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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 43 OF 2022

Dr. Harish Shetty

Age- 64,

Indian Citizen and practicing Psychiatrist,

Residing at Flat No. 802,

Lodha Eternis, Building No.1,

MIDC, Mahakali, Andheri East,

Mumbai – 400 093.

... Petitioner

V/s.

1. The State of Maharashtra,
Through the Secretary/ Principal Secretary,
Department of Public Health, Maharashtra,
Mantralaya, Mumbai- 400021.
2. The State Mental Health Authority,
Through its Chairperson, Secretary,
Department of Public Health,
Maharashtra, Mantralaya,
Mumbai – 400 021.
3. The Regional Mental Hospital,
Near Nyan Sadhana College,
Mulund Check Naka, Naupada,
Thane (West) Thane 400 062,
Through the Medical Superintendent.
4. Shraddha Rehabilitation Foundation,
An NGO registered under the
Bombay Trusts Act,
having office at : Shraddha Manosarovar,
Opposite Eskay Resorts, Off Link Road,

Borivali (West), Mumbai,
Through its Founder Trustee,
Dr. Bharat Kotwnani.

5. Maharashtra State Legal Services Authority,
A Statutory Authority constituted Under
Section 6 of the Legal Services Authorities
Act, 1987. Having office at : 105,
PWD Office Building, High Court,
Bombay, Fort, Mumbai 400 032,
Through its Secretary.

... Respondents

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Mr.J.P.Sen, Senior Advocate as Amicus Curiae.

Ms.Pranati Mehra for the Petitioner.

Mr.Vishwajeet Sawant, Senior Advocate with Mr.Prabhakar M.
Jadhav for Respondent No.2.

Mr.P.P.Kakade, GP with Mr.M.M.Pabale, AGP for the Respondent-
State.

Ms.Rebecca Gonsalves for the Respondent – Maharashtra State
Legal Services Authority.

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**CORAM : NITIN JAMDAR &
M.M.SATHAYE, JJ.**

DATE : 22 MARCH 2024

JUDGMENT: *(Per : Nitin Jamdar, J.)*

Rule. Rule made returnable forthwith. Respondents waive
service.

2. In 2009, a patient 'X' was admitted by her husband to a government mental health establishment. Her husband filed for divorce, and her family abandoned her. In 2021, when a committee appointed by the Family Court visited the Hospital, they found that 'X' was coherent, and her thoughts were relevant. By this time, 'X' had already spent twelve years needlessly languishing in the mental health establishment. X's incarceration and abandonment raised grave issues regarding apathy to the problem of mental health in the society and inefficiency of the institutional framework.

3. Citing the example of X, the Petitioner, a practicing Psychiatrist, has filed this Public Interest Litigation (PIL) to highlight the shortcomings in the implementation of the legal framework for mental health care and the protection of the rights of individuals with mental health problems. The Petitioner has sought urgent collection of data and reports from all Regional Mental Health Hospitals in the State of Maharashtra regarding details of the patients and a report from the State on the status of the implementation of statutory framework and for issuance of remedial orders and directions.

4. Substantial academic and research material exists emphasising the high prevalence of mental health disorders in the country, including chronic depression, anxiety disorders, bipolar disorders,

schizophrenia, and substance abuse disorders, across age groups, socioeconomic backgrounds, and geographical regions . It is trite to state that the cost of mental health issues on individuals, families, and society is immense, leading to significant economic and social consequences.

5. Initially, the legislative framework was the the Indian Lunacy Act, 1912. It was enacted to consolidate and amend the law relating to lunacy. Later, the attitude of the society towards persons afflicted with mental illness changed and it was recognized that the mentally ill persons are to be treated like any other sick persons and the environment around them should be made as normal as possible. With the advance in medical science and the understanding of the nature of malady, it was felt necessary to have a new legislation with provisions for treatment of mentally ill persons in accordance with the new approach. Accordingly, Mental Health Act (No. 14 of 1987) was enacted in 1987. However, this Act also could not adequately protect the rights of persons with mental illness and promote access to mental health care in the country. The Convention on Rights of Persons with Disabilities and its Optional Protocol was adopted at the United Nations Headquarters in New York on 13 December 2006 and came into force on 3 May 2008. India signed and ratified the said Convention on 1 October 2007 to align and harmonise the existing laws. It was proposed that new legislation be enacted.

6. The Mental Healthcare Act, 2017 (the Act of 2017) was accordingly enacted and it came into force on 29 May 2018. Legislature has acknowledged the vulnerable position of individuals with mental illness in society, recognising the discrimination they face and the challenges experienced by their families. The Act of 2017 aims to ensure that people with mental illness receive treatment comparable to those with physical ailments, fostering an environment conducive to their recovery, rehabilitation, and societal participation. The Act of 2017 addresses the shortcomings of the Act of 1987, and endeavors to protect and promote the rights of individuals with mental illness, both in healthcare institutions and within the community. It's emphasis is on healthcare, treatment, and rehabilitation to be provided in the least restrictive environment possible, respecting the dignity and rights of individuals. The emphasis is on the importance of integrating individuals with mental illness into community life. Also to fulfill constitutional obligations and commitments under international conventions, regulating both public and private mental health sectors to maximise public health benefits. The Act mandates quality public mental health services, ensure non-discrimination in health insurance, and integrates mental health into general healthcare systems at all levels. By promoting equity, efficiency, and stakeholder participation principles, the Act of 2017 strives to establish a comprehensive and inclusive framework for mental healthcare delivery in India.

7. The Act of 2017 is divided into twenty-five chapters, which include the Rights of Persons with Mental Illness; Duties of Appropriate Government; State Mental Health Authority; Finance, Accounts and Audit of the State Mental Health Authority and its annual report; Mental Health Establishments; Mental Health Review Boards; Admission, Treatment and Discharge of patients and responsibilities of other agencies. According to Section 2(o) of the Act of 2017, "Mental healthcare" includes analysing and diagnosing a person's mental condition and providing treatment, care, and rehabilitation for their mental illness or suspected mental illness. Section 2(s) of the Act of 2017 defines "mental illness" as a significant disorder affecting thinking, mood, perception, orientation, or memory that severely impairs judgment, behaviour, the ability to recognise reality, or to meet the ordinary demands of life. It also includes mental conditions associated with substance abuse but excludes intellectual disability which is characterised by sub-normal intelligence due to arrested or incomplete development of the mind. This is broadly the object and the scheme of the Act of 2017.

8. In this PIL, Respondent No.1 is the Principal Secretary, Department of Public Health, State of Maharashtra; Respondent No.2 is the State Mental Health Authority; and Respondent No.3 is the Regional Mental Hospital, Thane. Respondent No.4 is the Maharashtra State Legal Services Authority. Respondent No.3 is a

Non-Governmental Organisation with whom a Memorandum of Understanding is entered into by the State Authority.

9. The PIL was filed on 17 February 2022. By administrative order, the PIL was assigned to the Bench headed by one of us (Nitin Jamdar, J). There are various issues relating to mental health in the State, and it is not possible to deal with the same in this PIL neither it is the ambit of this PIL. When the PIL was taken up for consideration even the basic framework under the Act of 2017 was not in place in the State of Maharashtra. Over two years, several orders have been passed. There has been progress, albeit slowly, pursuant to continuous directions of this Court. Substantial work still needs to be done by the State and the State Mental Health Authority. Initially, the focus of this PIL was on the primary statutory authority under the Act of 2017. Directions have been issued concerning the methodology for rehabilitation of persons with mental illness. Thereafter, we have discussion on the involvement of the Maharashtra State Legal Services Authority (MSLSA) and touching some aspects of the rights of prisoners with mental illness, as well as the functioning of the Mental Health Review Boards. We propose to elaborate on these aspects and, after that, as a culmination of various interim orders, issue certain directions with input from the Petitioners, the learned Amicus, officers of the State Government and the State Mental Health Authority.

10. The discussion is divided in two broad areas. First, strengthening and making the statutory authorities under the Act of 2017 functional and set up coordination between various authorities. Secondly in respect of rehabilitation protocols and challenges. We also briefly deal with the aspect of rights of prisoners with mental illness, involvement of Maharashtra State Legal Services Authority and the Mental Health Review Boards.

11. Generally, in welfare legislation, an authority is set up to oversee the implementation of the legislation. Existence of such an authority and its proper functioning are crucial to achieve the object of any beneficial legislation. Under the Act of 2017, in the State of Maharashtra it is the State Mental Health Authority. State Authority is defined in Section 2 (z) (zb), meaning the State Mental Health Authority established under Section 45 of the Act of 2017.

12. Section 46 of the Act of 2017 lists the composition of the State Mental Health Authority. The Authority consists of a chairperson and members. The Principal Secretary of the Department of Health of State Government is the chairperson. Members included ex officio members such as the Joint Secretary in charge of mental health in the Department of Health, the Director of Health Services or Medical Education, and a Joint Secretary in the Department of Social Welfare. Additionally, there are ex officio representatives from relevant State Government Ministries or Departments. Other

members consist of professionals nominated by the State Government, including the head of Mental Hospitals or the Department of Psychiatry, an eminent psychiatrist, mental health professionals, psychiatric social workers, clinical psychologists, and mental health nurses, all with at least fifteen years of experience. Further, there are representatives of persons with mental illness, caregivers, and non-governmental organisations providing mental health services, all nominated by the State Government. The nomination process for non-ex-officio members is according to regulations prescribed by the State Government. Though Section 50 of the Act of 2017 states that vacancies will not invalidate proceedings so that the State Mental Health Authority takes a comprehensive and informed decision, it is necessary to have a representation of the expert members.

13. Under Section 53 of the Act of 2017, the Chief Executive Officer is entrusted with various tasks. The Chief Executive Officer of the State Mental Health Authority has several key responsibilities outlined in the statute. The Chief Executive Officer is the legal representative of the State Mental Health Authority and is responsible for its day-to-day administration, implementing its work programs and decisions, drafting proposals for work programs, and managing the budget. Each year, the Chief Executive Officer must submit a general report covering all activities of the Authority in the previous year, work programs, annual accounts, and the budget for

the upcoming year to the State Mental Health Authority for approval.

14. Section 55 of the Act of 2017 outlines the functions of the State Mental Health Authority. The Authority is entrusted with various responsibilities regarding mental health establishments and professionals within the State. It is required to register all mental health establishments (excluding those specified) and maintain a register of these establishments, which must be published, including publishing it online. Additionally, the Authority must develop quality and service provision norms for different types of mental health establishments. Furthermore, the Authority is responsible for supervising all mental health establishments in the State and addressing complaints about deficiencies in service provision. The Authority is tasked with registering clinical psychologists, mental health nurses, and psychiatric social workers as mental health professionals within the State. The list of registered mental health professionals must be published according to regulations set by the Authority. Moreover, the State Authority is mandated to provide training on the provisions and implementation of the Mental Health Act to relevant individuals, including law enforcement officials and health professionals. Finally, they are required to fulfill any other functions related to mental health matters as decided by the State Government. Under Section 56 of the Act of 2017, the State Mental Health Authority has to meet at least four times a year.

15. Under Sections 61 and 62 of the Act of 2017, the funds required for the functioning of the State Mental Health Authority are referred to. The State Government may grant such sums of money as the State Government may think fit for being utilised for this Act to the State Authority. Section 62 establishes the State Mental Health Authority Fund, which will receive grants, loans, fees, and other sums as the State Government decides. This Fund covers the salaries, allowances, and expenses of the State Authority members, officers, and employees, as well as costs related to the Authority's functions as outlined in the Act. The Fund is to be used for expenses incurred for functions and implementation of the Act.

16. Section 63 of the Act of 2017 provides for accounts and audit of the State Mental Health Authority in consultation with the Comptroller and Auditor-General of India. Section 63 mandates the Authority to maintain proper accounts and records and prepare an annual statement of accounts as the State Government prescribes, in consultation with the Comptroller and Auditor-General of India. The accounts of the Authority will have to be audited by the Comptroller and Auditor-General of India at specified intervals.

17. Section 64 of the Act of 2017 requires the State Mental Health Authority to prepare a report detailing its activities for the previous year, following the format and timeline set by the State Government. This report, the annual accounts and the auditor's report must be

submitted to the State Government, which will lay these reports before the State Legislature.

18. Under the proviso to sub-section (2) read with sub-sections (1) and (4) of section 121 of the Act of 2017, the Mental Healthcare (State Mental Health Authority) Rules, 2018 (referred to as the State Mental Health Authority Rules, 2018) have been framed. Rule 10 empowers the State Government to call for information concerning the activities of the State Authority periodically or as and when required by it, and the State Authority has to submit and furnish such information in Form-A. Form A, appended to the Rules, gives the heads of the information to be furnished by the Authority. Form A is as follows.

