



2025:DHC:4517



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% pronounced on: 28.05.2025

+ W.P.(C) 3349/2024 and CM APPLs.13803/2024, 21243/2024, 55240/2024, 57154/2024, 4319/2025 & 4329/2025

VINOD KUMAR PODDAR & ANR.Petitioners
Through: Mr. Nikhil Singhvi, Mr. Abhishek Gupta, Mr. Praful Shukla, Mr. Bilal Ikram and Mr. Sanyam Kumar, Advocates.

versus

LOCAL LEVEL COMMITTEE THROUGH DC SOUTH DELHI & ORS.Respondents
Through: Ms. Swathi Sukumar, Sr. Adv., Local Commissioner.
Mr. Abhinav Sharma and Ms. Aakriti Jain, Advs. for GNCTD.
Mr. A.K. Chauhan, Mr. Rahul Chauhan, Mr. Amit Kumar, Mr. Sumit Kumar, Mr. Mohit and Ms. Priyanka Nagar, Advs. for R3 to R5.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT/ORDER

1. The parties to the present petition are embroiled in dispute/s primarily pertaining to the legal guardianship of Mr. Rohan Podar and administration of assets owned (inherited from his father i.e., Late Mr. Sunil Podar) by him.
2. Mr. Rohan Podar is an adult (attained majority in the year 2022) who



is suffering from 90% mental and physical disability¹. The custody of Mr. Rohan Podar (who was adopted by Late Mr. Sunil Podar and Ms. Meeta Podar/respondent no.4), pursuant to dissolution of marriage of his parents, was given to his father i.e., Late Mr. Sunil Podar by a competent court in the USA. Thereafter, both Late Mr. Sunil Podar and Mr. Rohan Podar (USA citizens and OCI card holders) shifted to India in February, 2009.

3. After shifting to India, a petition was filed by Late Mr. Sunil Podar before a Division Bench of this Court titled ***Sunil Podar vs. National Trust for Welfare of Person with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and Anr.***, 2023 SCC OnLine Del 832 challenging the validity of Rule 17(1)(iii)(a) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000 and Regulation 12(1)(i) of the Board of the Trust Regulations, 2001. By virtue of the aforesaid provisions Late Mr. Sunil Podar being an OCI Card holder was ineligible to be appointed as a guardian of Mr. Rohan Podar inasmuch as the said provisions allowed only a citizen of India to be appointed as a Guardian/s for differently abled individual/s. Although, the aforesaid provisions were upheld by the Division Bench of this Court, liberty was granted to Late Mr. Sunil Podar to nominate an Indian citizen as a statutory guardian for Mr. Rohan Podar. It is noted that the said liberty was not exercised by Late Mr. Sunil Podar.

4. Pursuant to the demise of Mr. Sunil Podar on 06.11.2023, Mr. Rohan Podar has been living at his residence i.e., B5/119, Safdarjung Enclave, New

¹Disability certificate no. 2-9/16-17 MR D C No. 1422 issued on 13.02.2017 by Medical Superintendent, VMMC and Safdarjung Hospital, New Delhi



Delhi -110029 (one of the properties/assets owned by Late Mr. Sunil Podar) without a legal guardian under the supervision of full-time caretakers and staff. The present petition was filed by the petitioners, i.e., paternal relatives of Mr. Rohan Podar seeking appointment of petitioner no.1 as the legal guardian of Mr. Rohan Podar.

5. The aforesaid prayer of the petitioners has been vehemently opposed by the respondent no.3 (sister of Mr. Rohan Podar) and respondent no.4 (mother of Mr. Rohan Podar). During the subsistence of the present petition before this Court, the said parties have made various allegations against each other as regards their respective proposals for appointment of legal guardian for Mr. Rohan Podar.

