

Rakesh Chandra Narayan v. State Of Bihar And Others

Supreme Court of India

8 September, 1994

Citations: AIR1995SC208, 1995(1)BLJR62, JT1994(6)SC30, 1994(3)SCALE1034,
1996(8)SCALEp-33, 1994Supp(3)SCC478

Judges: M Venkatachaliah, S Mohan

ORDER

1. These proceedings concern the working of the Ranchi Manasik Arogyashala respecting the administration of which several earlier orders and directions have been issued by this Court. Presently, the Arogyashala is under the management of a Committee set up by the orders of this Court. On the basis of the reports as to its functioning, the position has since been reviewed by this Court.

2. On 17th May, 1994 the orders were passed in I.As. 3 and 4, the operative part of which reads as under: -

The present administrative set-up at the Ranchi Mental Hospital and control systems need a strong second look. We requested Union Health Secretary to make a comprehensive assessment of the present administrative set-up, and its management. He may meet the concerned officers of the Bihar Govt. and submit to the Court his recommendations for proper administrative set-up for the hospital which, while relieving the administration of the Hospital from procedural red-tape, would also ensure accountability and the discipline of the staff both medical and administrative and ensure maximizing the utility of the institution to the public. We request the Union Health Secretary to submit his views within four weeks from today. He may visit the Hospital and hold a meeting at Ranchi to discuss the matters, with the officers of the State Government. He may also meet, if he thinks it necessary, the present Committee of Management. We suggest that Smt. Hingorani is also invited to the aforesaid meetings giving her sufficient advance notice.

3. Sri M.S. Dayal, Health Secretary has since submitted his report dated 11th July, 1994 (Dayal Report), filed into Court on 13th July, 1994. We have perused the report. We place on record our appreciation of the devoted services of the Health Secretary who has, if we may say so, done an excellent job.

4. In the report, the Health Secretary has struck the right note as to how the question of reconstruction of the administrative set-up of the hospital is to be approached in the following words :

‘I would like to stress that improvements should be effected by looking at the situation as an opportunity for providing high quality of treatment to the needy mentally ill persons, ensuring their social and occupational rehabilitation and eventually developing RMA into an institution that can make substantial contribution to education and research in the field of psychiatry, clinical psychology, psychiatric nursing and psychiatric social work. With this goal in view I am suggesting below certain institutional improvements that are necessary, a scheme for financial support to meet the costs of improvements as well as recurring expenses and a set of rules to govern the administration of RMA, with the observation that the Rules may be amended in the light of experience gained by the new Management Committee.’

5. Referring to the nature and extent of the requisite changes in the administrative setup of the Ranchi Manasik Arogyashala, the Health Secretary states:

‘9. For the administrative set up of RMA, my considered views are given below:

(a) The RMA should be an autonomous institution, managed by the Managing Committee, chaired by the Divisional Commissioner at Ranchi and have a Director in the grade of Rs. 5900-6700 (plus NPA and other allowances and free furnished accommodation) as its Chief Executive Officer.

(b) All the employees of RMA shall be civil servants of the Govt. of Bihar. The Director of RMA should be the appointing and disciplinary authority for all B, C and D group employees of RMA. The Managing Committee should be the Appointing and Disciplinary Authority in respect of all group (A) employees other than the Director of the RMA. The Health Dept. in the State should be the appointing and disciplinary authority for the Director of RMA.

(c) The Managing Committee should have full administrative and financial powers in relation to all the affairs of RMA, including powers to create and abolish posts in RMA.

(d) Additional posts of one Director (Rs. 5900-6700), one Deputy Director (Administration in the grade of Addl. Distt. Magistrate, three senior psychiatrists (Rs. 4500-5700), three junior psychiatrists (Rs. 3000-5000), three senior clinical psychologists (Rs. 4500-5700), three junior clinical psychologists (Rs. 3000-4500); three senior psychiatric- social workers (Rs. 3000-4500) and three junior psychiatric social workers (Rs. 2000-4000) with their personal staff shall be immediately created and filled. The senior-most among the senior psychiatrists should function as Medical Supdt

(e) The rules for the Management of RMA are suggested in the Annex-I. The Managing Committee should frame its own bye-laws. Immediately after the appointment of the Director, the Management Committee should meet and consider, besides various other matters, some issues on an urgent basis like:

(i) discharge of all sane persons from the ward (giving them money for their travel and some pocket expenses initially), seeking the cooperation of their families;

(ii) reducing the number of indoor patients to about 500;

(iii) working out the requirements of additional technical and paraprofessional staff of various categories, including nursing posts, and also the surplus staff particularly in the C & D group categories with the reduction of indoor patients;

(iv) establishing appropriate administrative office with facilities for computerized data maintenance on patients and various activities of RMA, improvement in accounting procedures;

(v) enquiries into individual cases of prima facie substantial allegations of financial/accounting irregularities followed by (sic).’

