

(2023) 07 DEL CK 0132

In the Delhi High Court

Case No : Civil Writ Petition No. 3670 Of 2013

Rajiv Boolchand Jain

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 20-07-2023

Acts Referred:

Citation : (2023) 07 DEL CK 0132

Hon'ble Judges : Satish Chandra Sharma, CJ; Sanjeev Narula, J

Bench : Division Bench

Advocate : Maninder Acharya, Srivats Kaushal, Rahul Khurana, Hasil Jain, T. Singhdev, Abhijit Chakravarty, Bhanu Gulati, Aabhas Sukhramani, Anum Hussain, Tanishq Srivastava, Udit Malik, Vishal Chanda

Final Decision : Disposed Of

Judgement

Sanjeev Narula, J

1. Present petition, filed as a Public Interest Litigation, seeks the following reliefs:

"a) The Government of India, through the Ministry of Social Justice and Empowerment, should immediately stop all grants under "Central Sector Scheme of Assistance for Prevention of Alcoholism and Substance (Drug) Abuse".

b) The Government of India, through the Ministry of Social Justice and Empowerment, establish a monitoring and regulatory agency for controlling privately run alcohol and drug de-addiction and rehabilitation centres and act as a supervisory, policy making and facilitatory body with regard to treatment of alcohol and drug addicts and their rehabilitation.

c) The "National Policy on Narcotic Drugs and Psychotropic Substances" released in February 2012 should be implemented immediately and multiplicity of Ministries, Departments, Organisations, Agencies and NGOs should be forthwith brought under the monitoring and regulatory agency as prayed in (B) above.

d) "The Manual of Minimum Standards of Services" should be enforced strictly or

within a given time-frame to ensure effective implementation of minimum standards of care in alcohol and drug de-addiction centres by the State Government and Union Territories.

e) The Prohibition Wings of the State Governments/Union Territories should be provided additional staff to monitor violations of Human Rights in alcohol and drug rehabilitation centres within their territorial limits.

f) The Government of India through Ministry of Social Justice and Empowerment should immediately implement the planned national survey on drug abuse.

g) The Government of India, through the Ministry of Social Justice and Empowerment, should increase attention to the treatment needs of female alcoholics and drug users and ensure sufficient capacity building of facilities for their treatment.

h) The Government of India, through the Ministry of Social Justice and Empowerment and the Central Bureau of Narcotics, Gwalior, should eliminate the illegal and illicit cultivation of opium poppy and cannabis plant.

i) The Government of India, through the Narcotics Control Bureau, should identify and address new trends in the illicit manufacture of synthetic drugs, such as the issue of clandestine laboratories manufacturing amphetamine-type stimulants as also strengthen their action against the diversion of, and illicit traffic in, pharmaceutical preparations containing narcotic drugs or psychotropic substances.

j) The Government of India, through the Narcotics Control Bureau, should immediately identify, address and enhance the measures against illicit Internet pharmacies and call centres, which are illegally supplying pharmaceutical preparations containing narcotic drugs or psychotropic substances to persons in India as also those traffickers, who are illegally exporting the same from India.

k) The Government of India, through the Narcotics Control Bureau, should immediately identify and address the issues relating to Internet pharmacies and put into place, regulatory, administrative and legislative measures to control internet pharmacies introduce legislation for routing and inspection of international mail and seek co-operation of Internet Service Providers.

l) The Government of India, through the Department of Revenue, should immediately ensure that some precursors listed under the "United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988" should be brought within its control and establish a mechanism to facilitate the provision of pre-export notifications for shipments of precursors to all countries that have requested such information pursuant to article 12, paragraph 10(a) of the Convention.

m) The Government of India should consider enacting effective measures to control ephedrine and pseudoephedrine in the form of pharmaceutical

preparations and natural products in the same manner as it controls the substances themselves.

n) Any other order as the Hon'ble Court may deem fit and proper. in the facts and circumstances of the case be also passed in favor of the Petitioner in the interest of justice and/or;

o) Cost of the present petition be also allowed in favor of the petitioner."

2. Broadly, the petition seeks directions qua regulation/ management of drug and alcohol de-addiction centres across India. It is averred that India, being one of the most populated countries in the world, has millions of victims of drug usage and alcohol dependence. Drug and alcohol addiction is a major area of concern as it erodes public health and the social fabric. Government of India tackles this problem through 'supply reduction' and 'demand reduction' – the former is under the Department of Revenue, (Ministry of Finance), the nodal agency, and the latter under the Ministry of Social Justice & Empowerment ["MoSJE"].

