



	Mr. Amitabh Sinha, Adv. Mr. K.V.Girish Chowdary, Adv.
Arunachal Pradesh	Mr. Abhimanyu Tewari, AOR Ms. Eliza Bar, Adv.
Assam	Ms. Diksha Rai, AOR Ms. Palak Mahajan, Adv.
Bihar	Mr. Abhinav Mukerji, AOR Mrs. Bihu Sharma, Adv. Ms. Pratishtha Vij, Adv. Mr. Akshay Srivastava, Adv.
Chandigarh	Mr. Ankit Goel, AOR
Chhattisgarh	Mr. Manoj Selvaraj, Adv. Ms. Aswathi M.K., AOR
Goa	Ms. Ruchira Gupta, Adv. Mr. Shishir Deshpande, AOR Mr. Anurag Sharma, Adv. Ms. Smriti Verma, Adv.
Gujarat	Ms. Deepanwita Priyanka, AOR
Haryana	Mr. Anil Grover, AAG. Mr. Deepak Thukral, Dy. AG Dr. Monika Gusain, AOR  Mr. Anil Grover, AAG Ms. Noopur Singhal, Adv. Mr. Satish Kumar, Adv. Mr. Rahul Khurana, Adv. Mr. Sanjay Kumar Visen, Adv.  Mr. Ajay Bansal, AAG Mr. Gaurav Yadava, Adv. Mr. S.K. Visen AOR
Himachal Pradesh	Mr. Akshay Amritanshu, Adv. Mr. Ankit Kumar Lal, AOR
Jharkhand	Mr. Kumar Anurag Singh, Adv. Mr. Anando Mukherjee, AOR Mr. Akshat Singh, Adv. Mr. Shwetank Singh, Adv.
J&K	Ms. Taruna Ardhendumauli Prasad, AOR Ms. Deepika Gupta, Advocate
Karnataka	Mr. V. N. Raghupathy, AOR

	Mr. Md. Apzal Ansari, Adv.
Kerala	Mr. Nishe Rajen Shonker, Sr. Adv. Ms. Anu K. Joy, Adv. Mr. Alim Anvar, Adv.
Maharashtra	Mr. Sachin Patil, Adv. Mr. Rahul Chitnis, Adv. Mr. Aaditya A. Pande, Adv. Mr. Geo Joseph, Adv. Mr. C. Aravind, Adv.
Manipur	Mr. Pukhrambam Ramesh Kumar, Adv. Ms. Anupama Ngangom, Adv. Mr. Karun Sharma, Adv.
Meghalaya	Mr. Avijit Mani Tripathi, AOR Mr. Upendra Mishra, Adv. Mr. Chetan Joshi, Adv. Mr. T.K. Nayak, Adv.
Mizoram	Mr. Siddhesh Kotwal, Adv. Ms. Ana Upadhyay, Adv. Mr. Nirnimesh Dube, AOR
M.P.	Mr. Saurabh Mishra, AAG Ms. Samriddhi Jain, Adv.
Nagaland	Mr. K. Enatoli Sema, Adv. Mr. Amit Kumar Singh, Adv.
Odisha	Ms. Sharmila Upadhyay, AOR Mr. Sarvjit Pratap Singh, Adv. Ms. Tanzeela Mubashsharah, Adv. Mr. Gaurav Prakash Pathak, Adv. Mr. Varun Sharma, Adv.
Punjab	Ms. Uttara Babbar, Adv. Mr. Manan Bansal, Adv.
Rajasthan	Dr. Manish Singhvi, Sr. Adv. Mr. Sandeep Kumar Jha, AOR
Sikkim	Mr. Vivek Kohli, Adv. Gen Mr. Sameer Abhyankar, AOR Mr. Narendra Kumar, AOR
Telangana	Mr. S. Udaya Kumar Sagar, Adv. Ms. Sweena Nair, Adv.
Tripura	Mr. Shuvodeep Roy, Adv. Mr. Kabir Shankar Bose, Adv.

