

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

Crl. Misc. No. _____ of 2009

in Crl. Misc. No. M- 26374 of 2008

Talwinder Pal Singh, & another

...Petitioners

VERSUS

State of Punjab & others

...Respondents

INDEX

Sr. No.	Particulars	Dated	Pages	Court Fee
1.	Application for Intervention	21.04.09	1-21	
2.	Affidavit	21.04.09	22	
3.	Power of Attorney	21.04.09	23	

(Anand Grover and Shakti Bhardwaj)

Place: Chandigarh

Advocate

Date: 21.04.2009

Counsel for the Applicant/Intervener

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CrI. Misc. No. _____ of 2009

in CrI. Misc. No. M- 26374 of 2008

Talwinder Pal Singh, & another

...Petitioners

VERSUS

State of Punjab & others

...Respondents

COURT FEE

Place: Chandigarh

Date: 21.04.2009

(Anand Grover and Shakti Bhardwaj)

Advocate

Counsel for the Applicant/Intervener

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CrI. Misc. No. _____ of 2009

in CrI. Misc. No. M- 26374 of 2008

Talwinder Pal Singh, & another

...Petitioners

VERSUS

State of Punjab & others

...Respondents

Application under Section 482 Cr.PC by Sharan Society for Service to Urban Poverty Society registered under Societies Registration Act, 1860, F-6/8A, Vasant Vihar, New Delhi – 57, Branch Office: Sharan Drop in Center, Kazi Mandi, Rail Godam, Jalandhar, through Ms. Shalini Singh, National Programme Manager, Sharan Society for Service to Urban Poverty for intervention.

MOST RESPECTFULLY SHOWETH:

1. That this Application for Intervention is being moved by Sharan Society for Service to Urban Poverty (herein after Sharan). It is a Society registered under Societies Registration Act of 1860. Since its inception in 1981, Sharan has addressed the needs of the marginalized communities living in extreme poverty through qualitative and sustained programs of treatment, referrals and after care. Sharan focuses on issues of

drug use, injecting drug use and HIV. Sharan has been actively working with drug users engaged in the field of drug dependence treatment and its services include, counseling, crisis care, awareness and prevention and detoxification of drug dependent persons.

2. That Sharan has set up an Injecting Drug Use Targeted Intervention in Jalandhar, called Sharan Drop in Center. It is located at Kazi Mandi, Rail Godam, Jalandhar. The centre is supported by Punjab State AIDS Control Society and provides services like outreach, counseling, referral, abscess treatment, and detoxification for persons dependent on drugs.

3. That over a period of time, several cases of death, torture, inhuman treatment and other indignities have been reported from drug dependence treatment centres, particularly in the State of Punjab and Haryana and Union Territory of Chandigarh. The Applicant is deeply concerned with increasing numbers of rights violations in the centres, and unscientific and unethical practices on drug users in the name of treatment.

4. That in the wake of several cases of deaths and inhuman treatment at the drug dependence treatment centres, the Hon'ble District Magistrate, Sahibzada Ajit Singh Nagar, Mohali had passed an order dated 27th August 2008, under Section 144 CrPC. The order laid down guidelines instructing the owners of the centres to ensure proper accommodation, lighting, clean water, food and sanitation; availability of doctors, yoga teachers, psychiatrist, nurses and pharmacists; documentation and record keeping; arrange medical facilities and allow family visits.

5. That the District Magistrate also ordered setting up of a Committee comprising, Sub-Divisional Magistrate (SDM), Deputy Superintendent of Police (DSP) and Asst. Civil Surgeon to oversee such centres. The centres were directed to function only with the approval of the

Committee. Copies of the order were marked to seven de-addiction centres, including one of the petitioners in the instant case.

6. That on the present petition filed by the Petitioner asking for quashing of the order of the Magistrate, this Hon'ble Court had taken a serious note of the condition and functioning of the drug dependence treatment centres and ordered the concerned officials to file affidavits stating the number of drug dependence treatment centres working in Punjab and Haryana.

7. That on 30.04.09 the Joint Secretary of Government of Haryana, Social Justice and Empowerment Department, Chandigarh submitted the affidavit and this Hon'ble Court was pleased to direct the Director, Department of Health and Family Welfare Punjab, the Joint Secy. Social Justice and Empowerment Department Haryana and Director, Health Services Chandigarh to remain present on the next date of hearing, 22.04.09, so as to assist the court on final solution of the problem.

