
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 4248 OF 2024

Minita Shah
wife of Mr.Jaimin Shah
Versus
Dineshchandra Shah
Father of Mr.Jaimin Shah

.. Petitioner

.. Respondent

Mr.Karl Tamboly, with *Mr.Bharat Jain, Kavish Arora i/b IC Legal, Advocates for the Petitioner.*

Mr.Mehul Rathod, *Advocates for Respondent Nos.1 to 4.*

Ms.Jyoti Chavan, *Addl. GP. With Varsha Sawant, AGP, for Respondent No.5.*

Mr.Amit Karkhanis, *Advocates for Respondent No.6.*

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CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE: NOVEMBER 18, 2024

P. C.

1. The above petition is filed seeking a declaration that the Petitioner- Minita Shah be appointed as the legal guardian of Mr. Jaimin Shah (for short, "***Jaimin***"), who is in a comatose condition. The Petitioner is the wife of Jaimin, and who, according to the Petitioner, is suffering from a head injury that was caused when he was traveling to Vietnam. He was undergoing treatment at Sir H.N. Reliance Foundation Hospital and Research Centre, Girgaon, Mumbai for Vigorous Physiotherapy, Speech

Therapy and Cognitive Therapy and is securing supportive treatment to improve his consciousness. According to the said Hospital, he is partially conscious with spontaneous eye opening and minimal limb movements but not following commands. Hence, according to the said Hospital, Jaimin is not in a position to sign for an indefinite period of time. It is informed that Jaimin is now taking treatment at Kokilaben Dhirubhai Ambani Hospital & Medical Research Institute, Andheri, Mumbai.

2. Respondent Nos. 1 and 2 are the mother and father of Jaimin and Respondent Nos. 3 and 4 are his children. All those Respondents are represented by an advocate today who has stated that the said Respondents have no objection if the Petitioner is appointed as the legal guardian of Jaimin. Further, the said Respondents have also filed a Consent Affidavit dated 22nd August 2024 (page 44 of the paper book) in which it is stated that they give their full and free consent to the prayers sought in the above Petition, namely, that the Petitioner can be appointed as a legal guardian of the Jaimin.

3. When the above matter had come up on 21st October 2024, we were of the opinion that before we proceed further in the above Writ Petition, it would be just and proper if we direct the authorities of Sir J. J. Group of

Hospitals and Grant Government Medical College, Mumbai to constitute a Medical Board to examine the physical and medical health of Jaimin and submit a report to this Court on or before today. We had, therefore, kept the matter today in order to examine the report of the said Medical Board.

4. Today when the matter is called out, the report of the Medical Board has been placed before us. The report states as under:-

“Respected Sir

We, the committee of doctors from Sir J.J. Hospital Mumbai, have examined Mr. Jaimin Dineshchandra Shah, 50 yrs/ male at Kokilaben Dhirubai Ambani Hospital on 28/10/2024 at 3 pm. He was admitted in ward room on 16th floor. He suffered traumatic brain injury with bilateral subarachnoid hemorrhage and subdural hemorrhage on 9/3/2024. He underwent bilateral decompressive craniectomy followed by cranioplasty later. He has bilateral frontal and occipital gliosis as per the latest CT scan Brain dated 21/10/2024. He was also tracheostomised which was closed recently. At present he is on percutaneous endoscopic gastrostomy (PEG) feeds.

He has spontaneous eye opening, does not respond to verbal command and there is no meaningful speech. He is not able to communicate and is bed bound, dependent on relatives for nursing care.

He is not in the condition to understand and take any financial/ legal decisions and is dependent on relatives for everything at present. His condition needs to be re-evaluated after 6 months”

(emphasis supplied)

5. The said report is taken on record and marked “X” for identification.

6. Considering that the report clearly states that Jaimin is not in a condition to understand and take any financial/legal decisions and is dependent on relatives for everything at present, coupled with the fact that Respondent Nos.1 to 4 have clearly stated their No Objection to the Petitioner being appointed as a legal guardian for Jaimin, we do not find any impediment in appointing the Petitioner, at present, as the legal guardian of Jaimin.

7. As far as the maintainability of the above Writ Petition is concerned, we find that the same is squarely covered by a Division Bench decision of this Court in the case of ***Rajni Hariom Sharma v/s Union of India & Anr [(2020) SCC Online Bom 880]***.

8. In view of the foregoing discussion, the following order is passed:

- a) The Petitioner-Minita Shah is hereby appointed as the legal guardian of her husband Mr.Jaimin Shah who is currently bedbound and undergoing treatment at Kokilaben Dhirubai Ambani Hospital and Medical Research Institute, Andheri, Mumbai.

- b) All authorities shall accept the status of the Petitioner as the legal guardian of Jaimin for all purposes.
- c) The Member/Secretary of the Maharashtra State Legal Services Authority, either through officials of the said Authority, or through a Legal Aid Counsel, or through a para legal volunteer, shall monitor the functioning of the Petitioner as the guardian of Jaimin every three months and submit a report to the Maharashtra State Legal Services Authority, and which shall be compiled for a period of two years. If it is found necessary to extend the time in case of any exigency, the Member/Secretary of the Maharashtra State Legal Services Authority shall be at liberty to move this Court for further orders.

9. Since the report of the Medical Board stipulates that the condition of Jaimin needs to be reevaluated after six months, we do not dispose of the above Writ Petition but place it on Board for directions on 9th June 2025. On that date the Court, if thinks fit, may direct the another Medical Board to reevaluate the condition of Jaimin and thereafter pass further orders, if necessary.

10. 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.]