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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6952/2019

AMIT SAHNI

.....Petitioner

Through: Mr. Ankur, Mr. Parth Sharma & Mr.
Vaibhav Mishra, Advs.

Versus

GOVT OF NCT DELHI AND ORS.

.....Respondents

Through: Mr. Tushar Sannu & Mr. Shivraj Singh
Tomar, Advs. for R-1.

Ms. Avnish Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Laavanya Kaushik,
Ms. Aliza Alam & Mr. Mohnish
Sehrawat, Advs. for R-1.

Mr. Sumer Kumar Sethi & Ms. D.
Sharma, Adv. for R-3.

AND

+ W.P.(C) 4468/2021 CM APPL. 52131/2024

SHREYUS SUKHIJA

.....Petitioner

Through: Mr. Mihir Samson, Ms. Vaishnavi
Prasad & Mr. Pradip Kumar Singh,
Advs.

Versus

GOVERNMENT OF NCT OF DELHI AND ORSRespondents

Through: Ms. Avnish Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Laavanya Kaushik,
Ms. Aliza Alam & Mr. Mohnish
Sehrawat, Advs. for R-1.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

12.12.2024

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1. The petitioners have filed the present petitions, *inter alia*, praying that directions be issued to respondent no.1/Government of NCT of Delhi (hereafter *the GNCTD*) to constitute the State Mental Health Authority (hereafter *the SMHA*) as well as the District Mental Health Review Boards (hereafter *the Review Boards*) and for implementing the provisions of the



Mental Health Care Act, 2017 (hereafter *the Act*).

2. The learned counsel appearing for the GNCTD has handed over a Notification dated 27.11.2024 (hereafter *the notification*) whereby the GNCTD has appointed seven Ex-officio members for constituting the Delhi Mental Health Authority. The said notification is set out below:

**“DEPARTMENT OF HEALTH AND FAMILY WELFARE
NOTIFICATION**

Delhi, the 27th November, 2024

F.No.1(12)/SMHA/Court/2021/000711489- “In exercise of the powers conferred under Section 45 and 52 of the Mental Health Care Act, 2017 read with sub-section (a) of section 45D of the Government of National Capital Territory of Delhi Act, 1991 read with S.O. No.3753(E) dated 02.09.2024 issued by Government of India, Ministry of Home Affairs and in supersession of all previous notifications issued in this regard, the Lt. Governor of National Capital Territory of Delhi is pleased to constitute the following **Delhi Mental Health Authority**, namely:-

Sl. No.	NAME/DESIGNATION OF MEMBER	DESIGNATION IN DMHA
1	Principal Secretary or Secretary, H&FW Department, GNCTD (Section 46(1)(a) of MHA 2017)	Chairman Ex-officio
2	Joint Secretary / Special Secretary, H&FW, GNCTD (Section 46(1)(b) of MHA 2017)	Member Ex-officio
3	Director General of Health Services, GNCTD (Section 46(1)(c) of MHA 2017)	Member Ex-officio
4	Joint Secretary, Social Welfare Department, GNCTD (Section 46(1)(d) of MHA 2017)	Member Ex-officio
5	Joint Secretary, Home Department, GNCTD (Section 46(1)(e) of MHA 2017)	Member Ex-officio
6	Joint Secretary, Finance Department,	Member Ex-officio



	GNCTD (Section 46(1)(e) of MHA 2017)	
7	Joint Secretary, Law Department, GNCTD	Member Ex-officio

Note: The non-official members of the State Mental Health Authority would be selected / appointed in due course of time as per guidelines laid down in the Mental Health Care Act, 2017 and the Mental Health Care (SMHA) Rules, 2018 issued by GOI.

By Order and in the Name of the Lt. Governor
Of National Capital Territory of Delhi
DEVENDRA KUMAR UPADHYAY, Dy. Secy.”

3. It is relevant to take note of the notation at the end of the aforementioned notification which states that the non-official members of the SMHA would be selected on being appointed in due course of time as per the provisions of the Act and the Mental Health Care Rules, 2017 (hereafter the *Rules*).
4. The learned counsel appearing for the GNCTD submits that the advertisement for appointment of the non-official members of the SMHA as referred to under Section 46(1) of the Act and the Rules would be issued within next few weeks.
5. Insofar as the appointment of the Review Boards is concerned, Chapter-XI of the Act contain provisions, *inter alia*, regarding Constitution and Composition of the Review Boards. In terms of Section 73(1) of the Act, the State Authority is required to constitute the Review Boards by a notification. The composition of the said Board is spelt out under Section 74 of the Act. Therefore, the said exercise for constituting the Review Boards is required to be conducted only after the Delhi Mental Health Authority is fully constituted.



6. In view of the above, we consider it apposite to dispose of the present petitions by directing the GNCTD to take expeditious steps for filling up the posts of non-official members of the Delhi Mental Health Authority with a further direction that the said Authority, as and when constituted, would take expeditious steps for constitution of the Review Boards in accordance with Sections 73 and 74 of the Act.

7. We further direct that the process of constituting the Delhi Mental Health Authority and the Review Boards shall not be impeded by imposition of Model Code of Conduct in view of ensuing elections for the Delhi State Legislative Assembly. We also grant liberty to the petitioners to revive the present petitions if the Delhi Mental Health Authority fails to comply with the aforesaid directions within the reasonable period of time.

8. The petitions are disposed of in the aforesaid terms.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 12, 2024

‘gsr’

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