3. MoSJE implements the "Scheme for Prohibition and Drug Abuse Prevention" since 1985-86, wherein the services are offered on voluntary partnerships with NGOs and majority of the cost of service is borne by Government of India. Under the said scheme, MoSJE is assisting 500 voluntary organisations for maintaining more than 1000 Integrated Rehabilitation Centres for Addicts ["IRCA's"] across the country. The IRCA's adopt a variety of approaches, systems and methods for treatment and rehabilitation of addicts. However, said centres are not engaged in creating any awareness or imparting education to members of the society on the ill-effects of drug and alcohol abuse, or on the services provided by the centres. To ensure training is imparted indigenously, eight NGOs have been established as Regional Resource and Training Centres ["RRTC's"]. However, these RRTC's have been appointed by the Ministry without consultation of States/ Union Territories, and have become self-appointed agencies for grants and recommendation for the centres in the territory.

4. In respect of quality assurance, the "Manual on Minimum Standards of Services" has been developed by MoSJE, but is misused by unregistered centres to showcase existence of professional systems within their centre. Government of India has failed to appoint a dedicated regulatory/ monitoring agency for drug and alcohol rehabilitation/ de-addiction centres. There are 300 de-addiction centres being run in Government hospitals/ primary health centres, etc. and tens of hundreds of such centres have mushroomed across the country in absence of regulatory supervision and monitoring. Government of India also brought out the "National Policy on Narcotic Drugs and Psychotropic Substances", announced in February 2012 ["2012 National Policy"] recommended a co-ordinated approach between Ministries/Departments, State Governments, etc. to avoid wastage of resources, however, it is yet to be implemented.

5. ARMADA - the Association of Resource Managers against Alcohol and Drug Abuse and FINGODAP - the Federation for Indian NGOs in Drug Abuse

Prevention, are movements formed by various stakeholders and NGOs in the ecosystem of rehabilitation centres to facilitate networking and to gain from each other's experience, but have become only a medium to seek grants-in-aid from Government of India.

6. Noting that the aforementioned crucial issues, this Court, on 23rd July 2014, requested Ms. Maninder Acharya, Senior Counsel, to render her assistance as *amicus curiae*. Ms. Acharya filed her report dated 26th August, 2015 which predominantly highlighted the flaws in the present approach towards rehabilitation of drug and alcohol addicts i.e., coercive measures adopted by rehabilitation centres, stigmas associated with addiction which reduce the chances of individuals seeking treatment, etc. Drug and alcohol addiction warrants acknowledgment as a disease and consequently, treatment through qualified medical professionals. Such treatment should employ evidence based medical practices, like other diseases, and should be provided to individuals on a consensual basis. The report relies on various newspaper articles and papers/ reports/ statements prepared by AIIMS (New Delhi), Columbia University (USA) and the United Nations.

7. The report identifies that although government run de-addiction centres are regulated by standards prepared by AIIMS [Minimum Standards Of Care For Government De-Addiction Centres, 2009.] and NGO-run government-funded de-addiction centres are regulated by the "Manual on Minimum Standards of Services" [Manual On Minimum Standards Of Services For The Programmes Under The Scheme For Prevention Of Alcoholism And Substance (Drugs) Abuse, 2009.] prepared by MoSJE, however, private rehabilitation/ de-addiction centres remain largely unregulated. In conclusion, the report stresses on the need for urgent implementation of the 2012 National Policy apart from various long term measures [page 16 onwards, of the report] and short term measures [page 21 of the report].

