
(1990) 04 SC CK 0069

In the Supreme Court Of India

Case No : Writ Petition (Crl.) No. 365 Of 1988

Chandan Kumar Banik

APPELLANT

Vs

State of W.B.

RESPONDENT

Date of Decision : 25-04-1990

Acts Referred:

Citation : AIR 1991 SC 8 : (1990) CriLJ 2600 : (1991) 1 Crimes 165 : (1990) 4 JT 165 : (1988) 1 SCALE 436 : (1990) 4 SCC 731 : (1990) 1 SCR 662 Supp

Hon'ble Judges : Ranganath Misra, J;P. B. Sawant, J;K. Ramaswamy, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. This is an application which has its origin as a public interest litigation on a letter addressed to this court on the basis of a press publication with a photograph showing a mentally ill patient being chained in the hospital in question.

2. Notice was issued to the State government of West Bengal and an affidavit in answer to the notice has been filed. We appointed a Committee to inspect this mental hospital located at Mankundu in the District of Hooghli and, make a report to us about the conditions prevailing therein. The Committee inspected the hospital on 3/12/1989 in the presence of Shri Bandopadhyay, I.A.S. who is the Sub-Divisional Officer of Chander Nagar and happens to be the administrator of the hospital. The Chief Medical Officer was also present during the inspection. The Committee has in its report gone into the various aspects like the administration, the condition of the hospital, the amenities to the patients and the scope for treatment available therein. Reference has also been made to the diet and staffing pattern of the hospital. On each aspect several defects have been pointed out.

3. The stand of the State is that the land came from a philanthropist and the trust took over the same, built the hospital, since the management was not

appropriate, government took over the management and appointed the local Sub-Divisional Officer as the Administrator. According to it there are several such hospitals in the State and there is adequacy of facility for treatment of mental patients. It has also been suggested in the counter-affidavit that what prevails in this hospital seems to be the general prevailing condition in similar hospitals within the State and, therefore, no exceptional treatment should be given or provided by any judicial direction in regard to the hospital in question.

4. At the hearing, learned counsel appearing for the State of West Bengal has, however, agreed that since the management vests in the State - however temporary that duration may be - it would be the obligation of the State of West Bengal to provide adequate treatment because that would not be a matter which should wait until there is a change of management or reversion of the control to the trust Board. From the materials available, we find that there is no drug treatment for patients who are unruly or not physically controllable otherwise and as a rule such patients are usually tied up with iron chains to some fixed pillar or door frame, until in due course normalcy is restored. Counsel for the respondent has, therefore, agreed that there should be no recurrence of the chaining system and immediate steps shall be taken to provide drug therapy.

5. We must indicate to the State government our displeasure that a hospital has been left in charge of a Sub-Divisional Officer as its Administrator. It is more so in the case of a mental hospital. There must be someone at the head of the management of an institution of this type with flowing human love and affection, understanding and consideration for mentally ill people. A public officer ordinarily in charge of law and order problems as the Sub-Divisional Officer would be often called upon to discharge several duties outside and has to keep away from the hospital. He is not the person suitable to deal with the mentally ill patients even remotely. We take note of the fact that there is a Chief Medical Officer attached to the hospital but since this hospital is full of deficiencies, unless the Administrator is one who is well aware of the problems, the Chief Medical Officer though a doctor is no adequate substitute for the Administrator. We would, therefore, commend to the State government to immediately think of placing the administration of the hospital in charge of a competent doctor with requisite administrative ability and power.

6. Since several deficiencies are in the report we direct a copy of the report to be sent to the Chief secretary to the State government for being placed before the appropriate Minister to look into the said report and give adequate consideration to the same for providing improvements in the hospital. Certain facts have come to our notice and deficiencies which require immediate attention, such as provision for toilets and bathrooms for the lady patients who, as the report indicates are forced to ease themselves and bathe in the open should be noticed. There can be no two opinions that ladies would require some amount of privacy. The deficiencies in the diet as pointed out in the inspection report also is a matter which requires immediate attention. We hope and trust that the State

government will take a humane view on every respect and respond to the needs of the patients now detained in this mental hospital to receive appropriate attention in all aspects and in particular those which we have highlighted.

7. This is not an adversarial litigation and the State government must, therefore, be aware of that position and open up in an appropriate degree to help in solving the problem with an adequate dose of humanitarian responsibility.