IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2805 of 2026

==========

Court on its own motion Regarding matter relates to the Inspection Report

... ... Petitioner/s

Versus

The State of Bihar & Ors.

... ... Respondent/s

==========

Appearance :
For the Petitioner/s : Mr. X
For the Respondent/s : Mr. P.K. Shahi, A.G.
For the Union of India : Dr. K.N. Singh, Senior Advocate
Mr. Amish Kumar, Advocate

==========

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 18-02-2026 This suo motu Public Interest Litigation has been initiated pursuant to the report dated 17.02.2026 submitted by the learned Member Secretary, Bihar State Legal Services Authority (hereinafter referred to as "BSLSA"), which is an inspection report with respect to the shortcomings of mental health facilities in the State of Bihar and at the Bihar State Institute of Mental Health and Allied Sciences (BIMHAS), Koelwar, Bhojpur.

2. It appears that BSLSA prepared a Minimum Action Plan for conducting legal awareness programmes through the District Legal Services Authorities of the State of Bihar for the period from January 2026 to December 2026. As per the

WEB COPY

calendar of BSLSA, 14.02.2026, which was a second Saturday, was fixed for an awareness programme under the NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015.

3. On that day, some of the Hon'ble Judges of this Court, including one of us (Hon'ble the Chief Justice), along with the learned Registrar General, Patna High Court; the learned Member Secretary, BSLSA; the learned Principal District & Sessions Judge-cum-Chairman, District Legal Services Authority, Bhojpur at Ara; and the Health Secretary, Government of Bihar, along with others, visited BIMHAS for streamlining the legal awareness programme. Accordingly, a report was directed to be prepared highlighting the shortcomings found in BIMHAS so as to take a balanced and holistic approach to address such shortcomings.

4. In the report, it has been highlighted as follows:

(i) In the State of Bihar, the Bihar State Institute of Mental Health and Allied Sciences (BIMHAS) in Koelwar, Bhojpur, is the sole State-run institution dedicated to mental health, with a current inpatient capacity of only 180 beds. An additional hospital with 140 beds is under

WEB COPY

construction within the campus. However, given Bihar's vast population and expansive geographical area, this single facility is inadequate. The high prevalence of mental health issues in the State necessitates the establishment of multiple institutes or branches of BIMHAS across different regions;

(ii) The Mental Illness Cured Home (MI Home), established by the Social Welfare Department under the directives of the Honourable Supreme Court, currently has a limited capacity of only 50 beds for male patients and 50 for female patients. This is grossly insufficient. As a result, many cured or stabilized psychiatric patients face delays in social rehabilitation, prolonging their institutionalization and hindering their reintegration into society. The capacity needs to be expanded for both males and females;

(iii) All medical colleges and district hospitals in Bihar need to establish dedicated facilities or wards for homeless (Lawaaris) individuals suffering from mental illnesses. Currently, there is

WEB COPY

a lack of such specialized accommodations, leaving vulnerable populations without proper shelter or treatment during recovery;

(iv) There is a notable lack of coordination between the Social Welfare Department and other government agencies regarding the rehabilitation of homeless or Lawaaris patients following their successful treatment. As a consequence, even after full recovery, these individuals often remain unnecessarily hospitalized due to insufficient support networks;

(v) There is an urgent need to implement comprehensive training and vocational programmes for cured or stabilized psychiatric patients to equip them with employable skills;

(vi) The government is also required to actively promote and encourage the employment of cured or stabilized psychiatric patients under various government schemes and programmes;

(vii) A rest house with sufficient capacity needs to be constructed within the campus of BIMHAS to accommodate patients traveling from distant

WEB COPY

parts of the State or even other regions of the country for their treatment, along with their attendants;

(viii) The approach road leading to BIMHAS needs to be widened to a four-lane configuration to handle increased traffic and improve accessibility. Currently, the narrow road causes congestion, delays in emergency transport, and safety hazards, especially for ambulances and patients with mobility issues;

