

Uttaranchal High Court
Senior Citizen Welfare ... vs State Of Uttarakhand And Another on 12 June, 2018

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition (PIL) No.52 of 2013

Senior Citizen Welfare Organization & another
.....Petitioners

vs.

State of Uttarakhand & another
.....Respondents

Mr. Narendra Bali, Amicus Curie for the petitioners.
Mr. S.S. Chauhan, Deputy Advocate General for the State/
respondents.

Coram: Hon'ble Rajiv Sharma, J.

Hon'ble Lok Pal Singh, J.

Hon'ble Rajiv Sharma, J. (Oral) Since learned counsel for the petitioners is not present, we have appointed Mr. Narendra Bali, Advocate who is present in the Court, amicus curie to assist the Court.

2. Petitioner no.1 is a Society, registered under the Society Registration Act having its registration no. 1344/1997-98 dated 29.12.1997. The petitioner no.2 is the Vice President of the Society. The present petition has been filed for protecting the rights of the senior citizens as per the provisions of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007 (hereinafter referred as "the Act,2007"). The petitioner no.2 has prayed for establishment of the old age homes in each district of the State of Uttarakhand as visualized under Section 19 of the Act. It would be apt at this stage to have a bird's eye view of the Act, 2007. The Statement of Objects and Reasons of the Act reads as under:-

"Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is need to have simple, inexpensive and speedy provisions to claim maintenance for parents. 2. The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting up oldage homes for providing maintenance to the indigent older persons. The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property. 3. The Bill, therefore, proposes to provide for:- (a) appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens (b) providing better

medical facilities to senior citizens (c) for institutionalization of a suitable mechanism for protection of life and property of older persons. (d) setting up of old age homes in every district. 4. The Bill seeks to achieve the above objectives."

3. Section 2(a) defines "Children". Section 2(b) defines "Maintenance". Section 2(d) defines "Parent". Section 2(f) defines "Property". Section 2(g) defines "Relative". Section 2(h) defines "Senior Citizen" and Section 2(k) defines "Welfare."

4. The procedure for Maintenance of Parents and Senior Citizens is provided under Chapter-II. Section 19 ordains the State Government to establish and maintain such number of old age homes at accessible places at least one in each district to accommodate minimum 150 senior citizens who are indigent. The State Government is also required to prescribe a scheme for maintenance of old age homes including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes.

5. Section 20 of the Act provides for medical support for senior citizen. It reads as under: - "The State Government shall ensure that,

- i. the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible;
- ii. separate queues be arranged for senior citizens;
- iii. facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens;
- iv. research activities for chronic elderly diseases and ageing is expanded;
- v. There are earmarked facilities for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care.

6. Section 32 empowers the State Government to frame the rules. The State Government has framed the Rules u/s 32.

7. Learned counsel appearing on behalf of the State submits that the counter affidavit has been filed but it is not on record. We have asked the learned Counsel appearing for the State to supply the photocopy of the counter affidavit. The same was filed and taken on record.

8. The counter affidavit has been sworn by Shri S. Raju, the Principal Secretary, Social Welfare, Govt. of Uttarakhand, Dehradun. According to the averments made in para 5 of the counter affidavit, the State Government has established two old age homes in districts Chamoli and Bageshwar. These are being maintained and operated from the funds provided by the State Government. The two old age homes one in Dehradun and one in Udham Singh Nagar having capacity of 25 citizens each are being maintained by the NGOs who received grant from the Central Government. The old age home in District Dehradun is being operated and maintained by Gramya Mahila Kalyan Sansthan, Prem Nagar, Dehradun.

9. It is evident from the counter filed by the respondent- State that it has established only two old age homes. According to the plain language of Section 19 that the State Government is required to establish old age homes in each district and also to prepare a Scheme as per Section 19(2) of the Act, 2007.

10. The State Government should establish/set-up the old age homes at its own level instead of relying upon NGOs or Societies. The State Government has to discharge the burden placed on it under Section 19 of the Act, 2007 and it cannot be permitted to pass on the responsibilities upon the NGOs for better management of the old age homes. It is also the duty of the State Government to provide beds for all senior citizens in government/government aided hospitals. There is requirement of separate queues for senior citizens. The facility for treatment of degenerated diseases is required to be extended to senior citizens.

11. Every senior citizen has a fundamental right to live with dignity. It is the duty cast upon the State Government to protect the life, liberty and property including dignity and decency of senior citizens. They cannot be permitted to be left unattended in the twilight of their lives. Ours is a welfare and socialist state and it is expected that every senior citizen should live in a dignified manner with the assistance to be provided by the State Government.

12. It was expected from the State functionaries to implement the provisions of the Act, 2007 in letter and spirit. Though, 11 years have elapsed but till date enactment has not been implemented fully. Once the law is enacted, it must be implemented in letter and spirit.

13. Accordingly, in view of the observations/ discussions made above, the present petition is disposed of with the following mandatory directions:

A. The State Government is directed to establish old age home in each district of the State of Uttarakhand within a period of six months. It is made clear that it shall be open to the State Government to hire private accommodation, as a temporary measure.

B. The State Government is directed to make a scheme for management of old age homes within a period of eight weeks from today as per Section 19(2) of the Act.

C. The State Government is directed to ensure to provide sufficient number of beds for senior citizens in each Government hospital or hospitals funded by the State Government.

D. The State Government is further directed to ensure that all the senior citizens in the State of Uttarakhand are provided free treatment including blood test, CT scan, MRI and other tests at Govt. hospitals.

E. The respondent-State shall upgrade the facilities to be provided in old age homes from time to time including the strength of the inhabitants.

F. The State Government is also directed to give due publicity to the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 in print media, electronic media including through Panchayati Raj institutions for the awareness of the enactment as per Section 21 of the Act, 2007.

G. The State Government shall provide the facilities to the senior citizens as per the Rules.

H. The State Government shall provide separate accommodation for men and women including sufficient potable water, electric fans, coolers/ AC, separate kitchen, dining room, separate bathroom for disabled senior citizens.

I. The State Government is also directed to provide wheel chair, television, newspaper and books in old age homes.

J. The State Government is also directed to provide ramp railing to the senior citizens including telephone service.

K. The State Government is also directed to provide balanced nutritious food, two sets of clothes for summer and winters, linen, sufficient number of sweepers for maintaining hygiene and cleanliness in old age homes.

L. The senior citizens in case of emergency shall be taken to the nearest hospital for treatment. The cost of conveyance shall be borne by the State Government including the medical expenditure as well as of ambulance.

M. The Circle Officers of the respective area are directed to maintain vigil in and around the old age homes.

N. The State Government is directed to protect the life and property of the senior citizens as provided under Rule 20.

14. The Secretary, Welfare to the State of Uttarakhand shall be personally responsible to implement the orders and monitor the directions issued hereinabove.

15. The Court places on record its appreciation for the valuable assistance rendered by Mr. Narendra Bali, Advocate in such a sensitive matter.

16. Pending applications, if any, stand disposed of.

(Lok Pal Singh, J.) (Rajiv Sharma, J.)
12.06.2018



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