8. That in light of the issues in the matter and the orders made by this Hon'ble Court, the Applicant, Sharan, is filing this I.A. to seek leave of the Court to be impleaded and assist the Court in the issues in the matter as it is vitally concerned in the matter in view of what is stated in paras 1, 2 and 3 above.

Disturbing trend of deaths and inhuman torture and ill-treatment in drug dependence treatment centres in Punjab, Haryana and Chandigarh.

9. That over the last several years disturbing incidences of death and torture of inmates in the drug dependence treatment centres have been reported:

- i. On 9th August 2003, a news article published in the newspaper, Chandigarh Tribune, reported that inmates of Amarjot Drug De-addiction Centre were being tortured in the name of treatment. The centre had over 20 inmates hailing from all over Punjab. Their families were paying between Rupees 3,000-20,000 (Three thousand to Twenty thousand) a month for their treatment. Allegedly the inmates were subjected to extreme torture by the centre's Director as part of their "treatment". The Director used to regularly beat them up with baseball clubs and a wooden leg. Unable to endure the ill-treatment at the centre, few inmates attempted to escape. While three succeeded in escaping, three were caught by the centre's staff and were severely beaten by the Director. They were badly injured and admitted in a private nursing home. Driven up against the wall, all the 18 (eighteen) inmates protested and pleaded to be released from the centre. Some of the inmates were taken back by their families and 11 (eleven) others were taken under the protection of the Police. The Police sealed the centre and arrested the Director and his fiancée and charged them under sections 323, 342, 506 & 420 IPC.
- ii. On 19th January 2007, an article was published in the Chandigarh Tribune, titled "*Man 'tortured' to death in de-addiction centre: 10 others rescued by Police, owners flee*". It reported that a man admitted in a de-addiction centre in Amloh, died due to alleged torture by the owners of the centre. The owners informed the deceased inmate's family of his death, locked up the other 10 inmates in a room and also locked the centre from outside and fled from there. People of the town reached the centre with the Police and managed to free the locked inmates. The inmates

disclosed that no de-addiction treatment was given to them by any doctor. They were not even given proper food. In fact the sweets brought by their relatives were also taken away from them and they were not allowed to talk to their relatives alone lest they should complain about the ill-treatment. The body of the deceased inmate was sent for postmortem and a case was registered against the owners under sections 302, 323, 342, 506, 148, and 120-B IPC.

- iii. On 11th May 2007, an article was published in Tribune, Chandigarh, "*5 addicts escape as mob damages property*". An inmate of Punjab Drugs De-addiction Centre, Goraya, allegedly died due to inhuman attitude and physical torture meted out by the doctors of the centre. Relatives and acquaintances of the deceased inmate ransacked the Centre during their demonstration, protesting against the alleged inhuman treatment. During the demonstration, 5 other inmates escaped and went to the Goraya police station to demand immediate arrests of the doctor. They alleged that they were ill-treated at the centre, given electric shocks and mercilessly beaten up by the doctor at the centre. They also alleged that the doctor visited the centre only twice a week and that too for just a few minutes. The doctor admitted that he only had a degree of D. Pharmacy. Later, however, the doctor and the family of the deceased reached an amicable settlement.
- iv. On 25th August 2008, an article published in the Hindu, "*Mystery shrouds the death of drug addict*" reported that an inmate admitted in Sankalp drug de-addiction centre at Balongi, near Mohali, died under mysterious circumstances. The

Superintendent of Police, City, Virenderpal Singh said: “the body had injury marks on the head, neck, arms and eyes. The centre’s men rushed him to two private hospitals... but he was declared brought dead.” The deceased’s mother alleged that her son was tortured to death and then dumped outside the house in Mohali. The centre has been closed since and the managers are absconding.