6. In the above circumstances, this Court *vide* order dated 15.07.2024 while exercising *parens partiae* jurisdiction, appointed the Court Commissioner, and directed as under:

“8. While the Court takes note of the applications filed by the Petitioner and Respondent No.3 seeking guardianship of Mr. Rohan Podar, the same needs to be decided by the concerned authorities. However, during the interim period, it is crucial to manage and protect Mr. Rohan Podar’s estate to ensure he can maintain a normal life and support his daily needs. This is particularly important given the ulterior motives alleged behind seeking Mr. Rohan Podar’s guardianship, by the Petitioners and Respondent No.3 against each other.

9. In view of the prevalent situation and keeping in mind the physical and mental condition of Mr. Rohan Podar, this Court exercising parens partiae jurisdiction, issues the following direction:

i.) Ms. Swathi Sukumar (M:+91 9717918652) is appointed as the Court Commissioner who shall henceforth administer the movable/immovable assets of Mr. Rohan Podar, including all the bank accounts (individual or joint), renewal of term deposits, property leases, filing of returns, compliance of statutory formalities etc., All



decisions for securing and preservation of the moveable and immoveable assets shall be taken by the Court Commissioner. Reports shall be filed on a monthly basis before this Court in respect of all actions taken.

ii) The Petitioners herein, Ms Meeta Podar, Respondent No.3 as well as Mr Hanumant Rawat, shall meet the Court Commissioner on date and time fixed by her, and extend all cooperation in identifying the properties of Mr. Rohan Podar and late Mr. Sunil Podar. Since Ms. Meeta Podar and Respondent No.3 are residing in the USA they may be allowed to appear through video-conferencing mechanism or through their counsel. The Petitioners herein, Ms Meeta Podar, Respondent No.3 shall also submit an affidavit containing all the details of the bank accounts, fixed and term deposits, details of immoveable property and moveable property, details of shareholding etc., along with the bank statements, etc in the name of Mr. Rohan Podar as well as late Mr. Sunil Podar to the Court Commissioner. The Court Commissioner shall identify, verify and inventorize the same. A copy of such inventory shall be filed before this court within 6 weeks from today by the Court Commissioner.

iii) Respondent No.3, in the reply to the petition, has undertaken that no third-party rights shall be created in respect of late Mr. Sunil Podar's property. She is held bound by her statement.

iv) Until further orders, no third-party rights shall be created on Mr. Sunil Podar's property. The moveable property of Mr. Sunil Podar shall be deemed to be in custody of the Court Commissioner. The same shall be inventorized and a report be filed within 6 weeks from today.

v) The Court Commissioner shall henceforth, inter alia:

a) authorise and release funds for all the expenses which are to be incurred for the medical treatment of Mr Rohan Podar, maintenance of his residence and, expenses for the staff, etc. to meet the needs of Mr. Rohan Podar.

b) take any and all steps to preserve all movable and immovable assets of the Mr. Rohan Podar, including amounts lying in bank accounts, fixed deposits, term deposits, shares, debentures, bonds, PPF account, pension etc.



c) take all steps to secure the revenues of the Mr. Rohan Podar, if any, in the form of lease or rental amounts, dividends from the various companies etc.,(vi) The Court may at a later stage fix an honorarium to be paid to the Court Commissioner after evaluating the entire facts and circumstances of the case.

(vii) Insofar as the medical treatment of the Mr. Rohan Podar is concerned, the Petitioners as well as Respondent No.3 and Ms. Meera Podar shall be entitled to take joint decisions for the welfare of the Mr. Rohan Podar. However, the Court Commissioner shall be informed of his medical condition on a regular basis.

(viii) Insofar as the request of the Petitioners, the paternal uncle and aunt of Mr. Podar, to visit Mr. Rohan Podar is concerned, they shall be permitted to visit however, such visits shall be strictly conducted in a way that does not disturb Mr Rohan Podar's schedule and at a time fixed in an advanced in consultation with Court Commissioner.

(ix) All parties shall render complete cooperation to the Court Commissioner in discharge of his functions.

(x) In case the Court Commissioner needs police assistance to manage and protect Mr. Rohan Podar's estate, the SHO of the concerned local police station is directed to render all assistance, if and when sought.

