

A-12
Ct No.09
08.01.2024
TN

WPA No. 24324 of 2023

Sreya Basu
Vs.
State of West Bengal and others

Mr. Subhankar Nag,
Mr. Avishek Guha,
Ms. Akansha Chopra

.... for the petitioner

Mr. T.M. Siddiqui,
Ms. Amrita Panja Moulick

.... for the State

- 1.** In terms of the previous direction, a report is filed by the State, authored by the Medical Board headed by Professor (Dr.) Arunansu Talukdar, Head of the Geriatric Medicine Department, Medical College, Kolkata.
- 2.** It transpires from the same that Mr. Subrata Basu, father of the petitioner, is suffering from Dementia and is at present unable to perform his activities of daily living independently and has impaired capacity to take intelligent decision regarding any aspect of life including his person and day-to-day activities. The said opinion, it may be noted, was the opinion of the medical board formed and headed by Dr. Talukdar.

3. Learned counsel for the petitioner cites a judgment of this court dated October 05, 2023 in WPA No. 17528 of 2023 where in a similar case, an order was granted assuming *parens patriae* jurisdiction of this court, granting liberty to the petitioner therein to act as the sole agent and legal representative of the incapacitated person. Learned counsel also cites a judgment authored by a Division Bench of the Bombay High Court in the matter of *Lubina Mohamed Agarwal and another vs. Union of India and others*, where in a case of Dementia similar to the present one, similar orders had been passed.
4. Taking into consideration the present condition of the petitioner's father, namely Mr. Subrata Basu, who is not able at all to look after his day-to-day needs and/or take any intelligent decision at all, for the ends of justice, it would only be appropriate if the court assumes *parens patriae* jurisdiction and passes the necessary direction enabling the present petitioner, who is the daughter and sole legal heir and representative of the said Mr. Subrata Basu to take care of all the necessities of the said incapacitated Mr. Subrata Basu.

- 5.** Accordingly, WPA No. 24324 of 2023 is allowed, thereby appointing the present petitioner, that is, Ms. Sreya Basu, as the sole agent and legal representative of her father Sri Subrata Basu in the capacity of his guardian, to deal with all movable and immovable properties of the said Mr. Subrata Basu as well as to take all possible and conceivable care of the person and property of the said Mr. Subrata Basu. The reliefs sought in terms of prayer (b) [clauses (i), (ii), (iii), (iv) and (v)] are hereby granted.
- 6.** It is directed that all authorities shall act on this order and permit the petitioner to undertake such activities as directed hereinabove.
- 7.** However, the petitioner shall, every six months, file a report before the Department of Women and Child Development and Social Welfare, Government of West Bengal, including detailed accounts in the form of a report indicating the transactions and dealings undertaken by the petitioner with regard to the moveable and immoveable properties of Mr. Subrata Basu up to that period. The report shall also include the then current medical condition of Sri Subrata Basu.

- 8.** The first of such reports shall be filed in the month of June, 2024. The petitioner shall file another six-monthly report thereafter in the month of December, 2024. From the year 2025 onwards, the petitioner shall file similar annual reports in the month of June of each year, until further orders.
- 9.** It is made clear that in the event of the sad demise of the patient Mr. Subrata Basu, the petitioner shall intimate the same to the Department of Women and Child Development and Social Welfare, Government of West Bengal.
- 10.** In the event any major surgery or medical intervention is required to be undertaken on Mr. Subrata Basu, the same will be intimated in advance to the said Department of the Government.
- 11.** In the event the above Department feels it so necessary for the interest of the patient Mr. Subrata Basu, it would be open to the said Department of the Government of West Bengal to approach this court for seeking further orders.
- 12.** There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the

parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)