(ix) The operation of the Balu Ghat (sand mining site) and sand storage facilities in the vicinity of the hospital needs to be halted immediately. The constant movement of heavy trucks poses a significant risk to the safety of mentally ill patients and staff, with daily footfall exceeding 400 individuals. These vehicles create noise pollution, dust, and potential accident hazards, which can exacerbate mental health conditions and disrupt therapeutic environments. Relocating these activities would prioritize patient well-being and comply with health and

WEB COPY

safety regulations;

(x) The playground at BIMHAS needs to be developed on a priority basis to include modern amenities such as sports fields, exercise equipment, and recreational spaces. A well-maintained playground would be integrated into rehabilitation programmes, encouraging outdoor activities and contributing to a holistic treatment approach;

(xi) A park needs to be established on the site of the demolished old buildings within the BIMHAS campus to enhance the campus's aesthetic appeal, support eco-therapy initiatives, and offer a communal area for patients, staff, and visitors to unwind;

(xii) The old TB (Tuberculosis) hospital buildings on the BIMHAS campus need to be demolished promptly, as they are likely outdated, potentially hazardous, and occupying valuable space that could be repurposed for modern facilities;

(xiii) The boundary wall of the BIMHAS

WEB COPY

hospital campus needs to be repaired and strengthened on a priority basis to ensure security and prevent unauthorized access;

(xiv) Afforestation and greenery initiatives need to be implemented across the entire BIMHAS campus in collaboration with the Forest Department. A greener campus would support mental health through nature-based interventions, reduce urban heat effects, and align with environmental sustainability goals, ultimately benefiting patients' recovery and well-being.

5. Section 18, 19, 20, 21, and 27 of the Mental Healthcare Act, 2017 (hereafter referred to as the '2017 Act') read as follows:-

Section 18 : Right to access mental healthcare.—

(1) Every person shall have a right to access mental healthcare and treatment from mental health services run or funded by the appropriate Government.

(2) The right to access mental healthcare and treatment shall mean mental health services of affordable cost, of good quality, available in sufficient quantity, accessible geographically, without discrimination on the basis of

WEB COPY

gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class, disability or any other basis and provided in a manner that is acceptable to persons with mental illness and their families and care-givers.

(3) The appropriate Government shall make sufficient provision as may be necessary, for a range of services required by persons with mental illness.

(4) Without prejudice to the generality of range of services under sub-section *(3)*, such services shall include-

(a) provision of acute mental healthcare services such as outpatient and inpatient services;

(b) provision of half-way homes, sheltered accommodation, supported accommodation as may be prescribed;

(c) provision for mental health services to support family of person with mental illness or home based rehabilitation;

(d) hospital and community based rehabilitation establishments and services as may be prescribed;

(e) provision for child mental health services and

WEB COPY

old age mental health services.

(5) The appropriate Government shall,-

(a) integrate mental health services into general healthcare services at all levels of healthcare including primary, secondary and tertiary healthcare and in all health programmes run by the appropriate Government;

(b) provide treatment in a manner, which supports persons with mental illness to live in the community and with their families;

(c) ensure that the long term care in a mental health establishment for treatment of mental illness shall be used only in exceptional circumstances, for as short a duration as possible, and only as a last resort when appropriate community based treatment has been tried and shown to have failed;

(d) ensure that no person with mental illness (including children and older persons) shall be required to travel long distances to access mental health services and such services shall be available close to a place where a person with mental illness resides;

WEB COPY

(e) ensure that as a minimum, mental health services run or funded by Government shall be available in each district;

(f) ensure, if minimum mental health services specified under sub-clause *(e)* of sub-section are not available in the district where a person with mental illness resides, that the person with mental illness is entitled to access any other mental health service in the district and the costs of treatment at such establishments in that district will be borne by the appropriate Government:

Provided that till such time the services under this sub-section are made available in a health establishment run or funded by the appropriate Government, the appropriate Government shall make rules regarding reimbursement of costs of treatment at such mental health establishment.

(6) The appropriate Government shall make available a range of appropriate mental health services specified under sub-section *(4)* of section 18 at all general hospitals run or funded by such Government and basic and emergency mental healthcare services shall be available at all community health centres and upwards in the public

WEB COPY

health system run or funded by such Government.