(xi) The Court Commissioner shall be free to apply to the Court, if any specific directions are needed for carrying out the Court's mandate."

7. Subsequently, in compliance with order dated 13.02.2025 the parties to the present petition and the learned Court Commissioner filed their respective proposals pertaining to the guardianship of Mr. Rohan Podar.

8. Learned Court Commissioner in her proposal for guardianship dated 22.02.2025 recommended that guardianship of Mr. Rohan Podar should be entrusted with either Ananda by Action for Autism or Shaurya Foundation, organisations registered under Section 12 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999. The petitioners were amenable with the aforesaid



proposal submitted by the learned Court Commissioner.

9. However, the respondent no.4 was not amenable with the proposal submitted by the learned Court Commissioner and had opposed shifting of Mr. Rohan Podar from his current residence to an institution. Respondent no.4 in her affidavit-cum-proposal for guardianship dated 07.03.2025 instead suggested as under:

“19. I say that this Hon’ble Court, may continue the present setup for my son, at B5/119, Safdarjung Enclave, New Delhi, with additional supervision of the competent officer from the local level committee, the respondent no.1 herein, who may be paid such monthly charges out of income generated from the estate, as that may be decided by this Hon’ble Court.

20. I say that even in USA, I shall only take the support from the experts, to ensure that my son is permanently staying with us, with the robust support system, in USA.

21. I say that I have approached at least three institutions near to my residence, New York, in USA, to seek the support and even I have shared the details of one institution in New York, USA, with the Court Commissioner, who has been providing the support system for such disabled persons.

22. I say that all these institutions have imposed pre-condition to me, when I approached them, that is, first my son has to be evaluated by team of expert doctors, in the field of psychiatrist and phycologist, and accordingly they would suggest the remedial solutions, suitable to my son. Such evaluations would take months together. Hereto annexed and marked as Annexure-A2 is the copy of the email dated 19-09-2024, for the perusal of this Hon’ble Court.”

10. On 11.03.2025, Ms. Merry Barua, founder of ‘Ananda by Action for Autism’ appeared before this Court and suggested that as a preliminary exercise, representatives of Ananda by Action for Autism be allowed to visit Mr. Rohan Podar at his residence for an initial assessment in order to



evaluate and propose a suitable transitional plan for him. Since the said submission was not opposed by either of the parties, on 11.03.2025 following directions came to be passed by this Court:

“7. It is noted that neither the respondents nor the petitioner, have raised any objection to the initial assessment proposed by the learned Court Commissioner.

8. This Court recognizes that if a transition of Mr. Rohan Podar from his residence to any institution is to be considered, it is imperative to exercise caution and must be preceded by a thorough evaluation of Mr. Rohan Podar’s routine, likes and dislikes, daily needs and behavioural patterns.

9. In the aforesaid conspectus this Court finds no impediment in allowing the representatives of ‘Ananda by Action for Autism’, to visit/meet Mr. Rohan Podar at his residence for an initial assessment.

10. In the above circumstances, the following directions are issued:

a) Ananda by Action for Autism is permitted to nominate two representatives from its institute to visit Mr. Rohan Podar at his residence at B-5/119, Safdarjung Enclave, New Delhi for an initial assessment.

b) The representatives of the institution are permitted to meet Mr. Rohan Podar for 3-4 hours consecutively between 17.03.2025 to 19.03.2025.

c) The nominated representatives shall be allowed to meet Mr. Rohan Poddar at a time determined/coordinated by the learned Court Commissioner with Mr. Balram (one of the caretakers of Mr. Rohan Podar) after duly taking into consideration the dailyschedule/routine of Mr. Rohan Podar.

d) Parties to the present petition and caretaking staff of Mr. Rohan Podar are directed to facilitate and cooperate with the assessment exercise being undertaken by the representatives of Ananda by Action for Autism. The Court urges that all parties involved should not interfere, impede or hamper with the said exercise and give primacy to the interest of Mr. Rohan Podar.



e) *Learned Court Commissioner is requested to coordinate with Ananda by Action for Autism and Ms. Merry Barua and file the initial assessment report before the next date of hearing.”*