- v. On 17th February 2009, an article published in the Indian Express “*youth flees de-addiction centre, ‘killed’*” reported that a 25-year old inmate of Dabwali based Nai Disha Drug De-addiction and Rehabilitation Centre was allegedly beaten to death because he had attempted to escape from the centre. In his complaint to the police, the deceased’s relative stated that when he reached the centre, there was froth around the deceased’s mouth and injury marks on his body. Some 50 other inmates fled from the centre and leveled serious allegations against the employees of the centre. They complained that they were routinely beaten up, kept in over crowded rooms, forced to walk barefoot in winter and stand for hours with heavy objects on their heads, like gas cylinders.

Response of the Government vis-à-vis drug dependence in India

10. That in the late 1970s and early 1980s, the country was presented with new challenges in the field of drug dependence as refined products such as heroin entered into the Indian illicit drug market. There were also increased reports of injecting drug use (herein after IDU) especially from the North-eastern region of the country. This was further complicated with the emergence of HIV infection in the country. At this

time drug dependence services were sparse in the country. It is important to appreciate that drug dependence is a medical condition which has to be treated medically and not in a penal institutional environment.

11. That the Narcotic Drugs and Psychotropic Substances Act, 1985 (herein after NDPS Act) contains provisions for treatment of drug dependence. Section 39 of the Act provides for the release of an addict found guilty of consumption or possession of a small quantity of drugs, on condition that they agree to undergo treatment for drug “de-addiction” at a recognised institution. Further Section 64A of the Act provides immunity from prosecution to addicts who volunteer for and undergo treatment for de-addiction. Section 71 of the Act provides for the establishment of centres for *inter alia*, treatment of addicts and directs the government to make rules for establishment and supervision of centres and for supply of drugs for treatment to these centres. However, it is pertinent to point out that despite the provision for making rules, no such rules have been framed by the government. Lack of statutory standards creates uncertainty and leads to mal practices by centres, as have consistently been reported and mentioned herein above.

12. That the role of Ministry of Health and Family Welfare (hereinafter MoHFW) in the area of drug dependence is to provide treatment services. At present 122 such treatment centres have been established across the country including centers in Central Government hospitals and institutions. The national nodal agency “National Drug Dependence Treatment Center” has been established under the All India Institute of Medical Sciences (AIIMS). National AIDS Control Organisation (herein after NACO), a department within the MoHFW, carries out specific Targeted Interventions for IDUs to minimise the risk of HIV transmission.

13. That the Ministry of Social Justice and Empowerment (herein after MoSJE) through its Scheme is assisting 401 de-addiction-cum-rehabilitation centres and 41 counseling, awareness and prevention centres all over the country.

14. That on 15th July, 2008, the MoSJE set up a National Consultative Committee on De-addiction and Rehabilitation (NCCCDR) as a need was felt for a consultative mechanism at the national level to advise central and state governments on issues connected with drug demand reduction, especially educative/awareness building, de-addiction and rehabilitation.

15. That on 1st October 2008, the revised scheme, Scheme for Prevention of Alcoholism and Substance (drug) Abuse by MoSJE (herein after the Scheme) was approved by the Central Government. The objectives of the revised scheme are *inter alia*, a) to create awareness and educate people about the ill effects of alcoholism and substance abuse, b) to provide for the whole range of community based services for the identification, motivation, counseling, de-addiction, after-care and rehabilitation for Whole Person Recovery (WPR). However, it is pertinent to point out that that Scheme is not statutory and has not been notified. Moreover, the Scheme is otherwise inadequate and deficient.

16. That thereafter, a Manual of Minimum Standards was developed by the MoSJE (herein after the Manual) to bring about standardization and quality control in services being delivered under the Scheme. The Manual delineates the objective of each activity under the Scheme, the minimum expected inputs and outputs, the responsibility of each functionary, the physical environment of a centre, the rights of the clients and the duties of the staff. The implementation of different components of the scheme should conform to the provisions of the manual

and the inspection/assessment of the program would take into account the compliance of the organizations with the Manual. However, it needs to be pointed out that the Manual like the Scheme is not statutory and not notified and hence lacks binding force. Further, the Manual like the Scheme is otherwise inadequate and deficient.

17. That the newly developed “*Principles of Drug Dependence Treatment*” by the World Health Organisation (WHO) and the United Nations Office on Drugs and Crime (UNODC) articulate common, minimum standards for managing drug dependence. It outlines nine key principles for the development of services for treatment of drug dependence. It is crucial that the government formulate standards/guidelines on the lines of “*Principles of Drug Dependence Treatment*” formulated by WHO and UNODC.