8. Recently, Union of India filed an affidavit dated 05th July, 2023, outlines various measures/ initiatives being undertaken by the Government of India. It refers to a comprehensive survey conducted by MoSJE through the National Drug Dependence Treatment Centre ["NDDTC"] of AIIMS in 2018 i.e., the 'National Survey on Extant and Pattern of Substance Use in India', basis which, a report was released in February 2019. Said report notes that more than 5.7 crore individuals are affected by alcohol use, about 25 lakh suffer from cannabis dependence and approximately 77 lakh individuals suffer from opioid use. Subsequently, the "National Action Plan for Drug Demand Reduction" (2018-2025) ["NAPDDR"] was formulated where under- (i) financial assistance is provided to State Governments/ Union Territory (for drug demand reductions), IRCAs, Outreach and Drop In Centres ["ODIC"] and District De-Addiction Centres (DDACs), government hospitals for addiction treatment facilities ["ATF"]; (ii) 342 IRCAs, 46 Community based Peer-Led Intervention (CPLI) programmes, 73 ODICs, 47 ATFs and 10 District De-Addiction Centres

(DDACs) stand sanctioned, which have also been geo-tagged for ease of access, and (iii) a toll-free helpline is also being operated to provide primary counselling and referral services to persons seeking help.

9. Further, MoSJE is also implementing "Nasha Mukht Bharat Abhiyaan" (NMBA), launched on 15th August, 2020, across 372 districts which have been identified as 'most vulnerable' districts. It focusses on counselling/ treatment in hospitals and rehabilitation centres, capacity building programmes for service providers, generating awareness amongst school and college students, and identifying dependents in the population. Under the Abhiyaan, approx. 10.22 crore people have been sensitised, approx. [NGO maintained by NITI Aayog].21 lakh educational institutions have participated, and approx. 8000 volunteers have been trained, as on the date of filing of the affidavit by Union of India.

10. In terms of transparency, a slew of measures have been implemented, indicated in paragraph 8 of Union of India's aforementioned affidavit, such as, mandatory registration of all NGOs seeking grants-in-aid with DARPAN3 Portal of NITI Aayog which is linked with the e-Anudaan portal of Department of Social Justice and Empowerment, and only proposals submitted through the said portal are considered for release of grant while subsequent grants are released only on receipt of audited statements and utilization certificates of the previous year. With respect to monitoring, a Project Monitoring Unit has been formulated in 2020-21 to track the performance of NGOs through surprise inspections and coercive action is also taken basis inspection reports. In financial years 2020-21 to 2023-24, grants were stopped for 149 projects run by NGOs on account of deficiencies and violation of guidelines.

11. The present PIL was filed in 2013. When it was called out in the category of regulars for final disposal, we noticed the absence of the Petitioner and Court Notice was issued on 01st September, 2022. As per the service report, it transpires that the Petitioner has deceased. Nonetheless, considering the importance of issues urged in the PIL, the Court has heard the counsels as well the amicus curiae. Ms. Acharya acknowledged that the majority of suggestions contained in her report have been captured by the legal framework put in place by Government of India. She also submitted that such framework does not apply to private rehabilitation centres and the Government should also regulate the same. However, it has been pointed out by Mr. Singhdev, counsel for National Medical Commission, that private clinics are already regulated under ambit of The Clinical Establishments (Registration and Regulation) Act, 2010.

12. Based on the Union of India's affidavit and the measures outlined therein, we are inclined to close the proceedings. The Government has demonstrated its awareness and proactive approach towards addressing the issues raised in the present PIL. The comprehensive survey conducted by MoSJE and NDDTC, AIIMS and the subsequent formulation of the NAPDDR- "National Action Plan for Drug Demand Reduction", signify the Government's commitment to combating substance abuse and addiction. In addition, the implementation of NMBA –

"Nasha Mukta Bharat Abhiyaan" across vulnerable districts, which envisages counselling, treatment, capacity building, and awareness programs, reflects the Government's focus on rehabilitation and prevention. Furthermore, the Government's transparency measures, such as mandatory registration of NGOs and the establishment of a "Project Monitoring Unit", ensure proper utilization of grants and adherence to guidelines. All of the aforesaid initiatives evidence the Government's recognition of the gravity and widespread impact of substance abuse across the country and the commitment to address the issue. Nonetheless, we must add that it is crucial that the Government continue its efforts and remain steadfast in the endeavour to combat substance abuse, as it requires sustained attention and a multifaceted approach. By doing so, the Government can contribute to the overall betterment of society and protect public health.

13. In light of the aforesaid and since the reliefs sought in the petition are largely addressed, the petition is disposed of.

14. Although the Petitioner has unfortunately passed away before the final hearing, this Court acknowledges and appreciates his significant contribution in bringing this matter to our attention. The Petitioner's unwavering efforts have played a pivotal role in spotlighting the critical issue of substance abuse and de-addiction/ rehabilitation, an undeniably significant societal concern.