Tamil Nadu	Mr. D. Kumanan, Adv. Mr. Sheikh Fakhruddin Kalia, Adv.
Uttarakhand	Mr. Jatinder Kumar Sethi, Dy. AG Dr. Abhishek Atrey, AOR Ms. Vidhyothma Jha, Adv. Ms. Ambika Atrey, Adv. Mr. Akash Giri, Adv. Mr. Shadman Ali, Adv.
U.P.	Ms. Garima Prashad, Sr. Adv./AAG Mr. Vishnu Shankar Jain, AOR
West Bengal	Mr. Suhaan Mukerji, Adv. Mr. Vishal Prasad, Adv. Mr. Nikhil Parikshith, Adv. Mr. Abhishek Manchanda, Adv. Mr. Sayandeep Pahari, Adv. For M/S. PLR Chambers And Co.
A&N	Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, AOR Mr. Mrinal Kanti Mandal, Adv. Mr. Gandeepan, Adv.
Puducherry	Mr. Aravindh S., AOR Mr. A. Lakshminarayanan, Adv.
Allahabad HC	Mr. Yashvardhan, Adv. Mr. Jagjit Singh Chhabra, AOR Mr. Saksham Maheshwari, Adv.  Mr. Tushar Sannu, Adv. Ms. Ankita Bhadouriya, Adv. Mr. Subham Jain, Adv. Mr. Sahil Tagotra, AOR  Ms. Rachana Srivastava, AOR  Mr. P. V. Yogeswaran, AOR  Mr. Rohit K. Singh, AOR Mr. Shree Pal Singh, AOR Ms. Ruchi Kohli, AOR Mr. G. N. Reddy, AOR Mr. Arjun Garg, AOR Mr. Nishant Ramakantrao Katneshwarkar, AOR 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 In pursuance of the previous order of this Court dated 6 July 2021, a status report has been filed by the Department of Empowerment of Persons with Disabilities in the Union Ministry of Social Justice and Empowerment. A review meeting was convened online on 12 July 2021 with the Social Justice Departments of the State Governments/Union Territories, in pursuance of which the status report compiles certain information.
- 2 As regards the vaccination of persons with mental illness in mental health care institutions, the Ministry of Social Justice and Empowerment addressed a communication on 7 July 2021 to the Ministry of Health and Family Welfare. The Ministry of Health and Family Welfare has accordingly directed all the States/Union Territories to ensure the vaccination of mentally ill persons who are lodged in mental health care institutions against Covid-19 on a priority basis by their letter dated 8 July 2021.
- 3 In order to ensure that these directions are complied with, all the States/Union Territories are directed to lay down a time schedule for facilitating the vaccination of all persons who are lodged in mental health care institutions within a period of one month from the date of this order. A progress report shall be filled by every State/Union Territory with the Department of Social Justice and Empowerment of the Union Ministry of Social Justice and Empowerment on or before 15 October 2021 explaining:
  - (i) The steps taken; and

- (ii) The number of persons who have been vaccinated against Covid-19 in mental health care institutions.

The vaccination of the inmates must also be coupled with vaccination of all the service providers as well as health care professionals and other staff associated with these institutions. The progress shall be monitored and details submitted to this Court when a status report is next filed in pursuance of the directions contained in this order.

4 We have heard Mr Gaurav Kumar Bansal, petitioner-in-person, who has appeared in support of the contempt petition and Ms Madhavi Divan, Additional Solicitor General. We have also heard Mr Sachin Patil, counsel for the State of Maharashtra and Ms Garima Prasad, Senior Counsel for the State of Uttar Pradesh.

5 Mr Gaurav Kumar Bansal has highlighted certain issues which need to be flagged in this order since they are of significance for the future course of action.

6 As regards the establishment of Half-way Homes, it is not sufficient to re-designate existing establishments as Half-way Homes merely to demonstrate that there has been compliance with the orders of this Court. Many state governments are doing this. In fact this amounts to a breach of the directions and we place all states/UTs on notice of this position.

7 As we have noticed earlier, the State of Maharashtra had decided to shift about 186 persons who were overstaying in mental health care institutions to 'beggar homes' or, as the case may be, old age institutions. After the above issue was highlighted by this Court in the previous order, a letter was addressed on 21 July 2021 to the Chief Secretary of the State Government to expedite the process of shifting these persons from beggar homes/old age homes to Half-way Homes.

The State of Maharashtra has since filed a brief note through Mr Sachin Patil. The note states that there were a total of 215 cured patients who had overstayed in mental health institutions, of which 186 were temporarily shifted to old age homes, women's hostels and beggar homes until the establishment of Half-way and Rehabilitation Homes takes place. A meeting was held by the Chief Secretary on 14 October 2019, at which a monitoring committee was constituted. Thereafter, on 23 July 2021, a decision has been taken along the following lines:

- (i) Relocate persons who have been cured of mental illness within three months after identifying and contacting NGOs working in mental health services;
- (ii) Until the above exercise is completed, the public health department has taken the responsibility to provide requisite facilities in terms of medical care, counselling and other requirements; and
- (iii) The exercise of establishing Half-way Homes and Rehabilitation Homes is to be completed expeditiously within six months.

8 The modalities which were adopted by the State of Maharashtra of simply pushing the cured patients who were overstaying in mental health care institutions to beggar homes and old age homes is insensitive and leaves much to be desired. This would not fulfill compliance with the earlier directions of this Court. Now, that the State has become alive to its responsibility and has taken action, we direct that the process be taken to its logical conclusion by ensuring that on or before 30 November 2021, the cured persons are duly placed with institutions which are capable of meeting the requirements of such persons who are no longer mentally ill, but are in need of being placed in Half-way Homes so that their rehabilitation and care can be pursued. The State Government shall

also take steps to abide by its undertaking of setting up Half-way Homes and Rehabilitation Homes within a period of six months. In the meantime, it may seek the co-operation of experienced NGOs as suggested.