(7) Persons with mental illness living below the poverty line whether or not in possession of a below poverty line card, or who are destitute or homeless shall be entitled to mental health treatment and services free of any charge and at no financial cost at all mental health establishments run or funded by the appropriate Government and at other mental health establishments designated by it.

(8) The appropriate Government shall ensure that the mental health services shall be of equal quality to other general health services and no discrimination be made in quality of services provided to persons with mental illness.

(9) The minimum quality standards of mental health services shall be as specified by regulations made by the State Authority.

(10) Without prejudice to the generality of range of services under sub-section *(3)* of section 18, the appropriate Government shall notify Essential Drug List and all medicines on the Essential Drug List shall be made available free of cost to all persons with mental

WEB COPY

illness at all times at health establishments run or funded by the appropriate Government starting from Community Health Centres and upwards in the public health system:

Provided that where the health professional of ayurveda, yoga, unani, siddha, homoeopathy or naturopathy systems recognised by the Central Government are available in any health establishment, the essential medicines from any similar list relating to the appropriate ayurveda, yoga, unani, siddha, homoeopathy or naturopathy systems shall also be made available free of cost to all persons with mental illness.

(11) The appropriate Government shall take measures to ensure that necessary budgetary provisions in terms of adequacy, priority, progress and equity are made for effective implementation of the provisions of this section.

Explanation.—For the purposes of sub-section (11), the expressions—

(i) "adequacy" means in terms of how much is enough to offset inflation;

(ii) "priority" means in terms of compared to other budget heads;

(iii) "equity" means in terms of fair allocation of resources taking into account the health, social and

WEB COPY

economic burden of mental illness on individuals, their families and care-givers;

(iv) "progress" means in terms of indicating an improvement in the State's response.

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

WEB COPY

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.

Section 20: Right to protection from cruel, inhuman and degrading treatment.—

(1) Every person with mental illness shall have a right to live with dignity.

(2) Every person with mental illness shall be protected from cruel, inhuman or degrading treatment in any mental health establishment and shall have the following rights, namely:—

(a) to live in safe and hygienic environment;

(b) to have adequate sanitary conditions;

(c) to have reasonable facilities for leisure, recreation, education and religious practices;

(d) to privacy;

(e) for proper clothing so as to protect such person from exposure of his body to maintain his dignity;

(f) to not be forced to undertake work in a mental health establishment and to receive appropriate

WEB COPY

remuneration for work when undertaken;

(g) to have adequate provision for preparing for living in the community;

(h) to have adequate provision for wholesome food, sanitation, space and access to articles of personal hygiene, in particular, women's personal hygiene be adequately addressed by providing access to items that may be required during menstruation;

(i) to not be subject to compulsory tonsuring (shaving of head hair);

(j) to wear own personal clothes if so wished and to not be forced to wear uniforms provided by the establishment; and

(k) to be protected from all forms of physical, verbal, emotional and sexual abuse.

Section 21 : Right to equality and non-discrimination.—

(1) Every person with mental illness shall be treated as equal to persons with physical illness in the provision of all healthcare which shall include the following, namely:-

WEB COPY

(a) there shall be no discrimination on any basis including gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability;

(b) emergency facilities and emergency services for mental illness shall be of the same quality and availability as those provided to persons with physical illness;

(c) persons with mental illness shall be entitled to the use of ambulance services in the same manner, extent and quality as provided to persons with physical illness;

(d) living conditions in health establishments shall be of the same manner, extent and quality as provided to persons with physical illness; and

(e) any other health services provided to persons with physical illness shall be provided in same manner, extent and quality to persons with mental illness.

(2) A child under the age of three years of a woman receiving care, treatment or rehabilitation at a mental health establishment shall ordinarily not be separated

WEB COPY

from her during her stay in such establishment:

Provided that where the treating Psychiatrist, based on his examination of the woman, and if appropriate, on information provided by others, is of the opinion that there is risk of harm to the child from the woman due to her mental illness or it is in the interest and safety of the child, the child shall be temporarily separated from the woman during her stay at the mental health establishment:

Provided further that the woman shall continue to have access to the child under such supervision of the staff of the establishment or her family, as may be appropriate, during the period of separation.