6. In regard to the imperative of an appropriate person to head the institution at this important transitional stage, the report recommends,

‘10. An important point for toning up the administration of RMA is to post an appropriate person as the Director of RMA assisted by the Medical Superintendent and a Deputy Director

(Administration). I have considered this matter carefully in consultation with Dr. A.K. Mukherjee, Director General of Health Services in the Govt of India. I came to the conclusion that the first Director of RMA should be a person who, besides being a person of confirmed integrity should have a strong background in modern scientific approach to the treatment of mental patients and their social and occupational rehabilitation. With the help of Dr. Mukherjee and Dr. Channabasavanna, Director of NIMHANS, I have identified Dr. S. Gopinath, Addl. Professor of Psychiatry in NIMHANS, Bangalore, as an eminently suitable person for the post of Director of RMA (in the pay scale of Rs. 5900/6700 plus NP And other allowances as usual). His bio-data is enclosed (Annex-H). He is due for retirement from NIMHANS on 28.2.95 on attaining the age of 60 years and is eligible for re-employment for 2 years thereafter in NIMHANS. At present, he is drawing a basic salary of Rs. 6300 (plus NPA of Rs. 1000 per month plus allowances) in the pay scale of Rs. 5100-6300. Though, he has ageing arthritis, he is otherwise physically and mentally fit to take up this assignment. He has a very strong background in the treatment of mental patients and their social and occupational rehabilitation. He has made a noticeable contribution in establishing the occupational rehabilitation facilities in NIMHANS, Bangalore. His administrative and professional experience and qualifications reinforced by his integrity and commitment to the cause of better lives for mentally ill persons are valuable assets. He has agreed to stay in Ranchi and work as Director of RMA for a period of 3 years. The Govt of India would be willing to treat him as on deputation to the RMA from NIMHANS upto 28.2.95 (the date of his superannuation from NIMHANS). Thereafter, he can continue as Director of RMA upto a period of 3 years from the date of his joining the RMA. It would be possible for him to join at an early date if the Hon'ble Supreme Court so decides. I recommend him for this appointment.'

7. We approve the report, accept its recommendations as to the future administrative set-up for the Ranchi Manasik Arogyashala and direct the implementation of the recommendations of the report in the matter of the administration, control and management of the Ranchi Manasik Arogyashala. The new scheme of administration shall come into force with effect from 1st October, 1994 and shall supersede all earlier schemes, directions or orders issued in this behalf. The autonomous body that the report contemplates and that is now approved by this order, shall be governed by the rules at Annexure-1 appended to the 'Dayal Report'.

8. The State of Bihar is directed to promulgate these rules at Annexure I to the 'Dayal Report' immediately and in any case before the 30th of September, 1994. Till the rules are so formally promulgated, the rules at Annexure-I to the Dayal Report shall regulate and govern the administration of Ranchi Manasik Arogyashala, as part of judicial directions.

The Constitution of the Management Committee shall also be completed before the 30th of September, 1994 so that the new body can be installed and takes over from the 1st of October, 1994.

9. We indicate that out of the two non-official members to be nominated by the Government of Bihar, one of whom should be a woman - as contemplated in the Rules- the State Government shall include in the first Management Committee the name of Smt Kapila Hingorani, subject to acceptance by her.

10. The following additional Constructions and renovations mentioned in the report, namely;

i) residential accommodations for four senior doctors, eight quarters for doctors and seventy quarters for nurses at a cost of Rs. 181 lakhs;

ii) Thirty bedded short stay ward-cum treatment block together with laundry and dining places at a cost of Rs. 145 lakhs;

iii) (a) One over head water tank of two lakh litres capacity,

(b) renovation of drainage and bathing platform;

(c) renovation of internal roads;

(d) renovation of existing sewer lines;

(e) fencing an area for agricultural purposes;

(f) providing 50 sets of solar lights for emergency use;

(g) renovation of kitchen, canteen and stores;

(h) additional construction for occupational and rehabilitation activities.

shall be provided in the Arogyashala Campus. A time limit of two years is prescribed for effecting the above improvements. We regard this time limit as the outer most. There should be no delay in implementing these suggestions.