18. That the Petitioner prefers this Intervention Application on the following amongst other grounds, which are without prejudice to each other:

GROUNDNS

A. Safe Treatment for drug dependence is a right of every drug user flowing from their Fundamental Right to Life and Health under Article 21 of the Constitution.

19. Drug Dependence is considered a multi-factorial health disorder that often follows the course of a relapse and remitting chronic disease. Over recent years, the bio-psychosocial model has recognized drug dependence as a multifaceted problem requiring the expertise of many disciplines. In the past decades, drug dependence has only been seen as a social problem. The notion that drug dependence could be considered a ‘self-acquired disease’, based on individual free choice, has contributed to

stigma and discrimination associated with drug dependence. However, scientific evidence indicates that the development of drug dependence is a result of a complex multi-factorial interaction between repeated exposure to drugs, and biological and environmental factors.

20. There are several models of drug dependence treatment available, which are well recognised and acceptable internationally.

21. Treatment for drug dependence is a right of every drug users flowing from their Fundamental right to Life and Health enshrined in Article 21 of the Constitution of India.

22. Providing drug dependence treatment is thus an obligation of the government under 21 of the Constitution of India.

23. It is an established position in law that Article 21 read with Article 14 obliges the State to provide health services, including, testing, diagnostic facilities as well as medicines to protect life. Right to life under article 21 includes the right to health and a healthy lifestyle.

24. The International conventions, Universal Declaration of Human Rights (hereinafter UDHR), International Convention on Economic, Social and Cultural Rights (hereinafter ICESCR) and the International Convention on Civil and Political Rights (ICCPR) have been ratified by India

25. It is an established position in law that fundamental rights in Chapter III of the Constitution can be interpreted by aid of International covenants, conventions and agreements. It is also an established principle of law that in absence of any contrary municipal statute, International covenants, conventions and agreements are applicable as customary law in India.

26. The Protection of Human Rights Act, vide section 2, clearly indicated that human rights which are enforceable in India include the rights contained in both ICESCR and ICCPR.

27. Article 12 of ICESCR, obliges that the State Parties recognize the right of everyone, to the enjoyment of the ‘highest attainable standard of physical and mental health’.

28. Drug dependence is a preventable and treatable disorder and the government of India is constitutionally bound to provide effective preventive and treatment interventions for it.

B. The NDPS Act and the Rules cast an obligation on the Government to provide necessary drugs for treatment of drug dependence.

29. Section 7A of the NDPS Act mandates the Central Government to set up a National Fund for Control of Drug Abuse., Section 7A (2) (f) directs the fund to be used, Inter alia, for the purpose of “supplying drugs to addicts where such supply is a medical necessity”.

30. Section 71 (1) of the NDPS requires the government to provide “supply of any narcotic drug and psychotropic substance to addicts registered with government and to others, where such supply is a medical necessity.”

31. Section 71(2) mandates the government to make rules for the supply of narcotic drugs and psychotropic substances at centres for identification, treatment, after care and rehabilitation of addicts.

32. Section 78 (2) (a) of the NDPS Act authorizes the Government to make rules for the conditions and manner in which narcotic drugs and psychotropic substances shall be supplied for medical necessity to the addicts registered with the state government and others under sub-section (1) of Section 71.

33. Rule 67 A (a) (iii) of NDPS Rules allows use of narcotic drugs and psychotropic substances for the purpose of de-addiction of drug addicts by government or voluntary organization.

34. The above provisions of the NDPS and the Rules thereunder mandate the government to provide drugs for treatment of drug dependence.

35. Methadone and Buprenorphine are medically proven drugs for treating opioid dependence and ought to be provided by the Government.

36. The National Drug Dependence Treatment Centres at All India Institute of Medical Sciences (AIIMS) provides Buprenorphine substitution according to a medically developed protocol.

37. It is necessary that the Government also consider making Methadone available for treatment of drug dependence. Methadone is an agonist used extensively around the world to manage opioid dependence. Methadone is safe, cost effective and can be administered under medical supervision. Further, Methadone is listed as an essential drug for drug dependence treatment under WHO's classification of essential drugs.