*“Form-A
[See rule 10]*

*INFORMATION ON THE ACTIVITIES OF THE
STATE AUTHORITY/ BOARD*

- 1. New Regulations notified:*
- 2. Number of orders passed during the year:*
- 3. Meetings held during the year:*
- 4. Number and details of mental health establishments under the control of the State Government:*
- 5. Number and details of mental health establishments in the State or Union Territory:*
- 6. Registration of mental health professionals by the State Authority:*

7. *Statement on references received from the Central Government and the State Government and action taken thereon:*

8. *Quality and service provision norms for different types of mental health establishments under the State Government:*

9. *Training imparted to persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of the Mental Healthcare Act, 2017:*

10. *Applications for registration of mental health establishments received, accepted and rejected along with reasons for such rejection:*

11. *Audit of Mental Health Establishments along with audit reports:*

12. *Complaints received regarding violation of rights of Mentally ill persons and action taken thereon.*

13. *Details regarding guidance document for medical practitioners and mental health professionals.*

14. *Number of cases registered regarding Sexual Harassment of Women at Workplace under section 22 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and details thereof:*

15. *Details of inspection and inquiry of Mental Health Establishments:*

16. *Number of appeals to High Court against order of Authority and status thereof:*

17. *Complaints received regarding deficiencies in provision of services and action taken thereon:*

18. *Stakeholders Consultations:*

19. *Inquiry initiated by the Authority/Board:*

20. *Administration and establishment matters:*

21. *Budget and Accounts with details including balance sheet, income and expenditure account, etc.:*

22. *Any other matter which may be relevant:”*

The information is thus exhaustive and covers various aspects. It gives a complete overview of the functioning of the Authority in the entire year.

19. Rules 15 and 16 of the State Mental Health Authority Rules, 2018 mandate the Authority to prepare and submit financial statements and annual reports within the stipulated time. Rule 15 deals with accounts and audits of the State Mental Health Authority. The Authority has to maintain accounts of its yearly income and expenditure, preparing an annual statement including an income and expenditure account and a balance sheet. This statement must be submitted for audit by 30 June each year. The statement must be signed by the accounts officer and the Chief Executive Officer on behalf of the Authority and approved by them. The annual report of the Authority is dealt with under Rule 16, which provides that the Authority must complete its annual report using Form-E and submit it to the State Government within nine months after the end of the financial year for presentation to each House of the State Legislature.

20. From E reads thus :

“ANNUAL REPORT OF STATE AUTHORITY

- 1. Introduction*
- 2. Profile of the Authority's Members*
- 3. Scope of Regulation*
- 4. New Regulations/procedures, etc., notified/issued*
- 5. Orders passed by the Authority*
- 6. Meetings of the State Mental Health Authority held during the year.*

7. *Mental health establishments under the control of the State Government*
8. *Mental health establishments in the State*
9. *Registration of mental health professionals by the State Authorities*
10. *A statement on references received from Central and State Governments and action taken thereon*
11. *A statement on references sent to the Central and State Governments and action taken thereon by the respective Governments*
12. *Quality and service provision norms for different types of Mental health establishments under the State Government*
13. *Supervision of mental health establishments under the State Government and action taken on the complaints received about deficiencies in provision of services therein*
14. *Training imparted to persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of the Mental Healthcare Act, 2017*
15. *Applications for registration of mental health establishments received, accepted and rejected along with reasons for such rejection.*
16. *Audit of Mental Health Establishments*
17. *Complaints received regarding violation of rights of Mentally ill persons and action taken thereon*
18. *Details regarding guidance document for medical practitioners and mental health professionals*
19. *Implementation of RTI Act, 2005*
20. *Details regarding Sexual Harassment of Women at Workplace under section 22 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.*
21. *Inspection and Inquiry of Mental Health Establishments*
22. *Appeals to High Court against order of Authority and status thereof*
23. *Status of review of use of advance directives and recommendations of the Authority in respect thereof.*
24. *Complaints received about deficiencies in provision of services and action taken thereon.*

25. Stakeholders Consultations

26. Inquiry initiated by the Authority

27. Administration and establishment matters

28. Annual accounts

29. Any other matter which in the opinion of the Authority needs to be highlighted”.

Thus, this report outlines the activities from the previous year comprehensively and include the audited accounts for that year, along with the report from the Comptroller and Auditor General of India

21. Thus, a bare perusal of the statutory provisions above would indicate that obligations placed upon the State Mental Health Authority are important and are to be monitored by the State Government.

22. Therefore, when the PIL came up for hearing on 23 August 2022 at the initial hearing, we raised a query about the existence and working of the State Mental Health Authority. It is the primary Authority in the State of Maharashtra to oversee the functioning of the Act of 2017. The role of this Authority is crucial in addressing the mental health issues in the State. It was informed that the State Mental Health Authority was formed only on 23 October 2021, and composition still needed to be completed.

23. On 23 August 2022, the learned Advocate General had informed that non-official members contemplated under Section

46(1)(g) to (n) were yet to be appointed. The learned Advocate General stated that efforts would be taken to fill in the above vacancies so that the State Mental Health Authority becomes fully operational. Therefore, there was no State Mental Health Authority as of 23 August 2022. Further there was no clarity on its Chief Executive officer, its funding etc. The most important authority under the Act was not set up and functional for almost three years from the enactment of the Act.

24. On 29 August 2022, the learned Advocate General placed before us a Government Resolution dated 25 August 2022 nominating the non-official members of the Authority. The learned Advocate General stated that a comprehensive resolution notifying the entire members of the Authority would be issued by 6 September 2022. While deferring the hearing of the PIL, we recorded our expectation that the State Mental Health Authority would hold its first meeting and discuss, amongst other subjects, the issues highlighted in this PIL and the proceeding of the meetings of the State Mental Health Authority with their opinion/ result of the discussion would be placed by way of report.

25. On 25 November 2022, when the PIL came up on board, the learned Advocate General pointed out that after the order was passed on 29 August 2022 to make the State Mental Health Authority functional, steps were taken by the State Government.

The learned Advocate General tendered an additional affidavit placing the Government Resolution dated 6 September 2022 on record. By this Government Resolution, members to the Authority were appointed concerning the respective provisions of Section 46 of the Act of 2017. The learned Advocate General stated that two members under Sections 46(1)(l) and (m) were to be appointed, and an advertisement for that purpose was issued. The learned Advocate General informed that the Authority held its meeting on 16 September 2022, but the minutes still needed to be finalised. The learned Advocate General sought to apprise the steps taken by the State Government, including finalising a memorandum of understanding with the non-governmental organization for providing services for rehabilitation and reunion. Since the State Mental Health Authority is entrusted with overseeing compliance and implementation of the Act of 2017, it was felt necessary to examine the minutes of the meeting, the decisions, and the steps pursuant to the decisions. The learned Advocate General stated that the minutes would be placed on record on the following date by circulating them in advance.

26. Therefore, even on 25 November 2022, the State Mental Health Authority had a partial composition as stipulated under the Act of 2017. Even though the meeting was stated to be held on 16 September 2022, the minutes were still being finalised for more than a month. This was the progress despite the direction of this

Court. An affidavit was filed on 25 November 2022 by the Deputy Superintendent of Regional Mental Hospital, Thane, on behalf of the Principal Secretary of the Public Health Department, State of Maharashtra. This affidavit stated that the State Mental Health Authority was established by the State Government by Government Resolution dated 23 October 2018, and certain persons were nominated. It was stated that from 2018 till September 2022, the State Mental Health Authority held five meetings. The learned Advocate General, however, had accepted the position in the earlier hearing that the State Mental Health Authority was not fully functional. Even otherwise, it was only on paper. The rest of the contents of the affidavit barely give any detail, sidestepping the enormity of the issue.

27. During the hearing on 2 December 2022, the learned AGP tendered finalized minutes of the meeting held by the State Mental Health Authority on 16 September 2022 with a summary. The minutes were one and a half pages. The minutes referred to five agenda points. These were, confirmation of the compliance report of the fifth meeting held on 2 September 2021; welcoming newly selected non-ex-officio members with flowers; reference to the directions given by the Additional Chief Secretary; to set up a proposal to the Social Justice Department for the discharge of indoor patients who were eligible for discharge out of the total admitted patients in the hospitals (unfortunately mentioned as 'Mental

Hospitals'). Discussion was held regarding two foreign patients admitted to a hospital in Mumbai. Nothing was stated about the case that gave rise to this public interest litigation. Then, there was a reference to arranging a meeting with the Petitioners and others regarding patients' issues. The last item was a decision to open a bank account in the name of Maharashtra State Mental Health Authority. That was all the discussion. Nothing was placed before us except for these one-and-a-half pages and one-page summary. It was clear what was discussed in the meeting was entirely perfunctory and not commensurate with the functions of the Authority.

28. Recording our dissatisfaction, we issued the following directions to the Chief Executive Officer of the Respondent State Authority :

(a) Place the details of the State Mental Health Authority Fund, such as when it was created, what the sum available in the Fund is, and whether it is adequate for its functioning and performance of the Act.

(b) To prepare a proposal for a work programme as per Section 53(1)(c) of the Act.

(c) To prepare a statement of revenue and expenditure and the budget of the Authority as per Section 53 of the Act.

(d) To prepare a general report covering all activities of the Authorities in the previous year per Section 53 of the Act.

(e) To prepare the schedule of programmes of work and budget for the coming year for approval of the Authority per Section 53 of the Act.

(f) To prepare a report in terms of Rule 10 of the Rules of 2018 as per Form A appended.

29. The Secretary of the Department of Public Health was also directed to place on record details of tasks performed by the appropriate Government since 2017. The Secretary was also directed to place on record a proposal giving details of what steps the State Government intended to take regarding the duties mentioned above, with a timeline. Further it was directed to place on record whether the State Government has called for a report from the Authority under Rule 10 of the Rules and details of the reports so submitted since the inception of the Authority.

30. When the PIL was taken up on 21 December 2022, reply affidavits were filed by the Principal Secretary of the Public Health Department and Additional Director of Health Services on behalf of the Chief Executive Officer of the State Mental Health Authority. These affidavits stated that the State Mental Health Authority was established on 20 October 2018 as per section 46(1) of the Act of 2017. Thereafter, the members were nominated by a Government Resolution dated 23 October 2018. On 5 December 2018, the State Mental Health Authority held its first meeting. The next meetings

were held on 9 January 2017, 17 October 2019, 3 August 2019, 5 September 2021 and 6 September 2022. Certain activities were initiated to redress mental health care problems under the National Health Mission. The affidavits indicated that the State's stand is that the activities carried out under the National Health Mission should be construed as activities under the Act of 2017. A tentative timeline for activities for 2022-23 was appended to the affidavits filed by these Respondents. The tentative schedule referred to targeted intervention for mental health by attending schools, colleges, and other places to take workshops on mental well-being. The timeline referred to was till February 2023. Then, it was stated that Mega Camp for mental health and suicide prevention would be held with no specific timeline. A range reference is made that daycare centres would be set up, and 13 such centres would be set up by February 2022. Clinical psychology equipment was to be procured till February 2023. Medicines to hospitals of psychiatric patients, procurement of drugs till February 2023, training para-medical staff with batches of 300 till February 2023, clerical activities such as hiring of vehicles, office expenses, translation of material and distribution, survey register printing and creation of software. Targets were up to March 2023. This was the timeline submitted before us by the Principal Secretary for the obligations of the State under Sections 29, 30, 31 and 32 of the Act, which was clearly not satisfactory.

31. The Chief Executive Officer of the State Mental Health Authority in his affidavit stated that the State Mental Health Authority Fund was established on 16 September 2022 by opening a bank account, and prior to that, the Authority used funds from National Health Mission and sought to give details of the contribution by the State Government to the Authority as and when funds were transferred from the State Government as regards the National Health Mission. It was also placed on record that the Government Resolution was issued on 15 December 2022 appointing the Chief Executive Officer. This Government Resolution referred to the Government Resolution dated 6 September 2022 as one which had established the Authority. It was not clarified why a Government Resolution was issued on 15 December 2022 for the appointment of the Chief Executive Officer of the State Mental Healthcare Authority if the Authority was already established. There was no clarity emerging on this aspect. It was accepted that the statutory reports referred to in the order dated 2 December 2022 had not been prepared since the inception of the Authority. The Principal Secretary had accepted that no details as per Rule 10 of the State Mental Health Authority Rules 2018 had ever been called for from the Authority. This was the state of affairs even in December 2022.

32. When the PIL came up for hearing on 24 February 2023, we highlighted the functions of the State Mental Health Authority

under Section 55 of the Act of 2017 of registration. Under Section 55 of the Act of 2017, the State Mental Health Authority is responsible for registering and supervising all Mental Health Establishments. This includes the registration of clinical psychologists, mental health nurses, psychiatric social workers, and other related professionals. The aim is to ensure that all recognized Mental Health Establishments operate under the supervision of the State Authority and employ registered mental health professionals. thus, the State Mental Health Authority had to register not only mental health establishments but also clinical psychologists, mental health nurses, and psychiatric social workers in the State. The State Mental Health Authority stated that the registration was in progress.

33. We noticed that during the hearing, the learned AGP was handicapped for want of information. He was not even furnished with the Government Resolution dated 20 October 2018, which constituted the Authority. The officers present in the Court did not have basic documents. Considering the lack of assistance that the learned AGP had received despite our orders, we were constrained to direct the Principal Secretary, the Public Health Department and the Chief Executive Officer of the Authority to remain present in the Court on the next date so that the Court was apprised of the initiatives taken by the Authority.