(3) The decision to separate the woman from her child shall be reviewed every fifteen days during the woman's stay in the mental health establishment and separation shall be terminated as soon as conditions which required the separation no longer exist:

Provided that any separation permitted as per the assessment of a mental health professional, if it exceeds thirty days at a stretch, shall be required to be approved by the respective Authority.

(4) Every insurer shall make provision for medical

WEB COPY

insurance for treatment of mental illness on the same basis as is available for treatment of physical illness.

Section 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.

The **NALSA (Legal Service to Persons with Mental Illness and Persons with Intellectual Disabilities) Scheme, 2024** provides as follows.-

5.1 Specialised Legal Services Unit for Persons with Mental Illness and Persons with Intellectual Disabilities in every District

WEB COPY

5.1.1 Legal Services Unit: Manonyay

5.1.1.1 The SLSA will setup a **Legal Services Unit for Persons with Mental Illness & Persons with Intellectual Disabilities called 'Manonyay' (LSUM)** in each District, to be headed by the Secretary, DLSA.

5.1.1.2 The Secretary, DLSA with the approval of the Chairman, DLSA shall depute at least six panel lawyers and ten para legal volunteers to be part of the LSUM.

5.1.1.3 The Chairman, DLSA shall also nominate one retired judicial officer to be a part of LSUM.

5.1.1.4 The Deputy Legal Aid Defence Counsel in the District shall be a member of the LSUM.

5.1.1.5 The Secretary, DLSA with the approval of the Chairman, DLSA shall depute one lawyer and two para legal volunteers, from the existing panels at the TLSC, who will be a part of the LSUM.

5.3 Provision of Legal Services to persons

WEB COPY

with Mental Illness and Persons with Intellectual Disabilities.

5.3.1 Legal Services at Mental Health Establishments

5.3.1.1 The Secretary, DLSA, on the directions of the Chairman, DLSA. may establish a legal services clinic, to be termed as the ***Mano Nyay*** **Legal Services Clinic**, in MHEs, where deemed appropriate.

6. In the case of **Sukdeb Saha -Vs.- State of Andhra Pradesh, reported in A.I.R. 2025 S.C. 3458**, the Hon'ble Supreme Court has held as follows:-

"31. Mental health is an integral component of the right to life Under Article 21 of the Constitution of India. This Court has, in a consistent line of precedents, affirmed that the right to life does not mean mere animal existence, but a life of dignity, autonomy, and well-being. Mental health is central to this vision. In Shatrughan Chauhan v. Union of India MANU/SC/0043/2014 : 2014:INSC:46 : (2014) 3 SCC 1 and Navtej Singh Johar v. Union of India MANU/SC/0947/2018 :

WEB COPY

2018:INSC:790 : (2018) 10 SCC 1, this Court recognised mental integrity, psychological autonomy, and freedom from degrading treatment as essential facets of human dignity Under Article 21 of the Constitution of India. Further, the Mental Healthcare Act, 201722, a rights- based legislation, reinforces this constitutional mandate by recognising every person's right to access mental healthcare and protection from inhuman or degrading treatment in mental health settings. Section 18 of the MH Act guarantees mental health services to all, and Section 115 of the MH Act explicitly decriminalises attempted suicide, acknowledging the need for care and support rather than punishment. These provisions read with judicial precedents reflect a broader constitutional vision that mandates a responsive legal framework to prevent self-harm and promote well-being, particularly among vulnerable populations such as students and youth."