38. It is submitted that it is the right of drug users to get the most effective treatment available as part of their Fundamental right to Health and Life enshrined in Article 21 of the Constitution. Buprenorphine is already being used in India, albeit in a limited manner and the marketing of Methadone in India, is under active consideration of the government. The government ought to be directed to consider the provision of Buprenorphine and Methadone while formulating rules for drug dependence treatment.

39. Persons needing drug dependence treatment should have the option of various bouquet of scientifically and medically proven treatment including methadone and buprenorphine.

C. The State has failed to formulate Statutory Standards for drug dependence Treatment

40. The government has not formulated statutory standards applicable to drug dependence treatment centers/facilities as mandated by law.

41. Section 71 (1) of NDPS Act allows Government, in its discretion to establish as many centres as it thinks fit for identification, treatment, education, after-care, rehabilitation and social integration of addicts.

42. Section 77 (2) (f) authorizes Central Government and Section 78 (2) (b) authorizes the State Government, to make rules for the establishment, appointment, maintenance, management and superintendence of centres established by the Central government under Section 71 (1) and appointment, training, powers and duties of persons employed at such centres.

43. Despite the provisions for making rules for the establishment and supervision of centres and provision of treatment, no rules have been framed for the same. The lack of statutory standards hampers standardized and quality service delivery and the resultant uncertainty provides a breeding ground for mal practices to flourish.

44. Hence, Government ought to formulate:

- a) Rules for treatment of drug dependence guided by evidence-based good practices and accumulated scientific knowledge on the nature of drug dependence.
- b) Rules for human rights standards for treatment of drug dependence which will ensure respect for the fundamental rights of the drug users.
- c) Rules for licensing, inspection and monitoring of the drug dependence treatment centres.

45. It is submitted that since treatment of drug dependence is a health issue and primarily the mandate of the MoHFW, the MoHFW should be directed to formulate the above said rules. However, even if the MoSJE is directed to formulate the Rules, then they should be directed to do it in conjunction with the MoHFW. Further the above said Rules should be directed to be formulated in consultation with the relevant stakeholders, including the Applicant. Furthermore, these Rules should be laid before the parliament and notified for it to have full binding force.

D. State has failed to fulfill its obligation of providing scientific and evidence based treatment to persons dependent on drugs.

46. It is crucial that evidence-based good practice and accumulated scientific knowledge on the nature of drug dependence should guide interventions and investments in drug dependence treatment.

47. The MoSJE Scheme and the Manual, though not statutory standards which are mandated by the NDPS Act, are the only guidance available for treatment of drug dependence. They lay down the basic minimum standards to be followed by the drug dependence treatment centres. Despite that the directions and the standards in the Scheme and the Manual are not being complied with.

48. Both the MoSJE Scheme and the Manual mandate the provision of drugs for detoxification. Detoxification entails use of medication to remove toxic effects of the drug and relieve withdrawal symptoms under clinical supervision. The Scheme states that “Detoxification services would be provided for safe and ethical management of withdrawal symptoms...”

49. The Manual states that treatment cum rehabilitation centres will provide detoxification and medical care to make the withdrawal period safe

and comfortable. It lays down as minimum criteria that the medicines essential for detoxification shall be made available at all times.

50. However, it has been reported that some centres, in complete violation of the MoSJE Scheme and Manual do not provide drugs for detoxification at all. Inmates have reported that they were not given any medicines for detoxification. Instead they have been beaten, tortured and even given electric shocks in order to make them quit using drugs. This amounts to a violation of the fundamental rights to health of the clients flowing from the fundamental right to life enshrined under Article 21 of the Constitution.

51. It is further submitted that the Counseling and Awareness Centres, such as the ones run by the Petitioners provide out-patient services. But if such centres provide in-patient services, then it is imperative for them to have minimum facilities and standards of delivery. Once a drug user is admitted as in-patient, he is bound to have withdrawal symptoms and drugs ought to be provided for stabilizing and handling withdrawal. It is a serious concern that some centres, as admitted by the Petitioners themselves, stock no drugs for detoxification even though they have in-patient facility. This is a blatant violation of the MoSJE Scheme and the Manual and amounts to infringement of the drug user's Fundamental right to Health and Life under Article 21 of the Constitution.