34. On the next date of hearing on 12 January 2023, the learned Advocate General placed on record minutes of the seventh meeting of the Authority dated 4 January 2023. The Chief Executive Officer and the Principal Secretary were present in the Court. A substantial part of the minutes referred to the duties of Appropriate Government enumerated in Chapter VI of the Act of 2017 and not the State Mental Health Authority. The State Mental Health Authority is governed by different provisions in Chapter VIII, and the Authority has different functions. Regarding the Authority's functions, the minutes did not satisfactorily refer to these functions. The learned Advocate General accepted the position and stated that since the Authority was not functional until recently and various steps were required to be taken by the State, he would take the initiative in this matter and call for a meeting of the stakeholders before the next date so that the future course of action could be decided and conveyed to the Court.

35. The minutes of the meeting dated 4 January 2023 noted that though funds from the National Health Mission were being utilized, the proposal had been submitted to the Government for corpus fund and simultaneously Public Health Department needed to pursue the matter with the Finance Department and Accountant General, Mumbai for allotment of Budget Head. The learned Advocate General had stated that after getting the Budget Head, a supplementary demand for a corpus fund of Rs. 3.14 crores would

be submitted in the budget session for the financial year 2022-2023, and regular provision was to be included in the budget estimates thereafter. The learned Advocate General stated that the possibility of sources other than the grant from the Government under Section 61 of the Act of 2017, in the meanwhile, would be considered. Therefore, on 24 February 2023, the learned Advocate General informed that Rs. 1 Crore was transferred under Section 62 of the Act of 2017 to the State Mental Health Authority Fund as a loan as contemplated under Section 62(1)(i). The budget head was yet to be created.

36. The learned Counsel for the Petitioner and the learned Amicus Curiae again pointed out to functions of the State Mental Health Authority under Section 55 of the Act. The registration of all Mental Health Establishments, their supervision, and registration of clinical psychologists, mental health nurses, psychiatric social workers, etc. is necessary, which will bring all the Mental Health Establishments which are recognized to work under the State Authority as registered mental health professionals. Rule 11 in Chapter III of the State Mental Health Authority Rules, 2018 provides for provisional Mental Health establishment registration. Rule 14, introduced through an amendment dated 12 August 2021, states that the Authority shall also provide an online platform for the digital submission of applications for the grant of provisional registration/renewal of provisional registration and digital issuance of the certificate.

37. During the hearing on 10 March 2023, the State Mental Health Authority informed that the Authority would take immediate steps to computerize the details of all patients in four Regional Hospitals in the State of Maharashtra, and their database would be created. The learned Counsel for the parties drew our attention to the scheme of the National Legal Services Authority (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015. Noting the common object of the Scheme and the State Mental Health Authority, we suggested that the efforts of the State Mental Health Authority and the Maharashtra State Legal Services Authority should be coordinated. The State Mental Health Authority had also stated that a committee would be formed to draft the Maharashtra State Mental Health Policy with special emphasis on patient's rights.

38. It was directed that the officials deputed by the State Mental Health Authority and the paralegal volunteers under the NALSA Scheme of 2015 would collect the data referred to above from the mental health institutions registered under the Act of 2017. All registered mental health institutions were directed to cooperate when such data was called for. If such cooperation was not extended and a complaint was made to the State Mental Health Authority, the State Mental Health Authority was directed to take necessary steps to ensure compliance.

39. During the hearing on 10 July 2023, the Maharashtra State Legal Services Authority placed on record a report dated 14 June 2023 as per the information collected, mostly from private hospitals. The State Mental Health Authority stated that the data was collected but had to be structured analytically. We placed the responsibility on the Deans of the Government Hospitals and the Directors of all the private hospitals to whom this inquiry was made by the State Mental Health Authority to furnish the data to the State Mental Health Authority without fail. The Secretary of the Public Health Department was directed issue a circular directing the Deans of the mental hospital establishments and the Directors of the private establishments to supply the necessary data as called for by the State Mental Health Authority to take measures contemplated under the Act of 2017.

40. The State Mental Health Authority submitted that the website of the State Health Department was currently being used and a process was underway to create a separate portal. We expected that this initiative to be taken as soon as possible as it would enable the State Authority to register all establishments and persons effectively to discharge its functions under Section 55 of the Act of 2017. The creation of a portal, in our opinion, should not take much time, and we expected the authorities to take urgent steps in that regard. The State Mental Health Authority stated that the registration was in progress, and the concerned establishments

referred to in Section 55(1)(a) and the persons referred to in Section 55(1)(d) were called upon to register themselves and submits that, in addition, wide publicity would be given through media and social media. Thus even on that date, despite the order dated 21 April 2023, there was no credible data to take further measures.

41. Taking an overview of these developments, we note that a robust framework with functional agencies which is vital to tackle this enormous challenge of mental illness in the society is missing. The State Mental Health Authority can mandate and coordinate mental health services, ensuring appropriate treatment and support access. Functional agencies play a crucial role in coordinating and facilitating collaboration between different sectors involved in mental health. Section 45 of the Act of 2017 mandates every State Government to establish the State Mental Health Authority within nine months from the date the Act received the assent. The Act of 2017 was brought into force on 7 July 2018, and the appointed date is 29 May 2018. The State of Maharashtra, therefore, was mandated to establish a fully functional State Authority under Section 45 of the Act 2017 within nine months of this date, which it failed to do so till the Court's intervention.

42. On 23 August 2022, we were informed that the State Mental Health Authority was formed only on 23 October 2021, and composition still needed to be completed. On 23 August 2022, the

non-official members under section 46(1)(g) to (n) were yet to be appointed. Then affidavit dated 25 November 2022 stated that the State Mental Health Authority was established by Government Resolution dated 23 October 2018, and certain persons were nominated. It was stated that from 2018 till September 2022, the State Mental Health Authority held five meetings. Then Government Resolution issued on 15 December 2022 was placed on record appointing the Chief Executive Officer. This Government Resolution referred to the Government Resolution dated 6 September 2022 as one which had established the Authority. It was not clarified why a Government Resolution was issued on 15 December 2022 for the appointment of the Chief Executive Officer of the State Mental Healthcare Authority if the Authority was already established. If it were only a change of Chief Executive Officer, the Government Resolution would have been in a different manner. In the Government Resolution dated 15 December 2022, reference was to the constitution of the Authority as per Government Resolution dated 6 September 2022. There was no clarity emerging on this aspect. This was the state of affairs even in December 2022.

43. Section 62 of the Act of 2017 establishes the State Mental Health Authority Fund, which will receive grants, loans, fees, and other sums as the State Government decides. This Fund covers salaries, allowances, and expenses of the State Authority members,

officers, and employees, as well as costs related to the Authority's functions as outlined in the Act. The Fund is to be used for expenses incurred for functions and performance of the Act. It is only on 24 February 2023, Rs. 1 Crore was transferred under Section 62 of the Act of 2017 to the State Mental Health Authority Fund as a loan as contemplated under Section 62(1)(i). The budget head was created much later and an amount around Rs. 35 Crore was transferred the later part of 2023.

44. Further, the minutes dated 16 September 2022 referred to a decision to open a bank account in the name of the Authority. It is not explained how this Authority worked without a bank account or statutory fund required for its functioning. Out of this fund, the salary, allowances and other remuneration of the chairperson, other members, chief executive officer, other officers and employees of the State Authority and the expenses incurred by the State Authority to discharge its functions and purposes have to be managed. Until December 2022, there was no amount in the State Authority Fund. Fund was established on 16 September 2022 by opening a bank account. Before that, the State Authority used to account for its expenses to be sanctioned by the National Health Mission. However, this was not as per the provisions of the Act, which contemplates a specific creation of a fund that must be audited. On 4 February 2023, five years after the Act of 2017 came into force, an amount of Rs. 1 Crore was transferred under Section 62 of the Act

of 2017 to the State Mental Health Authority Fund. Even then, a budget head was not created, which was created subsequently.

45. Therefore, the meetings of the Authority were not held as per section 56 of the Act of 2017, which mandates that meetings be held at least four times a year. On paper, the State Mental Health Authority was established in the State of Maharashtra on 20 October. After that, members were nominated by a Government Resolution dated 23 October 2018. On 5 December 2018, the Authority held its first meeting. Considering that the Authority was not functional until August 2022 and that the meeting marked its first of the year, it was expected to address broader issues arising from implementing the Act of 2017. However, there was no mention of this in the meeting. There was no discussion regarding the functions of the Chief Executive Officer, such as preparing the State Authority's work programs, revenue and expenditure statements, budget execution, or submitting a general report covering all Authority activities, previous year accounts, and the upcoming year's budget, etc. There was no indication that any Annual statement of accounts or reports had been prepared or were in progress. The learned AGP was given no instructions.

46. Therefore, we find that the grievance made by the Petitioner regarding the failure of implementation of the Act of 2017 in the State of Maharashtra is fully justified. The resultant position shows

a failure to set up even the basic Authority to oversee the Act of 2017. Various rights have been conferred upon persons with mental illness and corresponding duties on the authorities established under the Act of 2017. State Mental Health Authority is tasked with implementing the provisions of the acts. The effectiveness of this legislative framework will depend upon the functionality of the State Mental Health Authority. Without an active and functional State Mental Health Authority to oversee the implementation of the law, this legislation will remain paper.

47. Now that the Authority is set up (though with gross delay), we now proceed to discuss the way forward for the State Mental Health Authority to be relevant and functional.

48. Firstly, without adequate funds, the State Mental Health Authority will not be able to discharge its functions for the purposes of the Act. Though it is correct that the State Mental Health Authority Fund will also include all fees and charges received by the State Mental Health Authority under the Act of 2017, considering the State of affairs, obviously, this source under Section 62 (1) (ii) alone will not be sufficient. The State Government should take its commitment seriously under Sections 61 and 62 of the Act of 2017 so that the State Mental Health Authority can function at its fullest capacity. The State Government shall ensure that the activities of the State Mental Health Authority are not hampered by the lack of funds.

49. Under Section 56 of the Act of 2017, the State Mental Health Authority must meet not less than four times a year. This mandate has been seriously breached. It is of utmost importance, considering that the State Mental Health Authority became functional four years after the enactment of the Act of 2017, that it needs to increase its efforts and not only be satisfied with minimum required meetings. The Authority could invite representative of the State Legal Services Authority to attend the said meeting for coordinating the efforts. The Authority should also consider inviting the Jail Authorities and Police Authorities for its statutory meeting so that a coordinated effort can be achieved to tackle the issues under the Act of 2017.

50. Functions of the State Mental Health Authority include registration of all mental health establishments in the State except those excluded. The procedure for registration is to be prescribed by the State Government. Chapter III of the State Mental Health Authority Rules, 2018, outlines the process for the provisional registration of mental health establishments by the State Mental Health Authority. Mental health establishments must be registered with the State Authority, excluding those under the Central Government's control. Establishments submit an application for provisional registration in Form-B with a prescribed fee. Upon satisfaction that the establishment meets the specified requirements, the State Authority grants a provisional registration certificate in Form-C. This certificate is valid for twelve months from the date of

issuance. A late fee is applicable if the renewal application is not submitted within the specified period.

51. The State Authority should also take steps to register all mental health establishments except those referred to in Section 43 and maintain and publish (including online on the Internet) a register of such establishments. The State Authority must develop quality and service provision norms for different types of mental health establishments in the State and upload them to its website. The State Mental Health Authority should take steps to initiate the process for registering clinical psychologists, mental health nurses and psychiatric social workers in the State to work as mental health professionals and publish the list of such registered mental health professionals in such a manner as may be specified by regulations by the State Authority.

52. As per Section 71 of the Act of 2017, read with Rule 14 of the State Mental Health Authority Rules, 2018, a register of mental health establishment in digital format has to be created. Rule 14 of the State Mental Health Authority Rules, 2018 states that a register of mental health establishment, including the name and address of the applicant, name of the establishment and date of the applicant and registration with number of beds, has to be prepared and the same shall be in digital format and an online platform for digital submission of application for grant of provisional registration/renewal has to be provided. Therefore, the State Mental Health

Authority is under a duty to have updated data on the registration of every mental health establishment in the State, excluding certain categories that provide an online format for digital submission. Currently the State Mental Health Authority uses the website of the State Health Department and it is informed that the process is underway to create a separate portal. This process must be completed as soon as possible as it would enable the State Authority to register all establishments and persons effectively to discharge its functions under Section 55 of the Act of 2017. The creation of a portal should not take much time and setting up a timeline for the said purpose is necessary.

53. The State Mental Health Authority has to prepare an annual statement of accounts for the previous year and an annual report. This is an area where there is a serious breach. The Authority must scrupulously follow the mandate of Section 63 of the Act of 2017 to maintain proper accounts and other relevant records and prepare an annual statement of accounts as prescribed. The State Mental Health Authority will have to prepare every year's annual report as prescribed under Rule 16 of the State Mental Health Authority Rules, 2018, read with Form E appended to the State Mental Health Authority Rules, 2018. The Annual Report, subject to non-sharing of sensitive and prohibited information under the Act of 2017, should be made accessible on its website to enable other entities to aid and assist the State Mental Health Authority based on the official data. The Annual Report should be prepared by a fixed date,

preferably by the end of December of every year. The Chief Executive Officer of the State Mental Health Authority should ensure that the mandate under Sections 63 and 64 of the Act of 2017 is adhered to.