WEB COPY

7. In the case of **Gaurav Kumar Bansal -Vs.- Mr. Dinesh Kumar & Ors. (CONMT. PET. (C) No. 1653/2018 in W.P.(C) No. 412/2016)**, the Hon'ble Supreme Court, by order dated 25.02.2019, has held as follows:-

> *"7. For ensuring availability of rehabilitation halfway homes in the districts:*
>
> *(i) State Governments must either expand their existing homes or construct new homes at their own cost and provide facilities as per the 'Rehabilitation Homes' Guidelines approved by the Supreme Court.*
>
> *(ii) Another way out is for the States/UTs to encourage NGOs in their States to set up rehabilitation homes or even expand the existing homes run by NGOs. The State Government may provide financial assistance to the NGOs towards this objective or seek the assistance of the Central Government for the same. The Central Government already has a scheme to fund such NGOs on the recommendation of State Government (Project*

WEB COPY

Halfway Homes). The State Governments may give wide publicity to this Central scheme.

8. In certain States, some NGOs/community-based organizations have been providing remarkable services in the area of rehabilitation of mentally ill persons. The State Governments may involve them to supplement their own efforts.

9. Assistance is required to be elicited from police departments of various States, in order to register FIRs and make efforts to trace the families of de-institutionalized persons, and to include the details of such persons in national missing persons databases.

8. Issue notice to the **(i)** Principal Secretary, Health Department; **(ii)** Secretary, State Mental Health Authority, Bihar; **(iii)** Director, Bihar Institute of Mental Health and Allied Sciences (BIMHAS); **(iv)** DG of Police, Bihar; **(v)** I.G. of Prisons ; and **(vi)** Union of India.

9. The concerned authorities are to submit their responses on the following aspect:

WEB COPY

i) Whether any Mental Health Review Board has been constituted in accordance with Section 73 of the 2017 Act?

ii) If so, what are the functions being discharged by such Board under section 82 of the 2017 Act?

iii) How Bihar Institute of Mental Health and Allied Sciences (BIMHAS) is performing its duties and carrying out its responsibilities relating to the admission and treatment of persons with mental illness? What provisions have been made by the Hospital Authorities for supplying free food to the patients and attendants, medicines and to maintain the cleanliness and hygiene of the hospital and to create a positive environment?

iv) DG of Police shall submit a report regarding the duties performed by police officers of different police stations of the State in respect of persons with mental illness and their protection as envisaged under section 100 of 2017 Act, and also, I.G. of Prisons in respect of the prisoners with mental illness as per section 103 of 2017 Act;

v) The Member Secretary, Bihar State Legal Service

WEB COPY

Authority (BSLSA) shall submit a report regarding the legal aid facilities provided to the persons with mental illness and particularly to those who are coming for treatment to BIMHAS;

vi) The Principal Secretary, Health Department shall submit a report regarding the steps taken by the government for rehabilitation of the persons with mental illness after their recovery and discharge from the Hospital;

vii) Report shall also be submitted by the State through a Responsible Officer regarding the steps taken to address the issues highlighted in the report of the Member Secretary, BSLSA.

10. Mr. P.K. Shahi, learned Advocate General and Dr. K.N. Singh, learned Additional Solicitor General, Government of India are present.

11. Ms. Anukriti Jaipuriyar and Mr. Raju Patel, Advocates, are appointed as *Amicus Curiae*.

12. The Registry shall make the necessary arrangements for the visit of the learned *Amicus Curiae* to BIMHAS before the next date of hearing, who, in turn, shall submit a report regarding the shortcomings and

WEB COPY

requirements noticed, if any, so also provide their valuable suggestions to address the issues.

13. Let a copy of the report furnished by the learned Member Secretary, BSLSA along with the order passed today, be forwarded to the respective authorities for submission of their responses. A copy shall also be handed over to the learned Advocate General, the learned Additional Solicitor General representing the Union of India, and the learned *Amicus Curiae*.

14. List this matter on **16.03.2026** along with C.W.J.C. No. 19702 of 2021.

15. On the next date, **(i)** the Principal Secretary, Health Department; **(ii)** the Secretary, State Mental Health Authority, Bihar; **(iii)** the Director, Bihar Institute of Mental Health and Allied Sciences (BIMHAS); **(iv)** DG of Police, Bihar; and **(v)** the I.G. of Prisons shall remain present virtually.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

Neha/-

U			

WEB COPY