

(1994) 09 SC CK 0069

In the Supreme Court Of India

Case No : Writ Petition (C) No. 448 of 1994

Aman Hingorani

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 08-09-1994

Acts Referred:

Agra Manasik Arogyashala Rules, 1994 — Rule 4, 5

Citation : AIR 1995 SC 215 : (1994) 6 JT 388 : (1994) 3 SCALE 1029 : (1994) 3 SCC 601 Supp : (1995) 1 UJ 93

Hon'ble Judges : M. N. Venkatachaliah, C.J.; S. Mohan, J

Bench : Division Bench

Judgement

1. These proceedings relate to the state of affairs in the Agra Manasik Arogyashala. A similar situation arose in the matter of administration of the Ranchi Manasik Arogyashala. In Writ Petition (C) No. 339 of 1986 (Rakesh Chandra Narayan v. The State of Bihar and Ors.) this Court had directed Sri M.S. Dayal, Union Health Secretary, to examine the matter and to submit a report as to the desirable appropriate administrative set-up for the administration of the Ranchi Manasik Arogyashala. Sri M.S. Dayal had submitted a report in that behalf. This Court, after examining the report, has accepted its terms and directed a set-up for the administration of the Ranchi Manasik Arogyashala as an autonomous body as contemplated by the 'Dayal Report'.

2. In respect of Agra Manasik Arogyashala we direct that a similar autonomous body of Management shall be constituted by the State Government on the lines indicated below:

Agra Mental Asylum shall be an autonomous institution and its management shall be vested in a Management Committee consisting of the following members:

i) Divisional Commissioner, Agra - Chairman ii) District Magistrate, Agra - Member iii) Senior Superintendent of Police, Agra - Member iv) Health Secretary, Govt of U.P. or - Member his representative v) Two non-officials, at least one of

them - Members shall be a woman nominated by the Government of U.P. vi) Principal, King George Medical - Member College Lucknow, vii) Director of AMA - Member - Secretary 3. Such a Committee should be constituted by the State Government on or before 1.10.1994.

The rules appended as Annexure -I hereto which is on the lines of Annexure-I to the 'Dayal Report', dated 11.7.1994 in respect of Ranchi Manasik Arogyashala shall govern the functioning of the Agra Manasik Arogyashala. The State of Uttar Pradesh shall promulgate these Rules in terms of Annexure-I to this order on or before the 30th September, 1994. Till the Rules are so promulgated and brought into force, draft Rules at Annexure-I shall be operative as part of this, order.

4. The Secretary, Health Department, State of U.P. shall be the ex-officio Director of Agra Manasik Arogyashala until the appointment of a regular Director. Such appointment shall take place on or before 30.11.1994. The appointment of the Director shall be made in consultation with and with the advice of Sri M.S. Dayal, Union Health Secretary.

5. We request the Union Health Secretary to be the advisor and visitor of the Agra Manasik Arogyashala under the new dispensation for a period of one year and submit his report as to its functioning and the requisite changes that may be necessary from time to time.

6. A copy of the order be sent to the Central Government, the Union Health Secretary, and Secretary, Health Department, State of Uttar Pradesh and other concerned Members-designate of the new Managing Committee. Ordered accordingly.

Agra Manasik Arogyashala Rules

1. These rules shall be called the Agra Manasik Arogyashala Rules, 1994. Objectives:

2. The objectives of the Agra Manasik Arogyashala (hereinafter referred to as AMA) are:

- (a) Diagnostic and therapeutic facilities for mental patients;
- (b) Social and occupational rehabilitation of mental patients;
- (c) Professional and paraprofessional training in the field of Psychiatry, clinical Psychology, Psychiatric Social Work and Psychiatric Nursing;
- (d) Expansion of mental health services at community level by providing training to medical and para medical personnel in the field; and
- (e) Research in behavioral sciences.

Definitions:

3. In the rules:

(a) "Committee" means the Management Committee constituted under Rule 4.

(b) "Director" means the Director appointed under Rule 5.

(c) "Gazette" means the U.P. Government Gazette.

Management Committee :

4. (1) AMA shall be an autonomous institution and its management shall be vested in a Management Committee consisting of the following members :

i) Divisional Commissioner, Agra - Chairman ii) District Magistrate, Agra - Member iii) Senior Superintendent of Police, Agra. - Member iv) Health Secretary, Govt. of U.P. or his - Member representative v) Health Secretary, Govt. of U.P. or his - Member representative vi) Representative of the Health Secretary, - Member Govt. of U.P. vii) & viii) Two non-officials (at least one - Members of them should be a woman) nominated by the Govt. of U.P. ix) Principal, King George Medical College, - Member Lucknow x) Director of AMA - Member - Secretary (2) The Management Committee shall have full administrative and financial powers in respect of all the affairs of AMA and may delegate any of its powers to the Chairman, the Sub-Committees, the Director and other officers.

(3) The nominated members of the Committee shall have a term of three years and shall be eligible for re nomination and shall continue until successors are nominated.

(4) The Management Committee shall meet at least once in three months and more often if necessary.

(5) Two weeks' notice along with a list of items to be discussed shall be given to the members for every meeting.

(6) An emergency meeting of the Committee may be convened under the orders of its Chairman by giving 72 hours notices to the members, for considering specified item (s).

(7) The Director shall maintain the record of the proceedings of the Committee in a register authenticated by him. The proceedings of the meeting, duly approved at the subsequent meeting of the Committee, shall be signed by the Chairman or the person presiding over the meeting.

(8) In the absence of the Chairman at any meeting, the members may elect anyone from amongst themselves to preside over the meeting.