52. Furthermore the Scheme has merged the functions of both the Awareness and Counseling Centres and Treatment and Rehabilitation Centres and created "Integrated Rehabilitation Centre for Addicts (herein after IRCS). The IRCS are required to not only create awareness and counsel drug users but also to provide detoxification services.

53. MoSJE Scheme and the Manual are inadequate as they do not provide evidence based treatment options for treating drug dependence

Though the Scheme and the Manual state that detoxification services ought to be provided and the drugs for detoxification should always be available, they do not lay down protocols for detoxification, containing guidelines on what drugs are to be used for detoxification, the manner and time period for which the drugs have to be administered etc. This leads to uncertainty and confusion related to drugs and methods of treatment. Consequently, the drug treatment centres treat the addicts based on their personal opinions. This severely compromises the quality of treatment and infringes the Fundamental right of drug users to Health and Life U/Article 21 of the Constitution. This underscores the urgent need to formulate medical protocols on drug dependence treatment to ensure standard service delivery.

54. The MoSJE scheme and Manual are deficient because they have very limited treatment options i.e. only detoxification. They do not provide for Oral Substitution Therapy (herein after OST) which is a medically proven intervention for opioid dependence. Methadone and Buprenorphine are most commonly and effectively used drugs for treating drug dependence by OST world-wide.

E. State has failed to enforce fundamental human rights standards in drug dependence treatment amounting to infringement of several Fundamental Rights of drug users

55. The treatment for any disorder has to be in keeping with and respectful of the rights of the patients. Treatment of drug dependence must respect the rights of the patients to dignity, bodily integrity and liberty, emanating from Fundamental Right to Life and Personal liberty under Article 21 of the Constitution.

56. The MoSJE Manual clearly mandates the staff of the treatment centres to “respect clients by treating them with dignity”. The Manual

simultaneously, lays down certain rights of the clients, inter alia, all clients and their family members have the right to “dignity, respect and safety”.

57. However, the drug dependence treatment centres have been ill-treating the clients as has been borne out by the newspaper articles mentioned herein above. The articles reveal instances when the patients have been beaten to death, tortured, given electric shocks, made to stand with heavy weights on their heads for hours, all in the name of treatment. This establishes that the centres are clearly not following the MoSJE Manual. This is clearly an egregious violation of the Right to dignity, health and life under Article 21 of the Constitution of India.

58. The Manual expressly provides in the code of Ethics for the staff that there can be “no denial of food as a means of punishment”. The MoSJE Scheme also specifically provides that the drug dependence treatment centres “shall provide wholesome food (breakfast, lunch and dinner) to the BPL patients free of charge...” For this purpose, MoSJE provides grants to the NGOs running the centres. However, the news articles reveal that the centres have been starving the clients as a means of punishment. In fact, it has also been reported that the sweets brought by the relatives of inmates on occasions or festivals were taken away by the centre’s staff. This is not only a blatant violation of the MoSJE Manual and the Scheme but also an infringement of the Right to dignity, health and life under Article 21 of the Constitution of India.

59. The Manual expressly provides that the client has a right “to have contact with and visits from, family or support persons while in treatment”. It further provides for psychosocial care to families and support persons for the clients. The component on Standards for the family programme provides as a minimum criteria, four counseling sessions for family members to be provided. The objective being to help the families

members to achieve personal recovery, by becoming aware of their enabling behaviour, negative traits and develop means to deal with their feelings of shame, guilt, anger and resentment. Hence it is important to bring the family of the clients in to the fold of drug dependence treatment. However, it has been reported that some of the centres either do not allow the clients to meet their relatives or do not allow them to meet their relatives alone, for the fear that they would complain to their relatives about the ill-treatment at the centre. It is submitted that right to meet and interact with the relatives forms an important ingredient of the right to live with human dignity. The denial of meeting with the relatives in private amounts to a violation of the MoSJE Manual and also amounts to a violation of the Fundamental right to dignity under the Fundamental right to life and personal liberty under Article 21 of the Constitution.

