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Mr. Ranjan Mukherjee, AOR

Mr. T. R. B. Sivakumar, AOR

Ms. Astha Sharma, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 On 10 February 2020, when these proceedings were last listed before this Court, before the onset of the Covid-19 pandemic, it was recorded that the status report of the Union of India indicates that there were certain discrepancies between the data submitted by the States/Union Territories and the data with the Task Force. A meeting was convened on 24 February 2020 to carry out the reconciliation and this Court was to be apprised on 13 April 2020 about the progress, in a status report.
- 2 Ms Madhavi Divan, learned Additional Solicitor General, states that as a result of the outbreak of the Covid-19 pandemic, no progress could effectively be made and a letter has been addressed on 5 July 2021 by the Ministry of Social Justice and Empowerment to all the States/Union Territories convening a meeting on 12 July 2021.
- 3 We are of the view that the progress in implementing the judgment of this Court and the Mental Healthcare Act 2017 has been tardy and it is time that the matter is taken up with utmost alacrity by the Union Government.

- 4 At this stage, we direct all States/Union Territories through the Chief Secretaries to ensure that due representation is made at the meeting which is convened by the Union Government through the Department of Social Justice on 12 July 2021. A status report should be filed before this Court at least a week before the next date of listing.
- 5 At this stage, it becomes necessary to highlight certain crucial issues which have emerged before this Court.
- 6 First, the onset of Covid-19 has precipitated the hardships faced by persons facing mental illness in terms of access to medical care and treatment.
- 7 Mr Gaurav Kumar Bansal, petitioner in person, has submitted and, in our view, in justification, that the issue of testing, tracing and vaccinating those suffering from mental illness must be taken up on a priority. Persons who are institutionalized in mental health establishments need to be vaccinated so as to protect them.
- 8 Ms Madhavi Divan has assured the Court that this matter would be taken up with utmost priority. The Department of Social Justice shall take it up immediately with the Ministry of Health and Family Welfare so that suitable instructions are given and a plan is chalked out for all the States/Union Territories for ensuring the vaccination of persons who are institutionalized in mental health establishments.
- 9 Another aspect which is highlighted before this Court is that the State of Maharashtra has decided to shift persons who are institutionalized in mental health establishments to beggar homes/custodial institutions. Mr Gaurav Kumar Bansal has also submitted that deaths are reported to have occurred. Such an approach by the State Government would be contrary to the provisions of the

Mental Healthcare Act 2017.

10 Mr Sachin Patil, learned Standing Counsel appearing on behalf of the State of Maharashtra, has submitted that he would take instructions.

11 While the Standing Counsel may do so, we are categorically of the view that any such action to shift such persons to 'beggar homes'/custodial institutions would be counter productive and contrary to the letter and spirit of the Mental Healthcare Act 2017.

12 We accordingly direct the State of Maharashtra to look into this aspect immediately and ensure that this practice is discontinued.

13 All States and Union Territories shall extend cooperation in complying with the directions in the earlier part of this order. All States and Union Territories shall before the meeting ensure that:

- (i) The discrepancies in the data, as noticed in the earlier order of this Court, are resolved; and
- (ii) A status report on the implementation of the directions in regard to the establishment of Halfway Homes is filed.

14 List the matters on 27 July 2021.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER