

Central Information Commission

.Mahanand Jha vs Ministry Of Health And Family ... on 3 May, 2010

Name of the Applicant

Name of the Public Authority

Central Information Commission

CIC/PB/A/2008/01102-AD

Dated May 3, 2010

Shri Mahanand Jha

Central Institute of Psychiatry, Ranchi

Non-compliance CIC Order in the captioned case, dt.26.12.0,8

Background

The relevant para 6 of the Order is reproduced below:

6. Keeping in view the fact that the details of treatment can only be given to Mr.Sanjiv Kumar Jha or to his guardian on submission of consent by Mr.Jha, and also that the consent given by Mr.Jha would be considered valid only if he is found to be normal at this point of time, the Commission directs the CPIO to examine Mr.Jha and to ascertain whether he is normal or not and only then furnish the required information to the Appellant on receipt of consent from Mr.Jha. The examination and the decision to give the information or not to be taken by the CPIO by 31st January 2009.

2. The Bench of Mrs. Annapurna Dixit, Information Commissioner, scheduled the hearing on May 3, 2010. I

3. Dr.Daya Ram, P10 and Shri Vipin Prasad, APIO represented the Public Authority.

4. The applicant was heard through audio.

Decision

5. The Respondent Dr.Daya Ram submitted that the Appellant is seeking the photocopies of case record file of Shri Sanjeev Kumar Jha from his date of admission i.e. 30.10.07 till his date of discharge from the hospital i.e. 4.2.08. He added that as per the direction of the CIC, CPIO had requested the Appellant as well as Shri Sanjeev Kumar Jha, the patient to appear before the Medical Board of the Institute so as to ascertain whether Shri Jha is normal or not so that the information can be furnished to the Appellant on receipt of consent from Shri Sanjeev Kumar Jha. But both of them never turned up before the Medical Board. He added that the medical records of Shri Sanjeev Kumar Jha contain information related to his mental illness, intimate feelings and behaviour, his beliefs, mental status, clinical notes, treatment details etc. He further added that this information is

exempt from disclosure to anyone u/s 8(1)(e) and 8(1)(j) of RTI Act, 2005 and also attracts the provision of Indian Medical Council Act, 2002 and Mental Health Act, 1987 for professional misconduct. During the hearing, Dr. Daya Ram also stated that the Appellant is the father of Shri Sanjeev Jha and that he is already aware of the treatment given to his son. When the Commission queried as to why the details cannot be disclosed to a father, Dr. Daya Ram explained that it can be disclosed to anybody with the consent of the patient/authorized attendant or legal authorities involved as per 1.3.2 of IMC Act and documents shall be issued within a period of 72 hours. He also brought to the attention of the Commission that as per para 7.2 of the IMC Act, the physician shall render himself/herself liable for disciplinary action, if he/she does not maintain the medical records of his/her indoor patients for a period of three years as per regulation 1.3 and refused to provide the same within 72 hours when the patient or his/her authorized representative makes a request for it as per the regulation 1.3.2. The Appellant who was heard through audio conferencing submitted that his son had gone missing since Feb. 2008 and he is seeking information only to give better treatment to his son. When the Commission queried as to whether the case record will be provided in case the Appellant wants to treat his son in another hospital, Dr. Daya Ram clarified that it is possible if the doctor to whom the patient has been referred to makes a request for the case history. The information then will be furnished only to the Doctor and to no one else.

5 The Commission after noting that that any new Doctor to whom the case is referred may obtain the case history from the Institute on request, denies disclosure of information under Section 8(1)(e) of the RTI Act and accordingly disposes of the appeal /3 <6>;ir (Annapu Information Commissioner Authenticated true copy:

I (G.Subra anian) Deputy Registrar Cc:

Shri Mahananda Jha A.D.M.(Retd.) AT & P.O ~ Rajwara Banka 813 110 The CPIO Central Institute of Psychiatry Kanke, Ranchi 834 006 The Appellate Authority Central Institute of Psychiatry Kanke, Ranchi 834 006 Officer incharge, NIC Press E Group, CIC