60. It is submitted that for the success of any treatment, it is important to have the patient's full involvement, consent and co-operation. It is internationally acknowledged that forced treatment will never be able to achieve its identified goals. The MoSJE Manual, lays down in the Code of Ethics for staff that "no physical restraint to be used to detain or restrain patients who are in normal physical and mental condition. No corporal punishment of any kind may be used for any misbehaviour of the client. No locking up or tying of any patient for any reason." It further lays down that the clients have the right "to have permission to get discharged from the programme due to personal reasons at any time without physical or psychological harassment." However frequent detention and confinement of the clients has been reported. Clients have been detained in the centre against their will and tortured in the name of treatment. Some have tried to escape and been caught and locked up to prevent them from escaping again. The centres are locking up, detaining and physically restraining the clients

in gross violation of the Manual. This inhuman treatment also amounts to infringement of the Fundamental rights of dignity, bodily integrity and individual autonomy and liberty enshrined under Article 21 of the Constitution of India.

61. It is submitted that the MoSJE has failed to enforce compliance with its own standards. Further, the standards are not fully developed and hence do not provide sufficient guarantees for protection of human rights of drug users. Moreover, the MoSJE Manual and Scheme are not binding as they are not notified. These factors leave the ground open for uncertainties thereby providing an opportunity for unscrupulous centres to function without any checks and balances. This also brings to light that there is no effective supervision or monitoring of centres by MoSJE, otherwise such centres would not have been allowed to proliferate.

PRAYER

In these circumstances the Intervener Respondent most humbly prays:

- a) That the applicant, SHARAN, be allowed to intervene in the present case in the interests of justice.
- b) That the Hon'ble Court may be pleased to pass an order to sustain the order dated 27.08.09 passed by the District Magistrate Sahibzada Ajit Singh Nagar, Mohali and further modify it in the following manner:-

- (i) Directing the Government to formulate Rules for drug dependence treatment under NDPS Act, 1985 in accordance with and guided by evidence-based good practices and accumulated scientific knowledge on the nature of drug dependence providing protection for the inherent and fundamental rights of drug users of dignity and individual autonomy, liberty and bodily integrity of drug users, including consent, confidentiality and non-discrimination, after consultation with the relevant stakeholders, including the Applicant:-
 - (ii) Directing the Government to consider providing for Oral Substitution Therapy by Buprenorphine and Methadone in the Rules for drug dependence treatment;
 - (iii) Directing the Government to formulate Rules for effective monitoring, evaluation and inspection of drug dependence treatment centres under the NDPS Act, 1985.
- c) That till the Government formulates and notifies the above said Rules this Hon'ble Court direct the drug dependence treatment centres to comply with the MoSJE Scheme and MoSJE Minimum Standards subject to fundamental rights of the drug users, in particular on the issues of consent, confidentiality and non-discrimination, being respected
- d) That the Hon'ble Court may be pleased to pass interim orders in terms of prayers made in Paras b) and c) herein above

e) That the Hon'ble Court may be pleased to pass any other or further order in the interest of justice.

Note : Affidavit in support of the application is attached.

Drawn by

Adv. Shivangi Rai

Settled By

Adv. Anand Grover

(Anand Grover and Shakti Bhardwaj)

Place: Chandigarh

Advocate

Date: 21.04.2009

Counsel for the Applicant/Intervener

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

Crl. Misc. No. _____ of 2009
in
Crl. Misc. No. M- 26374 of 2008

IN THE MATTER OF:

Talwinder Pal Singh & Anr.

...Petitioners

Versus

State of Punjab & Ors.

...Respondents

AFFIDAVIT

I, Ms. Shalini Singh, the National Programme Manager of Sharan Society for Service to Urban Poverty, aged about 43 years, Indian Inhabitant, having my registered office at F-6/8A Vasant Vihar, New Delhi - 110 057, do hereby solemnly affirm and state as follows:-

1. That I am the authorized signatory of the Applicant, proposed Respondent, and am fully conversant with the facts and circumstances of the case and as such I am competent to swear this affidavit.

2. That I have gone through the contents of the accompanying Intervention Application and have understood the same and say that they are true and correct. I say that the same has been drafted under my instructions.

3. The intervention application contains paras 1 to 40 and the last para is the prayer before this Hon'ble Court.

DEPONENT

VERIFICATION

I, Ms. Shalini Singh the deponent above named do hereby verify and state that the contents of the above affidavit are true to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

Verified by me at New Delhi on this day 18th of April, 2009.

DEPONENT