21 20.06.2024
AN Ct. No. 01
RP

WPA(P) 196 of 2024

Suresh Kumar Sahoo
vs.
Union of India & Ors.

Mr. Satadal Chatterjee
... for the petitioner

Mr. Kishore Dutta, ld. A.G.
Mr. Anirban Ray, ld. G.P.
Mr. Sk. Md. Galib,
Mr. Debraj Sahu
... for the State

1. We have heard learned counsel for the respective parties at length.

2. The petitioner, Mr. Suresh Kumar Sahoo is a practicing advocate before this Court and he is in no way connected with any political party or political activity, a peace loving citizen of India and devoted to social work as his avocation.

3. By this writ petition, filed as a Public Interest Litigation, the petitioner has flagged a very important issue qua the implementation of the provisions of Mental Health Care Act, 2017 (for short, the Act). According to the petitioner, the said Act has come into force for the purpose of preservation of mental well-being and wholesomeness of every human being and in the Act, there are specific provisions under Sections 94 and 115 for prevention of suicide and cure of anxiety, stress, depression causing suicide. It is further stated that during 2020, the Government of India adopted National Suicide Prevention Strategy and the grievance of the petitioner is that till date

there is no effective implementation of the said provision of prevention of suicide in rehabilitation centres in the State of West Bengal. The petitioner laments that there is an increasing rate of suicide, particularly, among the young generation aged about 20 and 30 specifically related to matrimonial, academic and career related issues. In this background, the petitioner seeks for implementation of Sections 94 and 115.

4. The Mental Health Care Act, 2017 was enacted to mental health care and services for persons with mental illness and to protect, promote and fulfill the rights of such persons during delivery of mental health care and services and for matters connected therewith or incidental thereto.

5. The petitioner seeks for implementation of Sections 94 and 115. Section 94 deals with emergency treatment. Sub-section 1 of Section 94 starts with a non-obstante clause stating that notwithstanding anything contained in the Act any medical treatment including treatment for mental illness may be provided by a registered medical practitioner to a person with mental illness either at a Health Establishment or in the Community, subject to the informed concerned consent of the nominated representative, where the nominated representative is available and where it is immediately necessary to prevent (a) death or irreversible harm to the health of the person or (b) person inflicting serious harm to himself or other or (c) the person causing serious damage to property belong to

himself or other where such behaviour is believed to flow directly from the person's mental illness.

6. There are other safeguards which have been provided under Sections 2 to 4 while implementing the procedure under Section 94 of the said Act. Section 115 has two sub-sections. Sub-section 1 starts with non-obstante clause stating that notwithstanding anything contained in Section 309 of the Indian Penal Code any person who attempts to commit suicide shall be presumed unless proved otherwise, to have severe stress and shall not be tried and punished under the same Code. Sub-section 2 of Section 115 states that the appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.

7. The petitioner before approaching this Court by way of this writ petition has submitted to the authorities of the Central Government as well as the State Government by a representation dated 19.02.2024. The petitioner has emphasized that Section 115 imposes a duty on appropriate Government to provide care, treatment and rehabilitation to a person having severe stress who attempted to have committed suicide in order to reduce the risk of recurrence of attempting to commit suicide.

8. Therefore, it is submitted that the unique feature of this Section 115 is how to prevent suicide and save human life before it is destroyed, which was not found

in other earlier legislations. Further, the petitioner highlights Section 94 of the Act lays down detailed procedure about how to rehabilitate a person with severe mental stress and anxiety and depression including self-harm and injury to others. The petitioner further points out that the Government of India, Ministry of Health and Family Welfare on 05.08.2021 with a view to implement Section 115 of the Act has adopted the National Suicide Prevention Strategy which is a complete guide to every stakeholder like the Government of India, State Governments as well as local Bodies, Police Stations for setting up targets, implementations, monitoring, taking correct measures towards the goal of Mental Health Care Act, 2017.

9. It is submitted that the mental sanctity, quality of life emanate under Article 21 of the Constitution of India because the right to life does not mean mere animal existence but a life with its wholesomeness. Thus, it is contended that the prevention of suicides, maintaining quality of life and promotion of mental health and well being directly emanate from Article 21 of the Constitution of India. The petitioner in the representation has pointed out various recent incidents where suicides had taken place. With the aforementioned facts and submissions, the petitioner seeks for immediate build up of the infrastructure and release of adequate funds to implement the mandate under Section 94 read with Section 115 of the said Act read with National Suicide Prevention Strategy. The petitioner also seeks for conduct of psychological assessment tests and provides

rehabilitation facilities to young age people undergoing matrimonial disputes and suffering from stress, anxiety and depression in order to prevent suicide. The petitioner has elaborately referred to the various provisions of the Act and has also taken us through the various recommendations and guidelines specified in National Suicide Prevention Strategy. Learned counsel representing the State submitted the report of the Additional DHS (Admin.), Directorate of Health Services, Swastha Bhawan, Government of West Bengal which is reproduced hereunder:

> *"In terms of section 115(2) of the Mental Health Care Act 2017, the Government of West Bengal is providing care, treatment and rehabilitation to all persons having severe stress through 5 State Run Mental Hospitals, 14 District Hospitals, 24 Medical Colleges & Hospitals, 9 stand alone Super Specialty Hospitals and 28 number of District Mental Health Programme. On an average 1619837 number of patients (in FY.2023-24) suffering from mental illness attended OPDs of the aforesaid hospitals out of which approximately 3% were having severe stress. The aforesaid hospitals provided medicines and counseling services to all of them.*
>
> *In addition to that since 10th October, 2022 Government of West Bengal has started Tele Mental health programme through toll free number 14416 and counseled 50644 number of persons out of which reportedly 5% were having serious stress.*
>
> *Perhaps, out of aforesaid persons some of them would have committed suicide if the action as mentioned above had not taken in time.*
>
> *However, 58 numbers of mentally ill persons called in odd hours with suicidal ideation through Tele Mental Health*

> *programme which runs 24X7 and our counselors had taken appropriate measures to prevent suicide.*
>
> *In addition to that 59960 (in FY 2023-24) number of Teachers, Professors and persons were sensitized so that they can suspect students or office colleagues who are having severe stress and may attempt to commit suicide.*
>
> *Further the Department of H&FW, Government of West Bengal had organized Gatekeeper training among the medical students so that suicide attempts among them can be reduced.*"

10. From the above report it appears that there are several Hospitals in the State level, District level, Medical College Hospitals, Super-Speciality Hospitals apart from District mental health programmes which are stated to be conducted. It is submitted that the Government of West Bengal has also provided Toll Free Number as well as Counseling Number where people can discuss their problems and get themselves relieved from serious stress. The report also states about how many teachers, professors and persons were sensitized so that they will be in a position to assist the students who are having severe stress and may attempt suicide. The Government of West Bengal is stated to have organized gate keeper training among medical students so that suicide attempts among them can be reduced. Thus, it appears that sufficient steps have been taken by the Government of West Bengal with regard to providing care, treatment and rehabilitation to persons having severe stress who may have a tendency to commit suicide.

11. At this stage, we take note of certain provisions which are enumerated in Chapter VI of the Act under the heading “Duties of Appropriate Government”. Section 29 deals with promotion of mental health and preventive programmes which is required to be done by the appropriate government and in this case, the Government of West Bengal. Section 30 deals with creating awareness of mental health and illness and reducing stigma associated with mental illness. Section 31 mandates the appropriate government to take measures as regards human resource development training etc. and Section 32 coordination within appropriate government between the services provided by concerned Ministries and Departments such as those dealing with Health, Law, Human Resources, Home Affairs, Social Justice, Employment, Education, Women and Child Development, Medical education to address issues of mental health care. Thus, in our view, that the Government of West Bengal shall take note of the duties which have been enumerated in Chapter VI of the Act and a time has come where the promotion of mental health and preventive programmes and creation of awareness and development of human resources and coordination within the various Departments of the Government can be stepped up so that the desired result can be achieved.

12. The National Suicide Prevention Strategy was published by the Ministry of Health and Family Welfare, Government of India. In the said report, while acknowledging the good work done by the Technical

Committee, the report recognizes the work done by Dr. Lakshmi Vijaya Kumar, SNEHA, Chennai who developed the first draft document which was delivered extensively at the Technical Committee Meeting and inputs were extended by other members. The members of the Technical Committee as could be seen from their qualification and the Departments to which they are attached are all experts in their fields. There are various important aspects which have been highlighted in the guidelines wherein it is noted that certain States shares a disproportionately large burden of suicides in India and one such State is West Bengal. There is also mention of ongoing suicide prevention initiatives. The W.H.O. Guidelines on suicide prevention, reference has been made to the mandate under Section 115 of the said Act and various other issues which appears to be highly technical and it is for the experts to deliberate on the same.

13. Learned counsel appearing for the petitioner draws our attention to the Press information given by the Ministry of Health and Family Welfare, Government of India dated 04.02.2022 by which a sum of Rs. 83.2 lacs per District per year has been allotted for mental health. It is not clear as to whether this allocation has been extended to the Institutions in the State of West Bengal. Be that as it may, this can be done on the aspect, more particularly, bearing in mind the mandate under Section 115 of the said Act. The Court can take judicial notice of the fact that one Organisation which functions for prevention of suicide is

SNEHA, Chennai founded by Dr. Lakshmi Vijaya Kumar and in the English News Paper and regional news papers published in Southern States whenever there is a news about a suicide, the Helpline Number and an information about SNEHA is mentioned. If this exercise is made to be done in all the news papers which are published in the State of West Bengal by giving the Toll Free Numbers both for counseling and whenever there is a news of suicide, this may have a desired result since the persons who are under stress will have an opportunity to call to the Toll Free Number and get the counseling of the experts who have been nominated under the mental health programme which is stated to be a programme which runs 24x7.

14. In the light of the above, we are of the view that the authorities of the Government of West Bengal viz. the Secretary, Department of Health and Family Welfare, the 4th respondent herein shall consider the petitioner's representation dated 19.02.2024 and shall consider the averments made therein and take appropriate action in accordance with law bearing in mind the avowed object of the Mental Health Care Act, 2017 read with purpose and purport of the National Suicide Prevention Strategy published by the Ministry of Health and Family Welfare, Government of India. This direction shall be complied with within a period of six months from the date of receipt of the server copy of this order. In order to facilitate the compliance of this direction, the petitioner is directed to submit a copy of the representation alongwith the copy of

this order alongwith all the requisite annexures to the Office of the 4th respondent, as mentioned hereinabove, to facilitate within a period of three weeks from the date of receipt of the server copy of this order.

15. In the result, the writ petition stands **disposed of.**

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)