- 9 The Status Report filed by the Union Government indicates that the State of Uttar Pradesh has simply followed the pattern of re-designating old age homes in each of the 75 districts as Half-way Homes. Again, this does not amount to a valid discharge of its duties and obligations by the State Government of complying with the directions of this Court as well as the provisions of the Mental Healthcare Act 2017. Merely, re-designating the existing old-age homes in all the 75 districts as Half-way Homes is only lip service to the need for having actual Half-way Homes where the requirements of rehabilitation are duly observed. The State of UP must rectify the position within three months and submit its compliance on affidavit.
- 10 We have highlighted the position in the above two States - Maharashtra and Uttar Pradesh to emphasize that there are two separate issues which need to be considered:
- (i) The establishment of Half-way Homes and Rehabilitation Homes must take place on priority across the country by the States/Union Territories and mere re-designation of existing facilities will not serve the purpose; and
  - (ii) The task of rehabilitation will not be subserved by merely relocating the persons who have been cured of mental illness.
- 11 In this context, the guidelines which have been issued by the Union Government which are annexed to the contempt petition provide a detailed blue-print for setting up the homes and for following the model of rehabilitation. We do not find that any genuine progress has been made in that context though different



State Governments have indicated varying time lines for setting up the Half-way Homes.

- 12 We are of the view that it would be necessary for the Union Government to monitor the progress which has been made and to apprise this Court periodically so that the Court is not required to individually take up the case of each State/Union Territory for assessing the progress which has been made.
- 13 Ms Madhavi Divan has suggested that the concern is to ensure that the States take up ownership over the need for setting up of Half-way Homes and for providing rehabilitation for persons who have been cured with mental illness and long term accountability needs to be fastened.
- 14 We direct that the Ministry of Social Justice and Empowerment must set up an online dashboard in which complete details in regard to:
- (i) availability of institutions;
  - (ii) facilities provided;
  - (iii) capacity;
  - (iv) occupancy; and
  - (v) region-wise distribution of the Half-way Homes is made available state-wise and for the UTs. The availability of Half-way Homes must also be reflected in the online dashboard. The data of each State and Union Territory must be uploaded on the dashboard on a real time basis.
- 15 We direct the Union Ministry of Social Justice and Empowerment to formulate and circulate to all States/Union Territories a model format of its online

dashboard. Upon receipt of the communication from the Union Ministry, all States/Union Territories shall provide all relevant data within a period of four weeks thereafter. The data on the online dashboard shall be updated on a real time basis so that all information which is required to be made available is updated in a seamless manner.

- 16 We propose to adjourn the hearing of these proceedings to December 2021. In the meantime, the Ministry of Social Justice and Empowerment shall hold meetings once every month to track the progress which has been made by the States/Union Territories for setting up the Half-way Homes and for the rehabilitation of persons who have been cured of mental illness. The status report shall be filed at least one week before the next date of listing with a copy being circulated in advance to Mr Gaurav Kumar Bansal and other learned counsel appearing in these proceedings. Any recalcitrant administration of a state or UT will be liable to face contempt action.

IA No 107760 of 2021 in Contempt Petition (C) No 1653 of 2018

- 1 Based on certain research studies conducted in 2016 by NIMHANS and by the National Commission for Women in 2020, it has been highlighted that women, who are institutionalized in government run mental health establishments across the country, face violations of human rights which are detailed below:
- (a) Lack of Sanitary Napkins (violation of Section 20(2)(b) of Mental Healthcare Act 2017)
  - (b) Lack of Privacy (violation of Section 20(2)(c) of Mental Healthcare Act 2017)

- (c) Illegal cutting of hair (violation of Section 20(2)(i) of Mental Healthcare Act 2017)
  - (d) Lack of Identity Cards (like UIDAI/Aadhar Card)
  - (e) Lack of Disability Certificates
  - (f) Lack of Disability Pension (violation of Section 24(d)(g) of the RPwD Act 2016)
  - (g) Women institutionalized in Mental Health Establishments (for treatment or rehabilitation purpose) are not allowed to keep their children with them as there is no separate mother-child ward in many of the government run mental health establishments (violation of Section 21(2) of the Mental Healthcare Act 2017 and Section 24(3) of RPwD Act 2016).
- 2 The issues which have been flagged in the above interlocutory application are of serious concern. The Ministry of Social Justice and Empowerment shall specifically raise each of the above concerns which have been expressed in the research studies and as formulated above with the States/Union Territories in the course of the monthly monitoring that has been directed above. Remedial measures shall be taken by all States/Union Territories and compliance shall be reported on affidavit within 3 months.
- 3 Necessary directions shall be issued for taking steps to ensure that the problems which have been highlighted above, are alleviated by the State Governments/Union Territories by taking necessary measures in that regard. Compliance in that regard shall be incorporated in the status report.

4 List the matters on 14 December 2021.

**(SANJAY KUMAR-I)**  
**AR-CUM-PS**

**(SAROJ KUMARI GAUR)**  
**COURT MASTER**