However, we indicate that the improvements suggested in the report concerning the drainage and bathing platforms and additional pathways to the toilets and bathing places and renovation of sewer lines shall be accorded utmost priority along with the construction of the overhead tank as these appear to be amenities of immediate and urgent necessity.

11. For implementing the above suggestions, undoubtedly, substantial capital investment is needed. The Dayal Report has suggested the sale of some surplus land to the public sector or other corporate sector in Ranchi for housing and industrial purposes so as to raise the requisite funds to the extent of ten crores of rupees. This concept as to the source of the funds for development might require a further examination and the new Management Committee shall examine the matter and place its views before the State Government for appropriate sanctions.

12. The Dayal Report further suggests that the financial allocation for food for the indoor patients be increased from Rs. 20 to Rs. 30 per day. This recommendation is salutary and shall be implemented at least with effect from 1.1.1995.

13. Similarly, the recommendation in the Dayal Report for an appropriate upward revision of the rates for the patients sent to Ranchi Manasik Arogyashala by the various States, having regard to the high cost of living, is fully justified. It shall also come into force with effect from 1.1.1995.

14. Effective steps shall be taken for the recovery of Rs. 5 crores from the various States by urgent negotiations. The other suggestions of requiring the Director of Ranchi Manasik Arogyashala to send quarterly bills to the respective State Governments for payment and keeping separate bank account and placing the audited accounts before the Legislative Assembly of Bihar through the Health Department of State Government are approved and accepted.

15. We cannot sufficiently over-emphasise the necessity to make this Institution an autonomous Institution. In our opinion, that is the essence of the assurance of its utility. The power of appointment of employees falling under the categories of B, C and D Groups shall be vested with the Director who shall also be the Disciplinary Authority. As suggested in the report, the

Managing Committee shall be the Appointing and Disciplinary Authority in respect of group A employees excepting the Director of the Ranchi Manasik Arogyashala. The Appointing and Disciplinary Authority for the post of the Director of Ranchi Manasik Arogyashala will be Secretary, Health Department of the State Government. All other recommendations and suggestions relating to administrative and functional powers including the power to create and abolish posts in Ranchi Manasik Arogyashala and the creation of posts mentioned in paragraph 9(d) of the report are accepted and shall become operative.

16. Similarly, suggestions (i) to (v) under paragraph 9(E) are also approved and accepted.

17. Dr. P.S. Gopinath, Additional Professor of Psychiatry in NIMHANS, Bangalore, shall be and is hereby appointed as Director for a period of three years with effect from 1.10.1994. The Government of India is directed to treat him as on deputation to Ranchi Manasik Arogyashala from the NIMHANS up to 28.2.1995. Thereafter, the appointment shall be an independent substantive appointment under the Ranchi Manasik Arogyashala for the unexpired part of the tenure.

18. The new Management Committee shall per severally implement the suggestions for making water available throughout towards sanitation and hygiene.

19. Every effort shall be made by the Management Committee and the Director to get the basic medicines available to the patients.

20. All steps shall be taken to release patients including the undertrials who do not require any further treatment. This is an imperative need as their continued stay in Ranchi Manasik Arogyashala may have been harmful. Care must also be taken to rehabilitate them before sending them back home.

21. We place on record our appreciation of the efforts of Mrs. Kapila Hingorani for the improvement of this institution which, in earlier, times, enjoyed a high reputation for its efficiency and utility as a specialised center for the treatment of the mentally-ill but had in past fallen into a morass. She has done great service to the institution. We, as earlier indicated, direct that Smt. Kapila Hingorani be requested by the State Government to be a member of the First Management Committee of Ranchi Manasik Arogyashala.

22. In regard to the amounts payable towards the expenses of the treatment of the patients from different States, the Health Secretary is requested to take up and determine the question of the quantification and apportionment of the contribution to the hospital from the various States as on 31st of August, 1993. The Union Health Secretary shall look into the matter and determine what contribution each of the States should make towards the expenses and maintenance upto 31st of August, 1994. This shall be done by the Health Secretary after affording an opportunity to the States concerned of being heard. This determination shall be made within three months from today and the States shall be liable to comply with the directions made by the Health Secretary in this behalf.