54. Rule 10 of the State Mental Health Authority Rules, 2018, empowers the State Government to call for information concerning the activities of the State Authority. Form A, appended to Rule 10 reproduced above, gives all necessary details from which the steps taken can be seen. This includes various important aspects such as the audit of mental health establishments along with audit reports, complaints received regarding violation of rights of mentally ill persons, registration of mental health professionals and complaints received regarding deficiencies. Therefore, furnishing this information is crucial. This report has to be prepared every year, and a full account of its activities has to be submitted under Section 64 of the Act of 2017. This audited report and the annual report under Section 64 must be placed before the State Legislature. There can be debate on the said annual report. No annual report is being submitted since inception and it is a serious lacuna in the functioning of the State Mental Health Authority which is also neglected by the State who is empowered to call for information.

55. A dedicated website of the State Mental Health Authority with a feedback mechanism is necessary to achieve the objectives of

the Act of 2017. The Authority should place relevant data regarding the Act of 2017 on its website so that non-governmental organizations and other public-spirited individuals can aid and assist the efforts of the State Mental Health Authority, which may be hampered by the lack of official data. The State Mental Health Authority should consider uploading the annual report mandated under Section 64 of the Act of 2017, subject to Sections 23 and 24 of the Act of 2017 regarding rights to confidentiality and restriction on the release of information regarding mental illness. The State Mental Health Authority should make efforts to make all relevant information available in the public domain, subject to confidentiality. Under the portal of the Public Health Department of the Government of Maharashtra, a website has been created providing for minimum standards and a checklist for Mental Health Establishments, Mental Health Establishment Registers, Mental Health Professionals in Maharashtra and a provision for uploading complaints with a temporary email address and contact number are provided. This has to be is transitional and a full-fledged portal/website of the State Mental Health Authority should be created. It is informed that the State Mental Health Authority has entered into a tripartite Memorandum of Understanding (MOU) between the State Mental Health Authority, National Institute of Mental Health and Neuro Sciences and National Health Mission, Karnataka Health & Family Welfare Society and it is in process of

being finalized. This MOU contemplates providing technical services to the State Mental Health Authority.

56. Online and offline presence and visibility of the State Mental Health Authority is crucial. Considering the vulnerability of the class, unless the classes for whom the rights are created and those who look after them are made aware, right would remain only in the statute book. Under Section 25 of the Act of 2017, a person with mental illness has the right to access basic medical records. If it is withheld, then he has the right to apply to the concerned Board for an order to release such information. The data furnished shows that there is not a single application received from any person with illness about medical records being denied under Section 25 of the Act. This may indicate a lack of awareness regarding the patients' rights, both in the complaints regarding deficiency of service and denial of medical records. The State Mental Health Authority has to initiate campaigns to make the patients and the relatives of persons with mental illness aware of their rights. The Act of 2017 casts a duty on the State Government to make the intended beneficiaries aware of the said rights. Apart from the helpline, which is stated to be in existence, the Authority should direct that posters with the helpline and toll-free numbers be displayed by all mental health institutions. The State Government, along with the State Mental Health Authority, will draw a draft plan of action as to how the beneficiaries should be made aware of their rights, including the contingency

where they cannot be made fully aware of their rights because of their disabilities.

57. The non-governmental organizations could complement the work of spreading awareness. The learned Counsel for the Petitioner stated that the Petitioner would endeavour to engage as many non-governmental organizations as possible to make the persons aware of their rights. The Maharashtra State Legal Services Authority would examine if this initiative would fall within the ambit of the State Legal Services Authority. It should make efforts to make persons with mental illness aware of their rights under Chapter V and, if so, to initiate proper schemes as Section 28 of the Act of 2017 also refers to legal aid.

58. If there are vacancies, the State Mental Health Authority will not be able to function effectively. Section 46 of the Act of 2017 provides for the composition of State Authority; under Section 49 of the Act of 2017, the State Government has to fill vacancies in the Authority in time. As per Section 49, the State Government should, within two months from the date of occurrence of any vacancy and three months of the anticipated vacancy, make a nomination to fill the vacancy. Because the fully functional State Authority was not been established for almost four years since the Act of 2017 came into force, the State Government should ensure that the vacancies in the State Mental Health Authority in future are filled up in time.

59. Under Section 55 (e) of the Act of 2015, the State Mental Health Authority must develop a protocol for training all relevant persons and issue necessary instructions to law enforcement officials, mental health professionals, and other health professionals. The State Government should render all necessary assistance to the State Mental Health Authority in developing the protocol and providing training to all relevant persons.

60. Given the State Mental Health Authority's chronic failure and lack of basic data, we intend to issue certain directions in the operative portion of the judgment to ensure that it becomes functional and relevant.

61. The next aspect that we deal with in the judgment is the rehabilitation of persons with mental illness, which is of importance. Section 18 of the 2017 Act guarantees the right to access mental healthcare. It states that every person has the right to receive mental healthcare and treatment from mental health services that are either run or funded by the appropriate Government. Section 19 of the Act elaborates on the right to community living, while Section 20 provides protection from cruel, inhuman, and degrading treatment. Section 21 of the Act guarantees equal and non-discriminatory rights, while Section 22 ensures the right to information. Under Section 23, individuals with mental illnesses have the right to confidentiality. Section 24 restricts the release of information about

mental illness, while Section 25 guarantees the right to access medical records. Section 26 ensures the right to personal contact and communication, and Section 27 guarantees the right to legal aid. Finally, Section 28 guarantees the right to file complaints about any deficiencies in the provision of services.

62. Section 19 of the Act of 2017, which is important, reads thus:

*“Section 19- Right to community living - (1)
Every person with mental illness shall;—*

(a) have a right to live in, be part of and not be segregated from society; and

(b) not continue to remain in a mental health establishment merely because he does not have a family or is not accepted by his family or is homeless or due to absence of community based facilities.

(2) Where it is not possible for a mentally ill person to live with his family or relatives, or where a mentally ill person has been abandoned by his family or relatives, the appropriate Government shall provide support as appropriate including legal aid and to facilitate exercising his right to family home and living in the family home.

(3) The appropriate Government shall, within a reasonable period, provide for or support the establishment of less restrictive community based establishments including half-way homes, group homes and the like for persons who no longer require treatment in more restrictive mental health establishments such as long stay mental hospitals.

(emphasis supplied)

Therefore, a person with mental illness has the right to not to continue to remain in mental health establishments merely because he does not have family or is not accepted by his family or is homeless or there is absence of community based facilities. This provision has to be read along with Section 18(4)(b) of the Act of 2017 which states that appropriate Government will make provision for half-way homes, sheltered accommodation, supported accommodation as may be prescribed.

63. In the process of rehabilitation, the Mental Health Review Boards play a crucial part. Section 73 of the Act of 2017 contemplates the constitution of the Mental Health Review Boards in each District or group of Districts in the State. The composition of the Board is provided under Section 74 of the Act of 2017. A judicial officer is the chairperson of the Board. Section 77 contemplates applications to the Board by any person with mental illness or his nominated representative or a representative of a registered non-governmental organisation, with the consent of such a person. Section 77 provides that any individual with mental illness, their appointed representative, or a representative from a registered non-governmental organization, with the individual's consent, who feels aggrieved by a decision made by a mental health establishment or believes their rights under this Act have been violated, may submit an application to the Board seeking resolution or appropriate remedy. No fee or charge shall be imposed for

submitting such an application. Each application should mention details specified. In exceptional circumstances, the Board may accept oral or telephone applications from individuals admitted to a mental health establishment.

64. Section 82 of the Act of 2017 outlines the powers and functions of the Mental Health Review Board. It empowers the Board to register, review, amend, or revoke advance directives, appoint nominated representatives, and adjudicate on applications challenging decisions made by medical officers or mental health professionals. The Board also handles applications related to confidentiality, resolves complaints about care deficiencies, and conducts inspections of prisons or jails regarding health services. Additionally, if a mental health establishment violates the rights of individuals with mental illness, the Board or Authority can conduct inquiries and take corrective actions, including imposing fines up to five lakh rupees or canceling the establishment's registration. The Board, in consultation with the Authority, may take necessary measures to safeguard the rights of persons with mental illness, regardless of other provisions in the Act.

65. Section 80 of the Act of 2017 contemplates time bound disposal of the applications before the Mental Health Review Board and the category of the applications to be disposed of. Section 80 reads as follows :-

“80. Proceedings before Board.-(1) The Board, on receipt of an application under sub-section (1) of section 77, shall, subject to the provisions of this section, endeavour to hear and dispose of the same within a period of ninety days.

(2) The Board shall dispose of an application—
(a) for appointment of nominated representative under clause (d) of sub-section (4) of section 14;
(b) challenging admission of a minor under section 87;
(c) challenging supported admission under sub-section (10) or sub-section (11) of section 89, within a period of seven days from the date of receipt of such applications.

(3) The Board shall dispose of an application challenging supported admission under section 90 within a period of twenty-one days from the date of receipt of the application.

(4) The Board shall dispose of an application, other than an application referred to in sub-section (3), within a period of ninety days from the date of filing of the application.

(5) The proceeding of the Board shall be held in camera.

(6) The Board shall not ordinarily grant an adjournment for the hearing.

(7) The parties to an application may appear in person or be represented by a counsel or a representative of their choice.

(8) In respect of any application concerning a person with mental illness, the Board shall hold the

hearings and conduct the proceedings at the mental health establishment where such person is admitted.

(9) The Board may allow any persons other than those directly interested with the application, with the permission of the person with mental illness and the chairperson of the Board, to attend the hearing.

(10) The person with mental illness whose matter is being heard shall have the right to give oral evidence to the Board, if such person desires to do so.

(11) The Board shall have the power to require the attendance and testimony of such other witnesses as it deems appropriate.

(12) The parties to a matter shall have the right to inspect any document relied upon by any other party in its submissions to the Board and may obtain copies of the same.

(13) The Board shall, within five days of the completion of the hearing, communicate its decision to the parties in writing.

(14) Any member who is directly or indirectly involved in a particular case, shall not sit on the Board during the hearings with respect to that case.”

(emphasis supplied)

For each category of application time limit is prescribed. Section 83 of the Act of 2017 provides for an appeal to the High Court against the order of Authority or Board.

66. As per Section 82(c) of the Act of 2017, the applications from persons with mental illness or their nominated representative or any other interested person against the decision of a medical officer or mental health professional in charge of mental health establishment or mental health establishment under Sections 87, 89 or 90 can be received by the Board. Section 87 deals with the admission of minors to mental health establishments after following the procedure laid down. Section 89 is regarding the admission and treatment of persons/patients with mental illness, with high support needs, in mental health establishments up to 30 days and Section 90 is for such persons beyond 30 days. The Board is also empowered to decide the applications regarding non-disclosure under Section 25(3) of the Act. Section 25 confers the right of persons with mental illness to have access to their primary medical records, and if the medical records are withheld, such person has the right to apply to the Board. The Board is also authorised to adjudicate complaints about the deficiency in the provision of services made by any person or his nominated representative. Therefore, it is clear that the Act of 2017 confers broad and important powers to the Board. These provisions would show that the Board plays a crucial role in safeguarding the rights of persons with mental illness and in their rehabilitation.

67. The constitution of the State Mental Health Review Boards was placed on record stating that they were established by Notification dated 15 November 2021, that is, three years after the

Act of 2017 had come into force. Information regarding the Boards is as follows:

	Mental Health Review Board	The district under its jurisdiction
1	Thane	Thane, Palghar, Raigad, Mumbai.
2	Pune	Pune, Satara, Solapur.
3	Nagpur	Nagpur, Wardha, Bhandara, Gondia, Chandrapur, Gadchiroli.
4	Kolhapur	Kolhapur, Ratnagiri, Sindhurag, Sangli.
5	Nashik	Nashik, Ahmednagar, Dhule, Jalgaon, Nandurbar.
6	Akola	Akola, Buldhana, Washim, Amravati, Yeotmal.
7.	Aurangabad	Aurangabad, Jalana, Parbhani, Hingoli.
8	Latur	Latur, Beed, Osmanabad, Nanded.

68. We were informed that the Mental Health Review Board at Thane had conducted eight meetings from August 2022 to July 2023; the Pune Board held three meetings in the year 2023; the Nagpur Board held 11 meetings from August 2022 to July 2023; Kolhapur Board held four meetings from August 2022 to April 2023; Nashik Board held only one meeting in November 2022; Akola Board also held only one meeting in January 2023; Aurangabad Board held six meetings from June 2022 to June 2023; and Latur Board held two meetings from September 2022 to March 2023.