(9) A copy of the proceedings of every meeting shall be endorsed to the Health Secretary and Director of Health of the State of Uttar Pradesh.

(10) The Committee may constitute the following Sub-Committees and prescribe their functions and rules of procedure by framing bye-laws

a) Finance and Accounts Sub-Committee.

b) Purchase Sub-Committee.

c) Medical Sub-Committee.

d) Rehabilitation Sub-Committee.

c) Welfare Sub-Committee.

f) Selection Sub-Committees for different groups/ categories of [psts/

g) Works Sub-Committee.

(11) The Committee may set up ad hoc sub-committees for specific purposes with specific terms of reference and tenure.

(12) Every Sub-Committee shall have a Chairman, who would invariably be a member of the Committee. The total number of members of any sub-committee shall not exceed five.

(13) Quorum for the meetings of the Committee and any sub-committee shall be four and two respectively.

Director:

5(1) The Director shall be the Chief Executive Officer of the AMA and shall be appointed by the Health Secretary, Government of Bihar.

(2) The Director shall be the Head of Department and shall exercise the administrative and financial powers of a State level head of Department.

(3) The Director shall, exercise such additional administrative and financial powers as may be delegated to him by the Management Committee.

(4) The Director shall be accountable to the Management Committee and the Health Secretary, Govt. of U.P.

(5) The. Director shall place the annual report and audited accounts of the AMA before the Management Committee and, after approval by the Management Committee, shall forward these to the Health Secretary, Govt. of U.P. before the end of December, following the financial year for which the report and audited accounts are being submitted, for being placed before- the Legislative Assembly of U.P.

(6) The Director shall have the powers, in the discharge of his functions, to obtain part-time expert services of professionals for advice or action in carrying out various activities to achieve the objectives of AMA.

Admissions:

6. Admissions of patients to the hospital shall be done strictly in accordance with the provisions of the Mental Health Act, 1987, and the rules made thereunder.

Visitors:

7. In addition to the members of the Board of Visitors that may be appointed by the State Government of U.P. under the provisions of any law, all the members of the Committee shall be permanent Visitors to AMA. In addition, the following shall be the ex-officio permanent visitors to AMA :

(i) Director, National Institute of Mental Health and Neuro-Sciences, Bangalore.

(ii) Director, Central Institute of Psychiatry, Ranchi.

(iii) Director, Institute of Human Behaviors and Allied Sciences, Shahdara, Delhi.

(iv) Professor of Psychiatry, All India Institute of Medical Sciences, New Delhi.

Specialist Consultation :

8. The indoor patients may be sent for expert medical consultation to Agra Medical College and Hospital with an escort. The Director may invite any specialists on payment of reasonable fees, as decided by the Committee from time to time, for examination and treatment of any indoor patient.

Fees:

9(1) Outdoor treatment shall be free provided that the Committee may prescribe a nominal fee for the registration of a patient and reasonable fees for investigation.

(2) For indoor treatment, a consolidated charge on the basis of per person per day will be levied from the Government of the State to which the patient belongs. This fee shall be such as may be prescribed by the committee from time to time provided that it shall not be less than Rs. 200 per person per day. A development fee equivalent to 25% of the amount chargeable for indoor treatment shall also be recovered in respect of every indoor patient from the concerned State Government.

(3) The Committee may declare any categories of indoor patients as paying patients and prescribe the fee payable by such patients.

(4) The bills in respect of indoor patients shall be sent by the Director to the Health Secretary of the concerned State Govt. on a quarterly basis, within one month after the end of the quarter, enclosing a list of the patients, their addresses, duration of their stay as indoor patients during the quarter covered by the bill, and stating the amount, including 25% development fee payable by the State Govt. to the AMA by a bank draft. The amount received under Sub-rule (3) shall be deducted from the total amount of the bill. Interest @ 15% will be payable by the State Government for delay beyond 30 days from the date of receipt of the bill.

(5) Fees for patients in short stay ward will be the same as indoor patients and shall be recoverable in the same manner from the State Government.

Emergency Powers:

10. It shall be competent for the Chairman to exercise any powers of the Committee, if in the opinion of the Chairman, any delay in taking a decision is detrimental to the fulfilment of the objectives of the AMA or adversely affects its day-to-day administration, provided that any such decision along with an explanatory note shall be placed before the Committee for ratification at its subsequent meeting.

Repeal:

11. All the earlier rules governing the management of the AMA are hereby repealed.

Bye-laws :

12. The Committee shall make bye-laws containing detailed instructions regarding the composition, functions and rules of procedure of the various sub-committees and any other matters connected with the management of the AMA. The bye-laws may also provide for delegation of some administrative and financial powers to sub-committees, Director and officers subordinate to the Director.

Funds & Accounts:

13(1) The funds of AMA shall include the balance existing on the date of enforcement of these rules, amounts that may be received from the State Govts. towards payment of outstanding arrears as weekly as fees for indoor patients and patients in short stay ward in accordance with these rules' and bye laws made thereunder, donations, fees recovered from patients receipts of arrears from State Govts., sale proceeds from the assets of AMA, etc.

(2) The accounts shall be maintained and operated in bank as may be decided by the Committee or its Finance and Accounts Sub-Committee from time to time.

(3) The surplus funds shall be utilised under the orders of the Finance and Accounts Sub-Committee or the Director, according to the powers, limitations and terms and conditions that may be prescribed by the Committee under the bye-laws, or by specific resolution.

Amendments:

14. Any amendment to these rules may only be made by a resolution passed by not less than six members of the Committee provided that such a resolution is approved by the State Government of U.P.

Notification in Gazette:

15. These Rules, and amendments thereto, should be notified in the Gazette.