23. For a period of one year from today, we request Sri M.S. Dayal, Health Secretary, who has taken so much trouble to examine the affairs of the Ranchi Manasik Arogyashala and made an excellent report to be the Special Advisor and Visitor of the hospital and to furnish half-yearly to this Court as to the progress achieved by the Ranchi Manasik Arogyashala under the new dispensation. He may indicate any changes that may be necessary to be brought about in it, in the light of the experience gained over this period.

24. A copy of the order be sent to the Union Health Secretary, the Secretary, Health Department, State of Bihar and other Members-designate of the new Management Committee. Ordered accordingly.

Ranchi Manasik Arogyashala Rules

1. These rules shall be called the Ranchi Manasik Arogyashala Rules, 1994. Objectives:

2. The objectives of the Ranchi Manasik Arogyashala (hereinafter referred to as RMA) are:

(a) Diagnostic and therapeutic facilities for mental patients;

(b) Social and occupational rehabilitation of mental patients;

(c) Professional and paraprofessional training in the field of Psychiatry, clinical Psychology, Psychiatric Social Work and Psychiatric Nursing;

(d) Expansion of mental health services at community level by providing training to medical and para medical personnel in the field; and (e) Research in behavioral sciences.

Definitions:

3. In the rules:

(a) "Committee" means the Management Committee constituted under Rule 4.

(b) "Director" means the Director appointed under Rule 5.

(c) "Gazette" means the Bihar Government Gazette.

Management Committee :

4. (1) RMA shall be an autonomous institution and its management shall be vested in a Management Committee consisting of the following members :

i) Divisional Commissioner, Ranchi - Chairman ii) District Magistrate, Ranchi - Member iii) District Superintendent of Police, Ranchi. - Member iv) Health Secretary, Govt. of Orissa or his - Member representative v) Health Secretary, Govt. of West Bengal - Member or his representative vi) Representative of the Health Secretary, - Member Government of Bihar vii) & viii) Two non-officials (at least one of the Members should be a woman) nominated by the Govt. of Bihar ix) Principal, Medical College, Ranchi - Member x) Director of Ranchi Mental Asylum - Member - Secretary

(2) The Management Committee shall have full administrative and financial powers in respect of all the affairs of RMA and may delegate any of its powers to the Chairman, the Sub-Committees, the Director and other officers.

(3) The nominated members of the Committee shall have a term of three years and shall be eligible for renomination and shall continue until successors are nominated.

(4) The Management Committee shall meet at least once in three months and more often if necessary.

(5) Two weeks' notice along with a list of items to be discussed shall be given to the members for every meeting.

(6) An emergency meeting of the Committee may be convened under the orders of its Chairman by giving 72 hours notices to the members, for considering specified item (s).

(7) The Director shall maintain the record of the proceedings of the Committee in a register authenticated by him. The proceedings of the meeting, duly approved at the subsequent meeting of the Committee, shall be signed by the Chairman or the person presiding over the meeting.

(8) In the absence of the Chairman at any meeting, the members may elect anyone from amongst themselves to preside over the meeting.

(9) A copy of the proceedings of every meeting shall be endorsed to the Health Secretaries and Directors of Health of the States of Bihar, Orissa and West Bengal

(10) The Committee may constitute the following Sub-Committees and prescribe their functions and rules of procedure by framing bye-laws :

a) Finance and Accounts Sub-Committee.

b) Purchase Sub-Committee.

c) Medical Sub-Committee.

d) Rehabilitation Sub-Committee.

e) Welfare Sub-Committee.

f) Selection Sub-Committees for different groups/ categories of [posts/

g) Works Sub-Committee.

(11) The Committee may set up ad hoc sub-committees for specific purposes with specific terms of reference and tenure.

(12) Every Sub-Committee shall have a Chairman, who would invariably be a member of the Committee. The total number of members of any sub-committee shall not exceed five.

(13) Quorum for the meetings of the Committee and any sub-committee shall be four and two respectively.

Director:

5(1) The Director shall be the Chief Executive Officer of RMA and shall be appointed by the Health Secretary, Government of Bihar.

(2) The Director shall be the Head of Department and shall exercise the administrative and financial powers of a State level head of Department.

(3) The Director shall exercise such additional administrative and financial powers as may be delegated to him by the Management Committee.

(4) The Director shall be accountable to the Management Committee and the Health Secretary, Govt. of Bihar.