69. The State Mental Health Authority had submitted a chart containing data and stated that pursuant to the directions issued, the Deans of these four hospitals had supplied the data to the State Mental Health Authority. This compilation contained a summary and two further components, i.e. one dealing with the patients who were fit for discharge but not yet discharged and the second, the patients who were unfit for discharge. Regarding patients who were fit for discharge but not yet discharged, the data about four mental health hospitals was provided. The summary was as follows:

A													
Top up sheet (Concise Data) Summary													
Sr. No	Name of Government Mental Hospital	Length Of Stay (Total no of patient)							Opinion of Doctor with Discharge		No of Patients sent home but not accepted by family		
		Up to 6 Months	6 Months To 1 Year	1 to 2 years	2 to 5 years	5 to 10 years	More than 10 years	Total	Fit	Unfit	2023	2022	2021
1	Nagpur Mental Hospital	229	32	25	46	74	116	522	138	384	1	1	1
2	Thane Mental Hospital	507	138	69	53	42	114	923	429	494	5	3	2
3	Pune Mental Hospital	473	63	75	96	150	226	1083	411	672	3	2	0
4	Ratnagiri Mental Hospital	87	14	7	11	6	19	144	44	99	1	0	1
	Total	1296	247	176	206	272	475	2672	1022	1649	10	6	4

Therefore, 1022 patients were declared fit for discharge, but were awaiting discharge from the hospital. As far as 451 patients were concerned, there did not appear to be any serious impediment, but there was a delay in view of the compliance of the process. As regards columns- 'a' and 'c' of the chart, these patients had serious issues that needed to be dealt with by the State Mental Health Authority. As regards the patients who were declared unfit for discharge, the data was as follows:

C

Sr.No.	NAME OF MENTAL HOSPITAL	TOTAL NO. OF Patients Fit for Discharge But not yet Discharged	Reason of Not yet discharged - Fit		
			A	B	C
			Relatives not traceable	Discharge in process	Poor Family support
			Relatives not traceable	Waiting for responce	Old age of relatives
			Change of address		Poor acceptance by family members
			Change of phone number		Distant relatives
					Waiting for Rehabilitation
1	Nagpur Mental Hospital	138	88	29	21
2	Thane Mental Hospital	429	34	202	193
3	Pune Mental Hospital	411	84	188	139
4	Ratnagiri Mental Hospital	44	2	32	10
	Total	1022	208	451	363

The

Petitioner pointed out that in the Summary-A provided, 1649 patients were shown as unfit for discharge in the doctors' opinion, and 475 patients were shown to have been in the hospital for more than ten years. It was not clear whether there was an appropriate review of these patients.

70. We directed eight Review Boards to supply the State Mental Health Authority with information regarding patients reviewed in the preceding three months. We also directed the District Health Officer and the Psychiatrist attached to the Boards to attend the next meeting of the State Mental Health Authority to devise a holistic plan of action.

71. During the hearing on 11 October 2023, the State Mental Health Authority placed only minutes of the meeting of the Authority before us without any affidavit. From the information given to us by the Maharashtra State Legal Services Authority, it transpired that the scrutiny conducted under the earlier directions had revealed a position of grave concern. As per the chart given to us

earlier, 1022 patients were stated to be fit for discharge. We had directed that special emphasis be given to the cases of 475 patients who had been in mental health establishments for more than ten years. We were informed that apart from routine examinations by one psychiatrist, as far as 475 patients were concerned, the examination process by two psychiatrists was carried out and was in progress. As of 11 October 2023, 379 patients had been certified by two Psychiatrists as fit for discharge. That meant that 379 patients in mental health establishments, even after more than ten years, could be discharged yet continue to live in these establishments. This was indeed a deplorable situation.

72. As per the process, the opinion of two Psychiatrists has to be placed before the Review Board and upon directions issued by the Review Board, further action would be taken. Two Psychiatrists had found them to be fit. The State Mental Health Authority also informed us that the examination process by two psychiatrists with respect to the remaining patients out of 475 would be completed within two to three weeks, and thereafter, their cases would be placed before the Review Board. The State Government was called upon to issue necessary communications based on our observation to all the Review Boards to take up the matters of the above class of patients on a priority basis.

73. During the hearing on various dates, it became amply clear that the State Mental Health Authority did not have any plan for

rehabilitation of the patients with mental illness. Even for a mere outline of the plan, the Authority sought time from the Court.

74. Two affidavits were tendered during the further hearing on 8 November 2023 pursuant to the earlier directions. One was by the State of Maharashtra through the Assistant Commissioner on behalf of the Persons with Disability Welfare Commission, and the second was by the State Mental Health Authority. The Authority had placed on record that two meetings were held on 13 October 2023 and 23 October 2023, wherein it was noted that out of fit patients, 23 were physically challenged, and 71 were mentally challenged.

75. Two meetings were held on 26 October 2023 and 27 October 2023 by the Pune Board and Nagpur Board to take an overview of the discharge of long-stay patients. It was also placed on record that a draft plan was prepared for a systematic reunion and rehabilitation process. The affidavit filed on behalf of the State Government placed the details of halfway homes on record. It was also stated that the affidavits were filed in proceedings pending before the Hon'ble Supreme Court in the case of *Gaurav Kumar Bansal*¹ and the Action Taken Report was also filed before the Hon'ble Supreme Court, the details of which were placed on record. The affidavits filed before the Hon'ble Supreme Court were reiterated and reproduced in the affidavit filed before us. Except for filing an affidavit based on an

1 Contempt Petition (C) No. 1653/2018 in WP (C) No. 412 of 2016

affidavit already filed before the Hon'ble Supreme Court, we did not have any information placed on record by the State.

76. The State Mental Health Authority informed that 263 patients who had been staying in the Medical Health Establishment for more than 10 years were finally found fit by the Review Boards, out of whom 24 were reunited with their families. The State Mental Health Authority stated that out of 263 patients, as a target for the next date, an attempt would be made to rehabilitate at least 50 patients out of the said list. For this purpose, a priority list would have to be prepared. Those found fit for immediate rehabilitation could be put on the list. The Petitioner suggested that if the patients who had overstayed the Mental Health Establishment for more than 10 years were being rehabilitated by an escort drive, then if any other patients were found fit but had spent less than 10 years, they could also be attempted to be rehabilitated if they were from the same locality or village. The learned *Amicus* had pointed out that it could be easier to rehabilitate the patients who had stayed for less time in the Mental Health Establishment.

77. The next issue that arose was that 94 patients were found to be fit by the Review Board; however, they could not be discharged because either they were physically challenged or mentally challenged. This was where the role of the Directorate of Disabilities would be important. The plan of action by the Commissioner for

Disabilities regarding these 94 patients was directed to be placed on record by the next date. Even on that date, only an outline of the plan of action was placed before us.

78. On 8 December 2023, the State Mental Health Authority tendered an affidavit sworn by the Medical Superintendent Regional Mental Establishment, Thane, dated 7 December 2023. In this affidavit, the efforts taken by the Authority with respect to the rehabilitation of patients were enumerated. It was stated that the Mental Health Establishment in Pune rehabilitated 42 patients in halfway homes. As regards Thane Mental Establishment, an attempt was made through a system of escorting patients under the "Drive for Escort" scheme. The details of this Scheme were placed on record. This campaign was carried out by a Mental Health Establishment to send the patients in batches accompanied by hospital staff with the assistance of local authorities. It was stated that six patients attempted to reunite with their families through this method, and three were successfully reunited. Three patients could not be reunited for various reasons, which have been placed on record, such as resistance from the relatives, etc. Therefore, these three patients, though certified as no longer in need of continuous monitoring had to be returned to the Mental Health Establishment.

79. The patients had to be returned because there is a lack of coordination between the State Mental Health Authority and the

Government Departments as regards the persons to be sent to the halfway homes. We therefore directed that the Principal Secretary of the Public Health Department, who is the Chairperson of the State Mental Health Authority, and the Principal Secretary of the Persons with Disabilities Welfare Department hold a joint meeting to address the issues highlighted in the orders and streamline the procedure for coordination.

80. In conclusion, from this narration and the data presented, various crucial issues regarding the functioning of the Act of 2017 regarding rehabilitation of cured patients in the State of Maharashtra emerge, and the scenario is disturbing.

81. Under Section 18 (3) of the Act of 2017, the appropriate Government is under the mandate to make sufficient provision, as may be necessary, for a range of services required by persons with mental illness, which includes provisions for half-way homes, shelter accommodation, supported accommodation, as may be prescribed, including rehabilitation establishments. Currently, there are only six half-way homes and the State Government is considering increasing the number to twelve. Six additional half-way homes accordingly should be created as early as possible preferably within a period of four months. This is to ensure the right conferred under Section 19 of the right to community living.

82. Reply affidavit is filed by the Assistant Commissioner, Persons with Disabilities Welfare Commissionerate on 8 November 2023. In this affidavit, reference is made to the case of *Gaurav Kumar Bansal* before the Hon'ble Supreme Court, where the issue of rehabilitation of cured patients in mental healthcare hospitals is considered. Pursuant to the directions, a list of non-governmental organisations and establishments accommodating cured patients is provided. It lists six non-governmental organisations in Mumbai, Nagpur and three in Pune. The capacity is around 525, and the current position is stated to be 147. In the case of *Gaurav Kumar Bansal*, the Hon'ble Supreme Court has directed that the Union of India, through the Department of Empowerment of Persons with Disabilities to circulate guidelines prepared for the State Government for setting up rehabilitation homes for persons living with mental illness who do not need further hospitalisation of those who are homeless and are not accepted by their families. The Union of India has accordingly circulated the guidelines to the State Government for setting up rehabilitation homes. The guidelines state as under :

“Guidelines for the State Government for setting up of Rehabilitation Homes for Persons Living with Mental Illness (who have been cured, do not need further hospitalization, are homeless or are not accepted by their families)

Many persons with mental illness after hospitalization recover adequately and go back to their lives with mental illnesses, in the society/ community – living with families or living

independently. A small proportion of such persons, even after sufficient recovery, may not be capable of living independently, and may also not have families or with families who unable to take care of them. This group of “Long Stay Patients” (LSP), have been the concern of many stakeholder groups, in the last few decades- because despite advances in mental health science- and this sizable group of persons not only continue to occupy beds in the hospitals; but also get deprived of their human rights. The Hon’ble Supreme Court in the matter of Writ Petition (Civil) No. 412/ 2016 in the matter of Shri Gaurav Kumar Bansal Vs State of UP and others has directed the Central Government to frame guidelines for rehabilitation of such persons with mental illness who have recovered but continue to remain in various mental hospitals.

2. In light of the above, the Department of Empowerment of Persons with Disabilities, Government of India prescribes the following guidelines for setting up of Rehabilitation Homes for Persons Living with Mental Illness (who have been cured, do not need further hospitalization, homeless or are not accepted by their families):-

- The State Government shall be responsible to take necessary steps for creation and management of ‘Rehabilitation Homes’- for Persons Living with Mental Illness to provide for the combined needs of Half-Way Homes & Long-Stay Homes for the foreseeable future.*
- The State Government should assess the need for such “homes” specifically for the “Long Stay Patients” (beyond two year length of stay) in the Mental Hospitals and Mental Health Institutions in its State.*
- Based on the assessment of requirement of such*

homes, initially at least one or two homes may be set up in the selected city where the mental health institute/ hospital is located with the short term goal to provide such “homes” for all the Long Stay Patients by the State.

- *The “Rehabilitation Homes” must follow the Social Care Model with efforts at Reintegration and Rehabilitation beyond Relocation. All such homes should have Day Care Center as part of the Home, or at least in close geographical proximity and in active consideration.*
- *The “Rehabilitation Homes for Persons Living with Mental Illness” should have the following facilities / infrastructure :-*

(iv) Physical Infrastructure -

- *The rehabilitation homes should be located outside any hospital premises.*
- *The building housing such persons should be preferably not more than 2 storey building and the balconies are properly wire fenced.*
- *Proper boundary wall should be there around such homes.*
- *The building should have accessible features and should fulfill the basic safety requirement relating to electricity.*
- *There should be separate accommodation for male and female inmates.*
- *There should be a clear entry and exit policy.*

(v) Human Resource requirement per 25 residents

- *1 House Incharge*
- *1 Office Assistant*

- *1 Social Worker*
- *1 Vocational Instructor*
- *2 Trained Care givers*
- *2 Helpers*
- *1 Visiting Psychiatrist (should be available on call also to attend emergency situations)*
- *1 Visiting General Physician (should be available on call also to attend emergency situations)*
- *Security as per requirement depending on the size of the premises and number of inmates.*
- *Housekeeping personnel and kitchen staff as per requirement.*

(vi) Other Norms

- *Cultural and Sporting activities may be conducted involving such persons so as to make them feel homely and living in the community.*
- *Counselling assistance should be provided to such persons to make them independent.*
- *There should be close coordination with the Vocational / skill Training institutes in the nearby vicinity to impart skill training to the inmates of the rehabilitation homes.*
- *A District Level Committee should be formed which would visit such homes periodically and a register be maintained regarding such visits so as to ensure compliance of norms.*
- *Proper cleanliness should be maintained in the rehabilitation homes.*
- *The provisions of Rights of Persons with*

Disabilities Act, 2016 containing various rights and entitlements for PwDs should be followed in letter and spirit.

- *The Central Government shall so provide necessary technical guidance for setting up of such homes, if required by the State Government”.*

(emphasis supplied)

Substantial emphasis is placed on the long stay patients.

83. A contempt petition was filed in the Hon’ble Supreme Court since there was a non-implementation of the directions issued by the Hon’ble Supreme Court in the case of *Gaurav Kumar Bansal*. In light thereof, the meeting was held by the Chief Secretary of State of Maharashtra, and a report was submitted to the Hon’ble Supreme Court on behalf of the State of Maharashtra. It was stated in the report that the State Government is considering creating halfway homes and rehabilitation homes as a permanent mechanism. In the meeting under the Chairmanship of the Chief Secretary, it was decided that with due coordination with the Public Health Department, the Commissioner for Persons with Disabilities, a revised proposal of a road map for setting up halfway homes and rehabilitation homes needs to be prepared with the approval of the Cabinet. It was stated that a temporary measure needs to be taken to create halfway homes and rehabilitation homes. However, this Action Taken Report was of 24 July 2021. The affidavit in reply was filed in the contempt petition pending before the Hon’ble

Supreme Court on 6 December 2021. These are not recent documents. In reply, in this PIL, reference was made only to six institutes and accommodation of 130 persons in the same.

