

GAHC020002312021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH

Case No. : PIL 4/2021

1:MR.TSIPONGSE THONGER
PRESENT RESIDENT OF MIDDLE P.W.D, KOHIMA DISTRICT - 797001,
NAGALAND

VERSUS

1:THE STATE OF NAGALAND AND ANR
REPRESENTED BY THE CHIEF SECRETARY, CIVIL SECRETARIAT, KOHIMA
- 797004, NAGALAND

2:THE COMMISSIONER AND SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
CIVIL SECRETARIAT
KOHIMA
NAGALAN

Advocate for the Petitioner : NEITEO KOZA

Advocate for the Respondent : GOVT ADV NL

BEFORE
HON'BLE MR. JUSTICE SONGKHUPCHUNG SERTO
HON'BLE MR. JUSTICE S. HUKATO SWU

ORDER

Date : 14-07-2021

(Serto, J)

Heard Ms. Neiteo Koza, learned counsel appearing for the petitioner and also heard Mr. Moa Imchen, learned Sr. Government Advocate appearing for the State respondents.

Keeping in view the country's commitment to follow the convention on rights of persons with disabilities and its optional protocol which was adopted on 3/12/2006 at United Nations Headquarter at New York and which came into force on 3/5/2008, our Parliament passed the Mental Healthcare Act,2017, an act for mental health care and service for persons with mental illness and to protect and promote and fulfill the rights of such persons during delivery of mental healthcare and service and for matters connected therewith or incidental thereto and the same received assent of the President of India on 7/4/2017. As per section 45 of the said Act, every State Government is required to constitute an authority to be known as the State Mental Health Authority within 9 months from the date on which the Act receives the assent of the President and the Authority is to be constituted as per the provision of section 46. Such authority when constituted is responsible for constituting the Mental Health Review Board in all the districts. It appears from the Act that without the constitution of the authority and the board nothing can be initiated for the purpose of implementing the provisions of the Act.

Being concern for the welfare of the mentally challenged people of the State, the petitioner is before this Court praying for a writ of mandamus directing the State respondents to constitute the Mental Health Authority as per the provisions of the Act so that further necessary steps can be taken for the welfare of the mentally challenged people.

Mr. Moa Imchen, learned Sr. Government Advocate submits that he may be given time to find out whether such authority has been already constituted or not.

List the matter again on **28/7/2021**.

On that day Mr. Moa Imchen, learned Sr. Government Advocate shall come instructed as to whether the authority has been constituted or not

and if not, as to why it should not be constituted as per the Act and when it would be constituted.

Sd/-
JUDGE

Sd/-
JUDGE

Comparing Assistant