



\$~40

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

+ **W.P.(C) 8032/2023**

KRISHAN KUMAR KATHURIA & ANR. Petitioners

Through: Ms. Ankita Chaudhary and Mr.
Shreyas Balaji, Advocates.

versus

THE GOVT OF NCT OF DELHI & ORS. Respondents

Through: Mr. Udit Malik, ASC for GNCTD
with Mr. Vishal Chanda, Advocate.
Mr. Kshitij Aggarwal, Advocate for
R-4.
Mr. Ashim Shridhar, Advocate for R-
6.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

%

ORDER
11.01.2024

1. The Petitioner has approached this Court with the following prayers:

“i. Issue an appropriate Order/Direction in nature of Mandamus or other appropriate Writ appointing the petitioner no.2, namely Smt. Sudesh Kumari Kathuria w/o Mr. Krishna Kumar Kathuria who is lying in the comatose state since the last 4 years to protect his interest, manage movable and immovable properties, administer bank accounts, investments, proprietorship business; and



ii. Pass such an Order directing the Respondents to consider Petitioner No.2 as the Legal guardian of the Petitioner No.1 and represent Krishan Kumar Kathuria before all persons, authorities, bodies, sign wherever required as guardian of Krishan Kumar Kathuria including for discharging any person/authority/body/from duty/obligation/liability owed to Krishan Kumar Kathuria; and

iii. Allow petitioner no.2 to operate bank accounts of the petitioner no.1, utilize the money for proper upkeep and for fulfilling the needs of Petitioner no.1 Mr. Krishan Kumar Kathuria, also allow to take possession and charge of all properties movable or immovable to Krishan Kumar Kathuria, act in law to protect interest of Krishan Kumar Kathuria, allow petitioner no.2 to sign all deeds, documents, cheques as guardian of Krishan Kumar Kathuria; and

iv. Pass such other /further orders in favor of the petitioner as this Hon'ble Court may deem fit and proper in the interest of justice. ”

2. This Court on 01.06.2023 issued notice in the writ petition and directed the Respondent/GNCTD to constitute a Medical Board to look into the medical condition of the Petitioner. The Medical Board was constituted and two doctors, namely, Dr. Sumit Singla, Professor, Medicine, Lok Nayak Hospital, GNCTD and Dr. Akhil, Assistant Professor, Neurology, GB Pant Hospital, GNCTD examined the Petitioner and following report has been submitted to this Court:



183

Patient namely Sh. Krishan Kumar Kathuria was examined today in medical board at 02.30 PM on 13/12/2023.

Following are the observation of the Medical Board:

Patient is 74 year old gentleman, diagnosed case of Hypertension, Hypothyroidism, severe posterior circulation stroke (2019) post tracheostomy status since then.

Patient is Bed Bound, since then, is on Foley's catheter, percutaneous endoscopic gastrostomy *in situ*, is tracheotomized.

Presently HR-88 regular, SPO2-99% in Room air, BP-150/80

- Chest- B/L Symmetrical Respiration moments, Normal vesicular sounds.
- Cardio vascular -S1S2 normal, no S3 heard.

P/A - Percutaneous endoscope gastrostomy (PEG) *in situ*.

CNS - Eye 4 VT M4

- Cranial Nerve - Right eye pupil normal size & Reactive to light. Left eye Tarsography done.
- No reproducible eye moment on stimulation,
- Vertical eye movements absent, eye blinking involuntarily.
- Cough reflex - Present, Negative Doll's eye.
- Motor- Tone increased Bilateral upper limbs
- Thinning present B/lateral upper limbs.
- Occasional fasciculation seen B/Lateral hands.
- Lower limbs - Deep Venous thrombosis, pump *in situ*.
- Power - Could not be assessed.
- Reflex
- Biceps Right 3+
- Left 3+
- Triceps Right 2+
- Left 2+
- Knee & Ankle- Deep Venous thrombosis, pump *in situ*.
- Plantars- Right up
- Left Equivocal
- Sensory- Could not be assessed.

On further examination-

1. Patient has no evidence of Reproducible, Purposeful Voluntary response to visual, Auditory, Tactile or noxious stimuli.
2. No evidence of Language expression in Patient.
3. Patient sleeps at night & Wakes up in morning as per attendant.
4. Blood Pressure & Saturation are under control in medical Care.
5. Patient has Bowel & Bladder incontinence.
6. Cough Reflex present

After Examination, findings are suggestive of likely Persisted vegetative state.

Final impression: Patient is hearing mRS of 5 (Modified Rankin Score). Patient requires continuous medical attention & Care.

-Sd-
Dr.Sumit Singla
Professor, Medicine
Lok Nayak Hospital,GNCTD

-Sd-
Dr.Akhil
Assistant Professor
Neurology, GB Pant Hospital,GNCTD.



3. In view of the condition of the Petitioner, this Court is inclined to allow the present writ petition in terms of Prayer Nos.(i), (ii) and (iii) as sought in the writ petition.
4. Resultantly, the writ petition is allowed in terms of Prayer Nos.(i), (ii) and (iii), along with pending application(s), if any.
5. Learned Counsel for Respondent No.6 submits that this Order cannot not be taken as a *carte blanche* by the Petitioner and his brother to fritter away the properties and that because of this Order, the Respondent No.6 should not be left remediless.
6. It is always open for the Respondent No.6 to take recourse to all remedies as may be available to him in accordance with law.
7. It is made clear that this Order has been passed only on the basis of the medical opinion given by Medical Board constituted on the directions of this Court.

SUBRAMONIUM PRASAD, J

JANUARY 11, 2024

S. Zakir