84. A Government Resolution dated 1 September 2023 issued by the Department of Disability Welfare was placed on record concerning the contempt petition pending before the Hon'ble Supreme Court. This Government Resolution creates 16 rehabilitation centres and lays down a methodology for the steps to be taken for release from the rehabilitation centres. It was stated in the first phase that there would be 16 rehabilitation centres. Appendix to the Government Resolution dated 1 September 2023 lays down the responsibilities of the head of the rehabilitation centre and other persons associated with it.

85. During the hearing on 11 October 2023, rehabilitation of the patients fit to be discharged was considered. As regards the issues that were raised by us in the earlier order and were to be taken in the meeting for detailed consideration, the same was referred to in clause-3 of the minutes of the meeting, which read thus:

- “1. Patient data should be in one format; there shouldn't be separate data for the same variables.*
- 2. As per the Hon. High Court's directions, a representative of the Social welfare department attended a meeting of SMHA. Dr.Prachi Chivate explained the discharge process of the fit patients. Undersecretary, PwD Welfare department explained the GR issued on 1st September 2023 about*

accommodating discharged persons from Mental Hospitals.

3. There is a need to address the issue of schooling of adult Intellectually disabled persons who have been discharged from mental hospitals.

4. As per Hon., the High Court gave directions regarding addressing the issue of discharged patients effectively. SMHA members gave inputs about involving grassroots-level health workers in the comprehensive plan. Hon. Commissioner, sir, instructed to make a comprehensive and holistic plan for rehabilitation of patients living with mental illness with the active involvement of a psychiatrist from MHRB and District Health Officer.”

86. Thus, on this crucial issue of rehabilitation of cured patients all that transpired in the meeting was that some members of the Authority gave inputs of grassroots-level health workers in the comprehensive plan. The Commissioner was asked to make a holistic plan for the rehabilitation of patients living with mental illness. Nothing was concluded in the meeting. Even for a mere outline of the plan, the State Mental Health Authority informed the Court that details would be provided on the next date. Thus, even as of 11 October 2023, the Authority still lacked a comprehensive plan or a road map. The actions of the Authority were not commensurate with the gravity of the issue. Without keeping in mind that the Authority has lost substantial time to reach its goal because it started functioning with a five-year delay, the State Mental Health Authority stated that each case would be examined independently on its own merits. The Act of 2017 contemplates

creation of halfway homes, shelter accommodation, supported accommodation and hospital and community-based rehabilitation establishments. No data is placed before us regarding shelter accommodations, support accommodations, and hospital- and community-based rehabilitation establishments. The state government was directed to place all the data before us.

87. On 8 November 2023, two affidavits were placed before us regarding two meetings held on 13 October 2023 and 23 October 2023. The affidavit filed on 5 November 2023 by the Chief Executive Officer, State Mental Health Authority, emphasized the long-stay issue. The affidavit would reveal that even as of 5 November 2023, a plan for systematic reunion/ rehabilitation of long-stay patients was still at the draft stage. Then, by affidavit dated 7 December 2023, information of all mental health hospitals, Thane, Pune, Nagpur and Ratnagiri, was placed on record. The Commissioner for Persons with Disabilities provided a chart for compiling the detailed information of patients to be rehabilitated on 3 December 2023. In the meanwhile, that the mental health hospital at Pune had rehabilitated 42 patients in the halfway homes and attempted the reunion of six patients through a conventional system of escorting the patients.

88. A draft Action Plan was finally placed on record, in which, the Authority has classified the patients fit for discharge into two

broad categories. Category-A- those whose relatives are existent. Category-B- those whose relatives are not known. The draft Action Plan reads thus:

“Once patient is treated and certified by 2 independent psychiatrist as fit for discharge, then relatives will be communicated about the same.

- *For patients staying above 180 days , three reminders by the psychiatric social service superintendent to the relatives of patient through telephonic calls/electronic messages/letter at their place at an interval of 8 days will be sent.*
- *Psychiatric nurse along with social service superintendent will use all their skills to establish a good rapport with relatives in order to understand basic cause of delay in taking discharge.A detailed case by case individualized study will be done by them to recognize the psychodynamics between family members and know their interpersonal relations .*
- *Relatives should be educated about the triggers of psychiatric illness and the precipitating factors and how to overcome them.*
- *Proper psychoeducation of relatives of patients about remitting nature of illness will be done and that it can be controlled on medications and with proper social support ,relapse rate would reduce will be counselled hereof.*
- *A maximum of one month will be given for social service superintendent for detailed workout of each case from date declared fit by 2 independent psychiatrist.*
- *During this process following are major hurdles faced by social service superintendent:*

Authority has classified classify patients fit for discharge into categories :

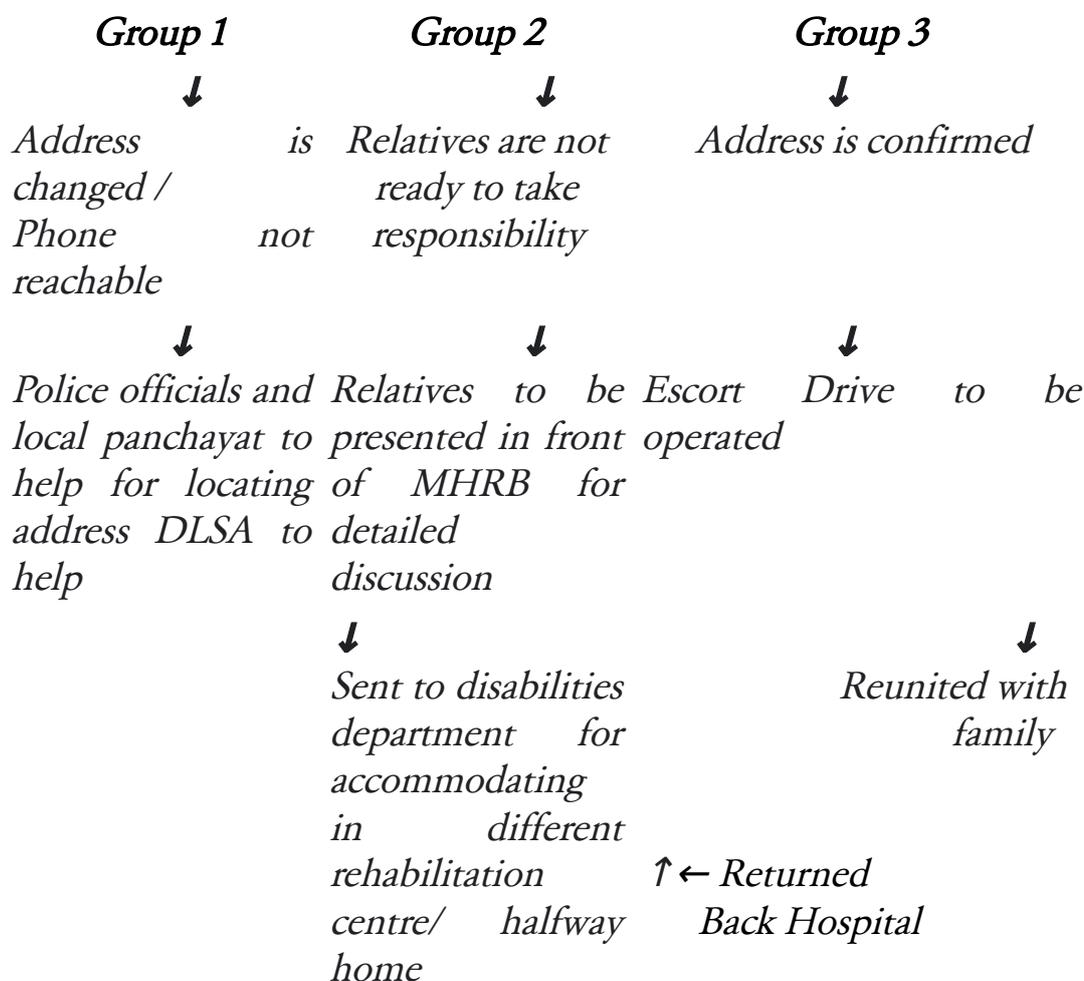
- a) *Those whose relatives are existent*

b) *hose whose relatives are not known*

Escort drive is concept wherein patients fit for discharge are sent home in an ambulance accompanied by the mental health professionals with proper care , safety and coordination .They are sent twice a week in batches of 3 to 4 per batch to their homes.

Category A

includes (Relatives are existent) the following groups



- *For **Address confirmed** cases **group 3**, an attempt could be done through escort drive to reunite the patients with their*

families.

Inspite of that if patients return back from home for those not accepted by family members, then they would qualify for Group 2 wherein to discuss this patient in front of MHRB and as the decision of board happens direct them to disability department and put in rehabilitation centre accordingly.

- *For the group of patients whose address and relatives are confirmed but because of various reasons like: (**Group 2**)*

Those who have admitted are not the direct relatives of patient.

Those who have admitted are incapable of taking care due to financial constraints or social cause (eg. Sister is married in family and parents are no more alive.no one to take care of patient brother.)

Those relatives who have medical reasons at home (eg.they have undergone surgery and require medical supervision.It would be difficult to take care of psychiatric patient along with the operated patient)

After discussion in MHRB for all possible options wherein police officials and DLSA have done efforts, these patients will be sent to rehabilitation centres through disabilities department. Later on patients can get reunited with family members from rehab centres/halfway homes.

- *For **group 1** ,where address is changed or phones are not reachable,social service superintendent should take the help of police department and other concerned government agencies at their respective place.*
- *Police department should extend cooperation as regards to tracking the addresses of patients and putting legal pressure on relatives for accepting patient.*

- *District Legal Service authority also need to assist in process of discharging patient to relatives who are reluctant to take them home.*
- *In the above process, concerned social service superintendent along with treating psychiatrist should inform the mental health review board where the patient’s residence fall in jurisdiction .MHRB along with DMHP team should accelerate the pace of tracking the relatives of patients.*
- *For **Category B***
- *(those who are found wandering and homeless and unknown patients brought by police)*

We request the police department to establish a common portal for unknown patients and all mental hospitals to upload the photo and information of unknown patients on that portal. That would ease the process of finding the family and place where patient belongs to and accelerate the pace of reuniting with their families located anywhere in the country through the medium of portal. In order to safeguard the identity of patients ,this portal should be accessed only by mental hospitals ,police officials and concerned government agencies.

Incharge of concerned police station should report to the concerned MHRB on monthly basis about the progress of discharge of patients.

At Present following table shows data of all patients more than 6 months but less than 10 years:

<i>Name of Regional Mental Hospital</i>	<i>No of patients from 6 months to 10 years</i>
<i>THANE</i>	<i>302</i>
<i>NAGPUR</i>	<i>128</i>

<i>PUNE</i>	<i>331</i>
<i>RATNAGIRI</i>	<i>25</i>

An attempt will be made to discharge a total of 50 to 70 patients from each mental hospital either to homes or to rehabilitation centres/halfway homes in each month.

As mentioned, patients in group 1 and group 3 wherein efforts become unsuccessful and those from group 2 whose relatives are not ready to take responsibility, they need to be discussed in Mental Health Review Board meeting. After the approval from the Board, they need to be sent to rehabilitation centre or halfway homes through Disabilities department.

A monthly report will be sent from respective regional mental hospital of the patients who need to be sent to rehabilitation centre through social disabilities department within 3 days of MHRB meeting .

Social disabilities department need to revert within 7 working days of receipt of the eligible data and pass order for accommodating these patients in different rehabilitation centres.

As soon as allocation of proper rehabilitation centre is done, patients should be shifted from mental hospital to that respective centre within a span of 7 working days

After the discharge of patient :

Community based services which are functional will aid in the process of recovery of patient as below:

1.DMHP (District Mental Health Program): *A team of psychiatrist, psychiatric social worker, psychiatric nurse is posted at every district hospital. A total of 10 beds are reserved*

for psychiatric admissions at each district civil hospital. The objectives of program are :

- *Early detection & treatment of mental illness at the District Hospital Level and below (OPD/ Indoor & follow up) within community itself.*
- *To provide sustainable basic mental health services and to integrate these health services into the community with general health services.*
- ***Training** of Medical Officers, Community Health Workers, Nurses, Pharmacists of CHC and PHC for integration of mental healthcare in general health care, for increasing reach of mental healthcare and to facilitate early diagnosis and management and follow-up of chronic cases.*
- ***Community awareness-** Awareness generation to increase help seeking behaviour and address stigma and discrimination faced by mentally ill people.*
- ***Inter-sectoral linkages-** with schools and colleges and **Outreach** clinics and camps*
- ***Psychotropic drugs, equipment, IPD services** and ambulatory support.*

This is broadly the outline of the Rehabilitation Plan.

