

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18548 OF 2024

Smt. Anita Atmaram Matala

.. Petitioner

Versus

1. The Union of India.

2. The State of Maharashtra

.. Respondents

Mr. Sachin Gite, *Advocate for the Petitioner.*

Mr. D.P. Singh, *Advocate for Respondent No.1-UOI.*

Ms. V.R. Raje, *AGP for Respondent-State.*

**CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : DECEMBER 12, 2024

P. C.

1. The above Writ Petition is filed seeking a declaration that the Petitioner, Smt. Anita Atmaram Matala, be appointed as the legal guardian of her husband, namely, Shri. Atmaram Narayanrao Matala, who is in a vegetative state.

2. When the above matter had come up on 28th November, 2024, we were of the opinion that before we proceed further in the above Writ

Petition, it would be just and proper to direct the Dean of the Civil Hospital, Nashik to constitute a medical board to examine the physical and mental health of Shri. Atmaram Matale and submit a report to this Court on or before 10th December, 2024. We had kept the matter today to pass further orders after perusing the report of the said medical board.

3. Today when the matter is called out, the Learned Government Pleader has tendered a Communication dated 6th December, 2024 issued by the Dean, Government Medical Collage, Nashik. The said letter is taken on record and marked 'X' for identification. In the said Communication, it is stated that at present, in the Government Medical Collage, Nashik, they do not have a Cardiologist, a Neurologist or a Neurosurgeon. It is, therefore, stated in the letter that to fulfill the requirement of the specialists, it is advisable to refer Shri. Atmaram Matale [for his Medical examination] to Sir J.J. Hospital, Mumbai where all the three specialists are available. It is further stated that at present, the Government Medical College, Nashik has availability of a General Surgeon and a General Physician and if the High Court so instructs, the medical board can be formed of the General Surgeon and Physician, and a report can be submitted to this Court.

4. In the facts of the present case, the husband of the Petitioner, and who is in a vegetative state, is a resident of Nashik. It is, therefore, not possible or feasible for the said patient to be brought to Mumbai for examination. Considering the letter dated 6th December, 2024 addressed by the Dean of the Government Medical College, Nashik, we are of the opinion that interest of justice would be served if a medical board is formed consisting of the (i) General Surgeon and the General Physician of the Government Medical College, Nashik; along with (ii) Dr. Samir Futane, who is a Neurosurgeon from Sahyadri Hospital and who treated the said Shri. Atmaram Matale. Accordingly, we constitute a medical board consisting of (i) the General Surgeon of the Government Medical College, Nashik; (ii) the General Physician of the Government Medical College, Nashik; and (iii) Dr. Samir Futane; to examine the physical and mental health of Shri. Atmaram Matale and submit a report to this Court. The report should indicate whether Shri. Atmaram Matale is in a position to take any decision on his own and is able to understand the implications of his decisions. Once we receive the aforesaid report, we will pass further orders in this Writ Petition. We would request the medical board, as constituted by us, to submit their report to this Court on or before 16th January, 2025. We would also request that the report be submitted in English.

5. It is needless to state that the Medical Board shall visit the residence of Shri. Atmaram Matale to examine his mental and physical health.

6. A copy of this order shall be brought to the attention of the General Surgeon and the General Physician of the Government Medical College, Nashik as well as to Dr. Samir Futane of Sahyadri Hospital.

7. We now place the above matter for further orders on **16th January, 2025.**

8. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]