY 03, 2023

Rahul/ss

सत्यमेव जयते