89. Under 100 of the Act of 2017, every officer in charge of a police station has a duty to take any person found wandering at large under protection whom, the officer believes has a mental illness and is incapable of taking care of himself. Every person taken into protection must be taken to the nearest public health establishment as soon as possible to assess the person's healthcare needs. The medical officer in-charge of the public health establishment is responsible for assessing the person, and the needs of the person with mental illness are to be addressed as per other

provisions of this Act as applicable in the particular circumstances. Other steps to be taken are also mentioned under this provision.

90. The State Mental Health Authority has suggested the police department to establish a common portal for unknown patients and all mental hospitals to upload the photo and information of unknown patients on that portal. That would speed up the process of finding the family and place where patient belongs to and accelerate the pace of reuniting with their families located anywhere in the country through the portal. In order to safeguard the identity of patients, this portal should be accessed only by mental hospitals, police officials and concerned government agencies. The regional mental establishments must send their monthly reports to the rehabilitation centre through the Social Disabilities Department within three days of the Mental Health Review Board meeting. Once the necessary data for accommodating patients in different rehabilitation centres is received, the Social Disabilities Department must inform the State Mental Authority within seven days. After the rehabilitation centre is allocated, patients should be transferred from the mental health establishments to their respective centres within seven days.

91. What was placed before us by the State Mental Health Authority reproduced above is a draft of the rehabilitation plan. The State Mental Health Authority has to prepare a comprehensive plan of rehabilitation of cured persons with mental illness. The plan

should provide the procedure for identification of such mentally cured persons, segregation of mentally ill persons who are cured on a degree of illness as far as possible for rehabilitation and approval to the halfway homes, and provisions be made for uniform distribution. The action plan should specify each Authority's roles and stage-wise rehabilitation process. The action plan should be flexible to cater to individual needs. The State Mental Health Authority can invite input from different stakeholders, such as mental health professionals and non-governmental organizations working in this field, so that the plan can be comprehensive. The State Mental Health Authority should initiate the collection of primary data. There is a lack of essential data. Without basic data, systematic efforts are not possible. All relevant government organizations should supply the necessary data required by the State Mental Health Authority to perform their duties under the Act of 2017. More particularly, cooperation from the Police Authorities and the Commissioner of Disabilities Welfare is necessary.

92. The next aspect is the involvement of the Maharashtra State Legal Services Authority.

93. The National Legal Services Authority has framed a scheme titled NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015. The NALSA Scheme contemplates that the State Legal Services Authority and a Board of Visitors would review the persons in these hospitals, homes and

facilities to ascertain whether there are any cured persons staying there whose families appear reluctant to take them back or are themselves not able to contact their families. The Scheme contemplates that whenever the State Legal Services Authorities / District Legal Services Authorities or Board of Visitors find such inmates, these authorities must take necessary steps to facilitate restoration, including providing legal representation in Court to seek orders for restoration of the cured person with the family. Various measures are provided under the Scheme. The details are reproduced herein below :

“(i) Legal services institutions shall during their visits to the psychiatric hospitals or homes or facilities ascertain through interaction with inmates, doctors and staff as to whether any of the persons admitted there are victims of forced admission or not. In such cases, legal services shall be given to such persons for their release from the psychiatric hospitals or homes or facilities.

(ii) SLSAs/DLSAs should setup Legal Services Clinics at the psychiatric hospitals, homes and facilities in order to provide legal assistance wherever required to the Mentally ill/ mentally disabled persons and their families to address legal issues concerning the mentally ill and mentally disabled persons.

(iii) Such a legal clinic should be manned by Para Legal Volunteers and Panel Lawyers who are sensitive to such issues and persons.

(iv) It would be quite appropriate to train the doctors, nurses and other para medical staff/administrative staff at the mental health facilities as Para Legal Volunteers so that the best legal services can be provided keeping in mind the welfare of the mentally ill/mentally disabled persons.

(v) The Clinic should also help in ensuring that the homes meant for the mentally ill and mentally disabled persons have all facilities, including for learning appropriate skills for independent and/or assisted living and earning. The legal services institutions may approach the Government, and if necessary the High Court for appropriate directions, to ensure the availability of such facilities.

(vi) The Legal Services Institutions should also connect the mentally disabled persons with the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities so that benefits provided under the "National Trust For Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999" are assured to these persons and their families.

(vii) Legal Services Institutions should involve through the PLVs the para medical staff/administrative staff and doctors at the mental health facilities to identify the relatives and homes of those patients in relation to whom such facts are not available on record and take appropriate steps through the different legal services institutions to reach to the relatives of the patients to

facilitate re-union of the patients with the near an dear ones.

(viii)Patients, who are housed in mental health centres, homes and facilities, away from their domicile and home, must be considered for providing legal assistance to ensure their transit to mental health centres, homes and facilities nearer to their native place. This can be done with the involvement of SLSAs and DLSAs.”

X X X

94. It is clear to us that if the efforts of the Maharashtra Legal Services Authority under the Scheme are coordinated with those of the State Mental Health Authority, it would aid in resolving the issues highlighted in this PIL substantially. Legal Services Authority will assist in discharging the patients to relatives who are reluctant to take them home. It needs to be noted that the NALSA (Legal Services to the Mentally III and Mentally Disable Persons) Scheme, 2015 is based on the Mental Health Act, 1987 and the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The Mental Health Act, 2017 and the Rights of Persons with Disabilities Act, 2016 have now replaced these two enactments. The Scheme will have to be brought in consonance with these new enactments. The State Legal Services Authority informed us that a communication has already been addressed with the National Legal Services Authority to take corrective measures.

95. The State Legal Services Authority pointed out that as per the Scheme framed by NALSA titled “*Legal Services to Mentally Ill and Medically Disabled Persons Scheme 2015*”, jail visits are also contemplated. The State Legal Services Authority stated that the Legal Services Authority do not have expertise in the subject of dealing with mental illness. The State Legal Services Authority stated that as and when the Authority plans visits to the jails, information would be given to the State Mental Health Authority to coordinate efforts. Both Authorities would examine the statutory provisions and then decide on a plan of action so that there was no conflict with any statutory provisions or authority vested with this task.

96. The State Mental Health Authority has informed that to coordinate efforts in that regard, whenever the statutory meetings of the State Mental Health Authority would be held, the representative of the State Legal Services Authority in the context of the Scheme of National Legal Services Authority would be invited as a special guest. The representative of the State Legal Services Authority stated that they are ready to coordinate with the State Mental Health Authority in that regard. This is more so because under Section 27 of the Act of 2017, a person with mental illness is entitled to receive free legal aid to exercise any of his rights given under this Act. Section 27 is defined as under :

“27. Right to legal aid.- (1) A person with mental illness shall be entitled to receive free legal

services to exercise any of his rights given under this Act.

(2) It shall be the duty of magistrate, police officer, person in charge of such custodial institution as may be prescribed or medical officer or mental health professional in charge of a mental health establishment to inform the person with mental illness that he is entitled to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987) or other relevant laws or under any order of the Court if so ordered and provide the contact details of the availability of services".

Therefore, since under Section 27 of the Act of 2017, this duty is placed upon the Maharashtra State Legal Services Authority, coordination between it and the State Mental Health Authority is necessary. A protocol can be developed where if the State Legal Services Authority comes across any person (including one in jail) with mental issues, steps can be taken as per the Act of 2017 and correspondingly, if any mentally ill person requires legal assistance and legal aid, the Maharashtra State Legal Services Authority can provide the same. It would be appropriate that both these Authorities develop a protocol for collaboration.

97. The Maharashtra State Legal Services Authority would consider an action plan for the year to focus on the right to legal aid to persons with mental illness as a separate initiative in consonance with the Scheme framed by the National Legal Services Authority. While planning its activities, the Maharashtra State Legal Services Authority should give special emphasis to creating an awareness

programme with respect to providing legal aid for persons with mental illness to achieve the objective of Section 27 of the Act of 2017.

98. The learned Counsel for the Maharashtra State Legal Services Authority has urged us to also look into the issue of Prisoners with Mental illness. Section 2 (1)(w) of the Act of 2017 defines a prisoner with mental illness as a person with mental illness who is an under-trial or convicted of an offence and detained in a jail or prison. Section 103 of the Act of 2017 deals with prisoners with mental illness. Section 103 of the Act of 2017 reads as under :

“Section 103. Prisoners with mental illness. -

(1) An order under section 30 of the Prisoners Act, 1900 (3 of 1900) or under section 144 of the Air Force Act, 1950 (45 of 1950), or under section 145 of the Army Act, 1950 (46 of 1950), or under section 143 or section 144 of the Navy Act, 1957 (62 of 1957), or under section 330 or section 335 of the Code of Criminal Procedure, 1973 (2 of 1974), directing the admission of a prisoner with mental illness into any suitable mental health establishment, shall be sufficient authority for the admission of such person in such establishment to which such person may be lawfully transferred for care and treatment therein:

Provided that transfer of a prisoner with mental illness to the psychiatric ward in the medical wing of the prison shall be sufficient to meet the requirements under this section:

Provided further that where there is no provision for a psychiatric ward in the medical wing, the prisoner may be transferred to a mental health

establishment with prior permission of the Board.

(2) The method, modalities and procedure by which the transfer of a prisoner under this section is to be effected shall be such as may be prescribed.

(3) The medical officer of a prison or jail shall send a quarterly report to the concerned Board certifying therein that there are no prisoners with mental illness in the prison or jail.

(4) The Board may visit the prison or jail and ask the medical officer as to why the prisoner with mental illness, if any, has been kept in the prison or jail and not transferred for treatment to a mental health establishment.

(5) The medical officer in-charge of a mental health establishment wherein any person referred to in sub-section (1) is detained, shall once in every six months, make a special report regarding the mental and physical condition of such person to the authority under whose order such person is detained.

(6) The appropriate Government shall setup mental health establishment in the medical wing of at least one prison in each State and Union territory and prisoners with mental illness may ordinarily be referred to and cared for in the said mental health establishment.

(7) The mental health establishment setup under sub-section (5) shall be registered under this Act with the Central or State Mental Health Authority, as the case may be, and shall conform to such standards and procedures as may be prescribed”.

(emphasis supplied)

The Rights of Persons with Mental Illness Rules, 2018, also provide for the right to legal aid under Rule 7. Under Rule 11, the mental

health establishment where the prisoner with mental illness is detained must conform to the minimum standards and procedures as prescribed.

99. Some of the aspects highlighted by the State Legal Services Authority as above may not strictly fall within the ambit of this Public Interest Litigation. The NALSA (Legal Services to the Mentally III and Mentally Disabled Persons), 2015 Scheme also includes a visit to jails apart from legal aid given to the prisoners. The State Legal Services Authority will chalk out a programme to complement the efforts of the State Government and the State Mental Health Authority in furtherance of the Act of 2017 in pursuance of the Scheme.

100. The Maharashtra State Legal Services Authority has furnished the statistics regarding the prisoners in the State of Maharashtra. It is not necessary to reproduce all the data regarding the number of prisoners and the occupancy, etc. The Prison Statistics India 2021, published by the National Crime Records Bureau, Ministry of Home Affairs, contains these figures. We, however, note that the Advisory is issued by the National Human Rights Commission, which is sent to all Chief Secretaries of the State Governments and Union Territories on 19 June 2023. The Advisory states that the prisons in the country have seen a significant number of deaths through suicide in recent years due to various reasons, which include

mental health issues. The Advisory covers various aspects pertinent to the matter at hand.

101. Section 31 of the Act of 2017 provides for training for medical officers in prison. The Advisory stipulates the training of prison staff as under :

“2. Training of Prison staff

a) A component of mental health literacy must be included in the basic training of Prison staff. This needs to be supplemented with refresher training every three years. A suitable supervisory officer to be designated as the Mental Health Officer and assigned to ensure such training.

b) The curriculum of such a component of mental health literacy in the basic and refresher training of Prison staff must be prepared at the State level in collaboration with a government mental health institution & other experts.

c) The Prison staff be trained for administering PFA (Psychological First Aid). PFA is a training program to identify, understand and respond to signs of mental illnesses and substance abuse disorders to enable trainees to develop "the skills to reach out and provide initial help and support to an inmate developing a mental health or substance use problem or experiencing a crisis.

d) Selected Prison staff in each Prison barrack be trained in providing Cardiopulmonary Resuscitation & First Aid (CPR), particularly for handling attempted hanging, bleeding through self inflicted cuts or on ingesting toxic substances.

c) They also be trained to inform the trained medical staff immediately and to shift the patient to the closest medical facility”.

The State Government should consider these recommendations.

102. The State Legal Services Authority has placed on record a communication received from the Prison Authority on 5 October 2023 in response to its query regarding Section 103 of the Act of 2017 as under :

“1. Presently there are psychiatric wards in Yerwada Central Prison and Nashik Road Central Prison in Maharashtra. As per the guidelines made by the Public Health Department, Home Department, Government of Maharashtra letter dated 31st August, 2023, this office have informed all the prisons in the state to follow the guidelines regarding The Mental Health Care Act 2017. The process of registering the psychiatric was under Section 65 of the Mental Health Care Act 2017 is in process.

2. At present, a total of 05 posts of psychologists are sanctioned out of which 2 posts at Nagpur Central Prison, 01 post at Borstal School, Nashik and 02 posts at Yerwada Central Prison, Pune to treat the mentally ill prisoners regularly.

