**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.19702 of 2021**

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Akanksha Maviya

... ... Petitioner/s

Versus

The Union of India & Ors. ... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Vishal Kumar Singh, Advocate
Mr. Akash Keshav, Advocate
Mr. Deepak Kumar Singh, Advocate
Mr. Shashwat, Advocate

For the Respondent/s : Mr.Dr. K. N. Singh ( ASG )
Mr. S.D. Yadav, AAG-9
Mr. Kumar Priya Ranjan, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE S. KUMAR**

ORAL ORDER

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)**

4 10-02-2022 Mental Health Care Act, 2017 (hereinafter referred to as the Act) was notified on 7th of April, 2017. The object and purpose of the Act was to provide for mental healthcare and services for persons with mental illness. Also to protect, promote and fulfil the rights of such persons during delivery of mental healthcare.

The Act is divided into XVI Chapters. Chapter-VIII specifically deals with the establishment and composition of the State Authority, to be termed as the "State Mental Health Authority". The composition of such authority in terms of Section-46 has to be of

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certain persons specified therein. The functions of the authority, as specified under Section-55 of the Act, are, inter alia, to- (a) develop quality and service provision norms for different types of mental health establishments in the State; (b) supervise all mental health establishments in the State and receive complaints about deficiencies in provision of services; (c) register 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 manner as may be specified by regulations by the State Authority; (d) train all relevant persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of this Act; (e) discharge such other functions with respect to matters relating to mental health as the State Government may decide.

Shockingly, as is now evident from the affidavit filed by the State, the said authority has yet not been constituted. Also as to whether there was one under the repealed Mental Health Act, 1987 is not clear from the response.

It appears that mental health of a person and/or treatment of those who are in need, more so during the time of Covid-19, is the least priority of the State Government.

The purpose behind the enactment, as we have already noticed, is to provide mental healthcare and services to persons in need whose mental condition stands determined in terms of Chapter-

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II of the Act.

We notice that such step for establishing the authority commenced only in the year 2020, that too, with the publication of an advertisement in the Newspaper and since then nothing has been done to expedite the process. Even the affidavit filed does not disclose the time-limit within which such process would be completed. We refer to para 8 of affidavit dated 22.01.2022 filed by Additional Director, Health, Bihar, Patna. The averments are as vague as they can be. It is only averred that "applications were received under the above-mentioned advertisements and the same are under consideration, but due to Covid-19 Pandemic effect, the same are still in the process of finalization". What is that stage? How much time it would take to complete? Who all are engaged in the selection process? are all questions left to be answered by ones own imagination.

We only remind the Government that Covid-19 was declared as a 'Pandemic' only on 24th of March, 2020 and since then despite the first, the second and the third wave, which fortunately we have been able to overcome despite the adversities; challenges; and the hardships, all institutions/establishments/organs of the State have become fully operational and functional.

It is in this backdrop, we are constrained to direct the Chief Secretary, Government of Bihar, to forthwith take all steps ensuring establishment of the authority as stipulated under Section-45 of the

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Act.

Let an affidavit of compliance indicating the latest status, be filed by the Chief Secretary, Government of Bihar, before the next date.

We also expect the Chief Secretary, Government of Bihar to indicate the steps taken for complying with the other provisions of the Statute; the deficiencies pointed out by the petitioner in the writ petition; and the suggestion given for proper and effective implementation on expeditious basis.

Shri S.D. Yadav, learned AAG 9, undertakes to communicate the order during the course of the day.

List on 25.02.2022 as item No.1.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

K.C.Jha/-

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