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In the Court of State Commissioner for Persons with Disabilities
National Capital Territory of Delhi
25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi
Phone-011-23216002-04, Telefax: 011-23216005,
Email: comdis.delhi@nic.in
[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

Case No. 1040/1141/2019/07 5012-13

Dated: 30/8/19

In the matter of:

Suo-Motu

..... Complainant

Versus

The Secretary,
Deptt. of Health & Family Welfare,
GNCT of Delhi, 9th Level, A-Wing
Delhi Secretariat,
New Delhi-110002.

..... Respondent

Date of Hearing: 29.08.2019

Present: Dr. Nimesh G. Desai, Director, Sh. Deepak Kumar, DMS and
Sh. Amitabh Raj, IHBAS and Dr. Yogesh Kataria on behalf of
the respondent.

ORDER

State Commissioner for Persons with Disabilities had taken a suo-motu cognizance of a newspaper report in the Hindustan Times dated 29.07.2019 regarding the Mental Health Review Boards (MHRB) to be constituted by the State Authority under Section 73 of the Mental Healthcare Act, 2017 (MHA, 2017) have not been constituted.

2. Section 73(1) of the MHA, 2017 provides that "*The State Authority shall, by notification constitute Boards to be called the Mental*

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

Health Review Boards (MHRB), for the purposes of this Act". As per Section 45 of the said Act, "Every State Government shall, within a period of nine months from the date on which this Act receives assent of President by notification, establish for the purposes of this Act, an Authority to be known as the State Mental Health Authority."

3. Section 77(1) of the said Act provides, "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, being aggrieved by the decision of any of the mental health establishment or whose rights under this Act have been violated, may make an application to the Board seeking redressal of appropriate relief".

4. As non-constitution of the MHRBs in the NCT of Delhi has the potential to adversely affect the rights of persons with mental illness in NCT of Delhi, the matter was taken up with the respondent vide Show Cause-Cum-Hearing Notice dated 30.07.2019 under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act and a hearing was scheduled on 29.08.2019.

5. Dr. Nimesh G Desai, Director, Institute of Human Behaviour & Allied Sciences (IHBAS) and Member Secretary / CEO, State Mental Health Authority (SMHA) vide letter dated 28.08.2019 informed that a detailed reply in WP(C) No. 6952/2019 in the matter of Mr. Amit Sahni Vs GNCTD has been prepared and will be filed in the Hon'ble High Court after approval of the Competent Authority. He also enclosed a detailed note which explains the implications of MHA, 2017 and the

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

action taken for implementation of the provisions of the said Act including constitution of MHRBs.

6. The list of activities undertaken by the SMHA, Delhi has also been summarised as under:

“ACTIVITIES UNDERTAKEN BY STATE MENTAL HEALTH AUTHORITY (SMHA), DELHI, AFTER IMPLEMENTATION OF MENTAL HEALTHCARE ACT 2017.

S.No	ACTIVITIES	DETAILS
1.	SMHA Secretariat	As per the decision of the SMHA meeting held on 5 th June, 2018, SMHA Secretariat continues to function at IHBAS, with Director, IHBAS who was Member Secretary continuing to work as CEO, SMHA. No additional or new staff has been sanctioned as yet and so the IHBAS staff manages the SMHA office.
2.	HOW Workshops	Two “Handholding Orientation Workshops” (HOW) were held on 12 th & 19 th , 2018 for registered Private Psychiatric Hospitals/ Nursing Homes and Govt. Hospitals providing psychiatric facilities (GHPUs) regarding implementation of MHA, 2017.
3.	“Transition Oversight Committee”	As per the decision taken in the Special Meeting of SMHA held on 5 th June, 2018, a Transition Oversight Committee” for implementation of MHA 2017 was formed on 25 th July, 2018. Discussions have been ongoing with the committee members.
4.	Mental Health Review Board (MHRB)	One order from the Saket District Court Dated 17.07.2018 was followed and MHRB was constituted and the report submitted to Hon’ble Court.
5.	Registration of Psychiatric Hospitals/ Nursing Homes.	Provisional Registration issued to 31nos Psychiatric Hospitals/ Nursing Homes.
6.	Registration of Centres providing Substance Use Disorder Treatment and Rehabilitation	Application received – 49 Centres Provisional Registration issued – 38 Centres.
7.	“Minimum Standards” for Regulation of Centres providing Substance Use Disorder Treatment and Rehabilitation under SMHA	The minimum standards have been notified in the State of Delhi on 18 th September 2018 and a draft of Minimum standards for other groups of Mental Health Establishments has been developed and pending further course of action

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

8.	Round Table Discussions with Centres providing Substance Use Disorder Treatment and Rehabilitation	Till date 4 Round Table discussions have been conducted for Sensitisation, Training & Registration with SMHA under MHA 2017
9.	"National Seminar for Homeless Persons with Mental illness (PMIs) and other Unreached PMIs"	The National Seminar was organized on 5 th and 6 th January, 2019 by IHBAS & SMHA, Delhi with IPS, NALSA & DSLSA.
10.	"Manual regarding duties of police officers to deal with persons with mental illness"	A draft manual has been prepared by Delhi Police in Collaboration with IHBAS & SMHA Delhi and is pending approval from Commissioner of Police, Delhi.

7. It is also observed from the papers that the SMHA under the chairmanship of Principal Secretary (H&FW) has already been constituted and Saket District Court has also passed orders in this connection.

8. Dr. Nimesh G. Desai, Director, IHBAS himself joined the hearing alongwith Dr. Deepak Kumar, DMS and Sh. Amitabh Raj, SMHA office staff on 29.08.2019 and stated that while the action as detailed in the written reply is in the process, it is being ensured that the care and treatment of persons with mental illness is not adversely affected on account of transition from MHA, 1982 to MHA, 2017. An Oversight Committee has also been constituted for this purpose.

9. Since the matter is already before the Hon'ble High Court of Delhi, this case is disposed of in this Court with the recommendation that rights of persons with mental illness are not adversely affected on account of the absence of any mechanism provided for in the MHA, 2017 and the MHRBs as mandated in the MHA, 2017 be constituted without any further delay, as it appears from the submissions made on

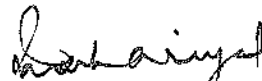
Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Main Sunderi Road, New Delhi-02

behalf of the respondent that most of the ground work has already been done.

10. The status / action taken report in the matter be intimated to this Court as required under Section 81 of the Act.

11. Given under my hand and the seal of the Court this 30th day of August, 2019.




(T.D. Dhariyal) 30.8.19

State Commissioner for Persons with Disabilities

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sunderi Road, New Delhi-02

Copy to: Dr. Nimesh G. Desai, Director, Institute of Human Behaviour and Allied Sciences, Post Box No. 9520, Dilshad Garden, Delhi-110095.