IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 35 OF 2024

Medico Legal Society of India]
Association registered with ROS]
Pune vide no. 1319/2022 dated]
24/08/2022, having registered office]
at 1416, Sadashiv Peth, Pune 411030]
Maharahtra through its founder]
member Dr. Rajeev Digambar Joshi]
practicing at Shree J. Hospital, Opp]
Chintamani Nagar, Bibwewadi]
Pune 411046.] .... Petitioner.

V/s

1. The Secretary, Ministry of Health]
& Family Welfare, Govt. of India]
Nirman Bhavan, New Delhi 110011]
]
2. The Union of India] .... Respondents.

Mr. Rajiv D. Joshi-petitioner in person, present.
None for the respondents.

CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.

DATE : 17th NOVEMBER 2025.

PER, SHREE CHANDRASHEKHAR, CJ.

This Pubic Interest Litigation seeks to question the ICU admission criteria, particularly, for the critically ill patient who should not be admitted to ICU. Mr. Rajiv D. Joshi, who is the petitioner in-person, states that the guidelines for not admitting critically ill patient to ICU where the patient or next of his kin has expressed his refusal is contrary to the decision of the Hon'ble Supreme Court in *"Common Cause v. Union of India"* (2023) 14 SCC 131. The petitioner in-person refers to paragraph no.199.1 of the said decision and submits that the

guidelines for admission of terminally ill patient are patently illegal and not in public interest.

2. In the first place, we would indicate that in every case where allegation is made that some executive instruction has been made or a guideline has been framed contrary to decision of the Hon'ble Supreme Court, the issue shall not automatically become an issue in public interest. In paragraph no.199.1 of *"Common Cause v. Union of India"* (2023) 14 SCC 131, the Hon'ble Supreme Court modified the earlier directions as under:-

	Directions of the Hon'ble Supreme Court in "Common Cause v. Union of India" (2018) 5 SCC 1.	Modified directions of the Hon'ble Supreme Court in "Common Cause v. Union of India" (2023) 14 SCC 131.
"Para 199.1	*In cases where the patient is terminally ill and undergoing prolonged treatment in respect of ailment which is incurable or where there is no hope of being cured, the physician may inform the hospital which, in turn, constitute a Hospital Medical Board in the manner indicated earlier. The Hospital Medical Board shall discuss with the family physician and the family members and record the minutes of the discussion in writing. During the discussion, the family members shall be apprised of the pros and cons of withdrawal or refusal of further medical treatment to the patient and if they give consent in writing, then the Hospital Medical Board may certify the course of action to be taken. Their discussion will be regarded as a preliminary opinion.*	***In cases where the patient is terminally ill and undergoing prolonged treatment in respect of ailment which is incurable or where there is no hope of being cured, the physician may inform the hospital, which, in turn, shall constitute a Primary Medical Board in the manner indicated earlier. The Primary Medical Board shall discuss with the family physician, if any, and the patient's next of kin/next friend/guardian and record the minutes of the discussion in writing. During the discussion, the patient's next of kin/next friend/guardian shall be apprised of the pros and cons of withdrawal or refusal of further medical treatment to the patient and if they give consent in writing, then the Primary Medical Board may certify the course of action to be taken preferably within 48 hours of the case being referred to it. Their decision will be regarded as a preliminary opinion."***

3. A glance at the aforesaid observations by the Hon'ble Supreme Court indicates that after discussions with the family members who are apprised of the pros and cons of the withdrawal or refusal of further medical treatment to the patient and if "they give consent in

writing", the Primary Medial Board may certify the course of action to be taken.The petitioner in-person has emphasized the expression "consent" in paragraph no. 199.1 to mean that the family members of the patient "have to give" their consent for treatment of the terminally ill patient and then future course of action shall be decided. We are not in agreement with the interpretation of paragraph no.199.1 as sought to be canvassed by the petitioner in-person. The judgment in *"Common Cause"* has been rendered in the context of duty of the doctor to treat a person who is faced with medical condition with no hope of recovery. By the impugned direction, the treating doctor is not relieved of his medical responsibility and leave has been indicated by the Hon'ble Supreme Court to the effect that the future course of action for treating the terminal illness shall be decided after the family members were apprised of the pros and cons of the withdrawal or refusal to further medical treatment and they give their consent for further treatment.

4. Viewed thus, we find no merit in this Public Interest Litigation No. 35 of 2024 which is dismissed with the observation that no public interest is involved in this petition.

[GAUTAM A. ANKHAD, J.] **[CHIEF JUSTICE]**