3. Likewise, 03 posts of psychiatrists have been sanctioned i.e. one post in Nagpur Central Prison, one post in Mumbai Central Prison and one post in Yerwada Central Prison. In other prisons, psychologists and psychiatrists from the nearest government hospital/ government medical college visit the prison regularly for the treatment of mentally ill prisoner.

4. In view of the current number of prisoners in all the Prisons of Maharashtra, it is approved in principle to sanction 07 additional posts of psychologists and 06 posts of psychiatric. A final order is being issued by the government in this regard.

5. Psychologists and psychiatrists from the nearest government hospital or government medical college treat psychiatric patients in prisons which do not have psychiatric wards and if necessary, on the recommendation of the Mental Health Review Board, but with the prior approval of the state government under section 93 of the Mental Health Care Act 2017, mentally ill prisoners are admitted to the Regional Mental Health Establishment.

6. Wide this office letter dated 14/9/2023, as per the guidelines of the Public Health Department, all the Prison Establishments have been informed to submit the quarterly report to the concerned Mental Health Review Board certifying that, there is no prisoner with mental illness is lodged in the prison. Also informed to submit six monthly report to the authority regarding the physical and mental condition of the mentally ill prisoners admitted to the Psychiatric Ward in the prison.

7. As per section 65 of the Mental Health Care Act 2017, Mental Health Establishments in prisons should be registered and instructions have been given to all the prisons in Maharashtra that it should be maintained through proper procedures and standards.

(emphasis supplied)

103. Though we refer to all these provisions and guidelines regarding prisoners with mental illness, we intend to examine only a

limited aspect because the subject is broad and requires a separate Petition by itself. Given the large number of prisoners in Maharashtra, in principle, the proposal to sanction seven additional posts of psychologists and 6 posts of psychiatrists is approved, a timeline for issuing the final orders is required. Schedule to the Advisory includes minimum standard for mental healthcare in prison, as per Rule 11 of the Rights of Persons with Mental Illness Rules, 2018. Some of the minimum standards are required prompt and proper identification of persons with mental health problems in the prison, mandatory physical and mental status examination for identification of persons with serious mental illnesses, protocols for dealing with prisoners with suicidal risk and crisis relating to mental illness, implementation of National Mental Health Program in prison, providing trained four counsellors for every 500 prisoners etc. The State should examine these recommendations and incorporate them if feasible.

104. The Act of 2017 grants rights to individuals with mental illness and fixes responsibilities for the designated authorities. The State Mental Health Authority is the Nodal Authority for ensuring the effective enforcement of this Act in Maharashtra. Without an active and functional State Mental Health Authority, the Act of 2017 will remain on paper. Even after two years, the essential data is still lacking, and there is no clear road map for the rehabilitation of recovered patients. The Act assigns responsibility to both the State Government and the State Mental Health Authority to achieve its

objectives. It is imperative for the State Government to fulfil its obligations concerning rehabilitation and funding for the State Mental Health Authority.

105. Now that the State Mental Health Authority has commenced working through various court orders, it must diligently carry out its responsibilities, especially because of the significant delay of almost four years. Though we have passed various orders over two years, this Court cannot be expected to replace the State Mental Health Authority and perform its function, nor should the Authority rely on the Court to oversee its work. The role of the Court in a Public Interest Litigation is primarily to strengthen the existing mechanism so that it performs efficiently. By issuing various directions, we intend to achieve the said objective. The responsibility now lies on the State Mental Health Authority and the State Government to ensure that the objectives of the Act regarding persons with mental illness are met with a fully manned and adequately functioning State Mental Health Authority. We hope and trust that the State Mental Health Authority, departments of the State of Maharashtra and all the governmental agencies involved will work together to ensure that the adequate mental healthcare services are provided to individuals suffering from mental illness in the State.

106. In view of the above discussion and as a culmination of the various orders over a period of two years, we close the proceedings in the PIL with the following directions:

- (i) The State Mental Health Authority shall prepare a comprehensive plan/ protocol for the rehabilitation of cured patients within six months from today. It is open for the State Mental Health Authority to invite inputs from other stakeholders, such as mental health professionals and non-governmental organizations working in this field. The rehabilitation plan/ protocol should be reasonably flexible to adapt to the individual needs. The protocol/ plan will delineate the duties and responsibilities of all the agencies involved in the process of rehabilitation.
- (ii) Till the comprehensive protocol for rehabilitation is developed by the State Mental Health Authority as above, the draft comprehensive plan stated in paragraph no. 88 be followed. Following this plan and as stated therein, an attempt should be made to discharge at least 50 to 70 patients, who are ready to be so discharged from each mental health establishment to either their family homes or the rehabilitation centre/ halfway homes, each month. A monthly report from the regional mental establishments be sent to the rehabilitation centres through the Disabilities Welfare Department. After necessary data is received for accommodating patients in different rehabilitation centres, the Disabilities Welfare Department will inform the State Mental Authority preferably within seven days. After the rehabilitation centre is allocated, the patients

should be shifted from the mental health establishments to the respective centre, preferably within seven days. We place the responsibility of adhering to this requirement on the In-charge of the concerned mental health establishments to ensure that no patient certified fit to be discharged and is allotted a rehabilitation centre remains in the mental health establishments for more time than necessary for procedural formalities.

- (iii) During the rehabilitation process, while transferring the patients to the halfway homes, efforts should be made to ensure that the patients are distributed evenly as far as possible. For that purpose, the State Mental Health Authority shall develop norms and protocols for even distribution within six months from today.
- (iv) The State Mental Health Authority shall take steps to register all mental health establishments except those referred to in Section 43 and maintain and publish (including online) a register of such establishments within a period of six months from today. The State Authority shall develop quality and service provision norms for different types of mental health establishments in the State and upload the same on its website within a period of four months.

- (v) The State Mental Health Authority shall, within one month, initiate the process for registering clinical psychologists, mental health nurses and psychiatric social workers in the State, as mental health professionals, and publish the list of such registered mental health professionals in such a manner as may be specified by regulations by the State Authority and preferably complete the process of registration within a period of eight months.
- (vi) The State Mental Health Authority shall regularly hold its meetings, which shall not be less than four times in a year, as per the provisions of Section 56 of the Act of 2017. The State Mental Health Authority will consider inviting the representatives of the State Legal Services Authority, Jail Authorities and Police Authorities for its statutory meeting concerning their subject so that a coordinated effort can be achieved to tackle the issues arising under the Act of 2017.
- (vii) The State Mental Health Authority shall prepare the Annual Report as prescribed under Rule 16 of the State Mental Health Authority Rules, 2018, read with Form E appended to the State Mental Health Authority Rules, 2018 by the end of December of every year. We place the responsibility of adhering to the mandate under Sections 63 and 64 of the Act of 2017 on the Chief Executive Officer of the State Mental Health Authority.

- (viii) The State Mental Health Authority will create its dedicated website within four months. The website will have a feedback mechanism. The State Mental Health Authority will upload the final Annual Report under Section 64 of the Act of 2017 on its website in the public domain to enable other entities to aid and assist the State Mental Health Authority based on the official data, subject to Sections 23 and 24 of the Act of 2017, rights to confidentiality and restrictions on release of information regarding mental illness and such other sensitive data.
- (ix). The State Mental Health Authority shall initiate the drive to collect basic data necessary for the effective implementation of the Act of 2017 from the authorities of the State Government and non-governmental organizations. These authorities and organizations shall supply necessary data as required by the State Mental Health Authority. Refusal to do so without justifiable reason will be considered a breach of the order of this Court. The State Mental Health Authority will issue necessary instructions to the authorities/ organizations accordingly.
- (x) The State Mental Health Authority, as per Section 55 (e) of the Act of 2017, shall develop a protocol for training all concerned persons, that is, law enforcement officials, mental health professionals and other health professionals, about the

provisions and implementation of the Act within four months from today. The State Government shall render all necessary assistance to the State Mental Health Authority for developing the protocol for the training program.

- (xi) The State Mental Health Authority will regularly conduct workshops and seminars to sensitize stakeholders, such as the Police Department, Child Welfare Committees, Non-Governmental Organizations working in mental health, jail authorities, etc., regarding the Act of 2017.
- (xii) The State Mental Health Authority will issue mandatory directions to all Mental Health Establishments to prominently display posters emphasising on the Rights of Persons with Mental Illness with the helpline and toll-free numbers.
- (xiii) Under Section 18 (3) of the Act of 2017, the State Government is mandated to make sufficient provision for a range of services required by persons with mental illness, including provisions for halfway homes. In furtherance of this, at least six additional halfway homes should be created as early as possible within four months.
- (xiv) The State Government Fund should take its commitment under Sections 61 and 62 of the Act of 2017 seriously and make efforts to maintain adequate funds in the State Mental Health Authority Fund to ensure that the State Mental Health

Authority can function at its fullest capacity and its activities are not hampered by a lack of funds. We grant liberty to the State Mental Health Authority to file an application if necessary, directions are required in this regard.

- (xv) The State Government, along with the State Mental Health Authority, will prepare a draft plan of action within four months for the beneficiaries stipulated under Chapter V of the Act of 2017 to be made aware of their rights, including the contingency of cases where they cannot be made fully aware of their rights because of their disabilities.
- (xvi) In pursuance of the composition of the Authority under Section 46 of the Act of 2017 and under Section 49 of the Act of 2017, the State Government is under obligation to fill up vacancies in time. As per Section 49, the State Government shall make nominations for filling vacancies within two months from the date of occurrence and within three months of the anticipated vacancy. Considering that a fully functional State Authority was not established for almost four years since the Act of 2017 came into force, the State Government shall in future ensure that the vacancies in the State Mental Health Authority are filled up in time.
- (xvii) The State Government will issue necessary directions to establish a common portal for unknown patients and all mental health establishments to upload the photos and

information of unknown patients to accelerate the process of reuniting with families located anywhere in the country. This portal be made accessible only to mental health establishments, police officials and concerned government agencies. The process for creating the portal be initiated in consultation with the State Mental Health Authority within three months.

- (xviii) The State will issue necessary instructions to the In charge of every police station (as applicable) to report to the concerned Mental Health Review Boards on a monthly basis regarding the progress of discharge of patients.
- (xix) The State Government shall initiate the process of filling the sanctioned additional posts of psychologists and psychiatrists at the jails within three months and ensure that the process of filling anticipated vacancies of psychologists and psychiatrists attached to jails is initiated four months in advance.
- (xx) The State Government will examine the recommendations in the Advisory issued by the National Human Rights Commission dated 19 June 2023 for its implementation as feasible. More particularly, the recommendations regarding minimum standards for mental healthcare in prisons. These include prompt and proper identification of persons with mental health problems in the prisons; mandatory physical

and mental status examination of prisoners; identification of persons with serious mental illnesses; protocols for dealing with prisoners with suicidal risks and crisis related to mental illness; implementation of National Mental Health Program in the prison and providing four trained counsellors for every 500 prisoners.

(xxi) Mental Health Review Boards constituted under Section 73 of the Act of 2017 shall ensure that the Board assembles as regularly as possible, preferably every month, considering the importance of the issue and the pendency of the matters before the Boards. The chairpersons of the Board will ensure that the meetings are held regularly and that pendency in the Board does not delay/hamper the rehabilitation process.

(xxii) The Maharashtra State Legal Services Authority and State Mental Health Authority will develop a protocol for cooperation amongst them to deal with the issues highlighted in this PIL and arising under the Act of 2017 and the NALSA scheme, within four months. For example, the State Mental Health Authority can furnish the Legal Services Authority with a list of counsellors, psychiatrists, and psychologists who are required to deal with trauma victims, and paralegal volunteers attached to the Legal Services Authorities can assist in collecting the data for the State Mental Health Authority.

- (xxiii) We place the responsibility for developing the above protocol through joint meetings on the Member Secretary of the Maharashtra State Legal Services Authority and the Chief Executive Officer of the State Mental Health Authority.
- (xxiv) The Maharashtra State Legal Services Authority would consider placing a special emphasis on creating an awareness of legal aid available to the persons with mental illness to achieve the objective of Section 27 of the Act of 2017. The Maharashtra State Legal Services Authority will examine the feasibility of the District Legal Services Authority assisting in discharging the patients to relatives who are reluctant to take them home and, if feasible, issue guidelines and modalities in that regard.
- (xxv) We direct that all Police Authorities of the State, the Commissioner of Disabilities Welfare, and other concerned departments and governmental and non-governmental organizations, within the ambit of their duties and functions, to cooperate with the State Mental Health Authority to perform its duty under the Act of 2017 and for compliance of these directions. If faced with a lack of cooperation, we grant liberty to State Mental Health Authority to apply for suitable directions.
- (xxvi) All interim directions in consonance with the above directions shall continue as final directions.

107. We grant the Petitioner, the State Mental Health Authority, and the Maharashtra Legal Service Authority liberty to apply for any further directions arising from the subject matter as above.

108. Rule made absolute in above terms.

109. The Public Interest Litigation is accordingly disposed of.

110. We place on record our sincere appreciation for the assistance rendered by Mr. J.P. Sen, the learned Senior Advocate, *Amicus Curie* and all the advocates for the appearing parties.

111. The judgment began with case X, and we end it on a positive note. During the hearing of the PIL, X was reunited with her family, as we were informed.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)