(5) The Director shall place the annual report and audited accounts of the RMA before the Management Committee and, after approval by the Management Committee, shall forward these to the Health Secretary, Govt. of Bihar before the end of December, following the financial year for which the report and audited accounts are being submitted, for being placed before the Legislative Assembly of Bihar.

(6) The Director shall have the powers, in the discharge of his functions, to obtain part-time expert services of professionals for advice or action in carrying out various activities to achieve the objectives of RMA.

Admissions:

6. Admissions of patients to the hospital shall be done strictly in accordance with the provisions of the Mental Health Act, 1987, and the rules made thereunder.

Visitors:

7. In addition to the members of the Board of Visitors that may be appointed by the State Government of Bihar under the provisions of any law, all the members of the Committee shall be permanent Visitors to RMA. In addition, the following shall be the ex-officio permanent visitors to RMA :

(i) Director, National Institute of Mental Health and Neuro-Sciences, Bangalore,

(ii) Director, Central Institute of Psychiatry, Ranchi.

(iii) Director, Institute of Human behavior and Allied Sciences, Shahdara, Delhi.

(iv) Professor of Psychiatry, All India Institute of Medical Sciences, New Delhi.

Specialist Consultation :

8. The indoor patients may be sent for expert medical consultation to Ranchi Medical College and Hospital with an escort. The Director may invite any specialists on payment of reasonable fees, as decided by the Committee from time to time, for examination and treatment of any indoor patient.

Fees:

9(1) Outdoor treatment shall be free provided that the Committee may prescribe a nominal fee for the registration of a patient and reasonable fees for investigation.

(2) For indoor treatment, a consolidated charge on the basis of per person per day will be levied from the Government of the State to which the patient belongs. This fee shall be such as may be prescribed by the committee from time to time provided that it shall not be less than Rs. 200 per person per day. A development fee equivalent to 25% of the amount chargeable for indoor treatment shall also be recovered in respect of every indoor patient from the concerned State Government.

(3) The Committee may declare any categories of indoor patients as paying patients and prescribe the fee payable by such patients.

(4) The bills in respect of indoor patients shall be sent by the Director to the Health Secretary of the concerned State Govt. on a quarterly basis, within one month after the end of the quarter, enclosing a list of the patients, their addresses, duration of their stay as indoor patients during the quarter covered by the bill, and stating the amount, including 25% development fee payable by the State Govt. to the RMA by a bank draft. The amount 25 received under Sub-rule (3) shall be deducted from the total amount of the bill. Interest @ 15% will be payable by the State Government for delay beyond 30 days from the date of receipt of the bill.

(5) Fees for patients in short stay ward will be the same as indoor patients and shall be recoverable in the same manner from the State Government.

Emergency Powers:

10. It shall be competent for the Chairman to exercise any powers of the Committee, if in the opinion of the Chairman, any delay in taking a decision is detrimental to the fulfilment of the objectives of the RMA or adversely affects its day-to-day administration, provided that any such decision along with an explanatory note shall be placed before the Committee for ratification at its subsequent meeting.

Repeal:

11. All the earlier rules governing the management of the RMA are hereby repealed.

Bye-laws :

12. The Committee shall make bye-laws containing detailed instructions regarding the composition, functions and rules of procedure of the various sub-committees and any other matters connected with the management of the RMA. The bye-laws may also provide for delegation of some administrative and financial powers to sub-committees, Director and officers subordinate to the Director.

Funds & Accounts:

13(1) The funds of RMA shall include the balance existing on the date of enforcement of these rules, amounts that may be received from the State Govts. towards payment of outstanding arrears as well as fees for indoor patients and patients in short stay ward in accordance with these rules and bye laws made thereunder, donations, fees recovered from patients receipts of arrears from State Govts., sale proceeds from the assets of RMA, etc.

(2) The accounts shall be maintained and operated in bank as may be decided by the Committee or its Finance and Accounts Sub-Committee from time to time.

(3) The surplus funds shall be utilised under the orders of the Finance and Accounts Sub-Committee or the Director, According to the powers, limitations and terms and conditions that may be prescribed by the Committee under the bye-laws, or by specific resolution.

Amendments:

14. Any amendment to these rules may only be made by a resolution passed by not less than six members of the Committee provided that such a resolution is approved by the State Government of Bihar

Notification in Gazette:

15. These Rules, and amendments thereto, should be notified in the Gazette.