11. In compliance of the aforesaid order, Functional Skill Assessment report and transition plan for shifting Mr. Rohan Podar from his current residence i.e., B-5/119, Safdarjung Enclave, New Delhi to Ananda by Action for Autism, prepared by the representatives of Ananda by Action for Autism has been filed by the learned Court Commissioner. Based on the Functional Assessment Report, the transition plan suggested by the Ananda by Action for Autism is as under:

<i>Steps</i>	<i>Action</i>	<i>Timeline</i>
<i>1. Pairing with Rohan</i>	<i>Team members from AFA will visit Rohan at his home and interact with him, and build up a rapport and trust with Rohan</i>	<i>3-4 days approx</i>
<i>2. Introduce visual/story about short visits to Ananda</i>	<i>AFA team members visit Rohan at his house and introduce him to visual and social story to prepare him for visiting Ananda</i>	<i>Approx 3-4 days before visiting Ananda</i>
<i>3. (a) Familiarization Visits to Ananda Assisted Living (b) Introduce visual / social story about move to Ananda along with final date of Rohan shifting to his new home</i>	<i>Rohan visits Ananda for 2-3 hours on different days at different times to familiarize himself with the place and the people living there. AFA team members introduce story to Rohan when he visits Ananda, to give him information about the shift to a new house and new family</i>	<i>3-4 Visits approx</i>
<i>4. Set up room for Rohan in Ananda</i>	<i>AFA team sets up Rohan's room at Ananda with his own furniture, linen etc that he is familiar with</i>	<i>The same day that Rohan</i>



	<i>We suggest residents bring in familiar furniture and other items to make their new home feel familiar and help them in the settling down. The logistics will have to be planned tightly</i>	<i>transitions to Ananda.</i>
<i>5. Settling down in Ananda</i>	<i>Rohan stays the night and settles down in a few days</i>	<i>15-20 days approx.</i>

Due to the apprehensions expressed by the parties about Rohan's long association with his current primary caregiver, Mr. Balram, AFA is willing to offer residential employment to Mr. Balram at the Assisted Living facility subject to Mr. Balram's interview which will be conducted during the above process, and subject to his willingness to work for the institution and care for other residents, as is the practice, on a rotational basis. Mr. Balram, if selected, will also have to be involved in the diverse tasks to be undertaken as a staff member."

12. At the outset, it is noticed that although the present petition was filed by the petitioner for being appointed as the guardian of Mr. Rohan Podar, however, pursuant to the proposal submitted by the learned Court Commissioner *vide* an affidavit dated 28.02.2025, the petitioners have submitted that they are amenable to the proposal of appointing Ananda by Action for Autism as the guardian for Mr. Rohan Podar.

13. It is also noticed that initially the respondent no.4 in her affidavit-cum-proposal for guardianship dated 07.03.2025, opposed shifting of Mr. Rohan Podar to Ananda by Action for Autism from his present residence/living arrangement. However, brief submissions dated 10.04.2025 filed on behalf of the respondent nos. 3 to 5 contains a revised proposal for the guardianship of Mr. Rohan Podar. In terms of the aforesaid submissions, respondent nos. 3 to 5 submitted that they are also amenable to Mr. Rohan Podar being shifted to Ananda by Action for Autism. The said proposal



reads as under:

“18.The respondents state that the respondent No. 3 ,4 and 5 have the following Revised proposal, which may be considered by this Hon’ble court which is as under:-

a. That the proper evaluation of the living conditions of Mr. Rohan Podar may be conducted, while in-situ arrangement by the representatives of the Ananda by action for autism and subsequently Mr. Rohan Podar may be shifted along with Mr. Balram and another caregiver at Ananda for day care basis for few days and later on Mr. Rohan Podar may be shifted to Ananda by action for autism, being a registered organization with the local level committee. The entire transitional phase of 2-3 weeks may be considered for familiarization of Mr. Rohan Podar with the new accommodation and locality.

b.That along with Mr. Hanuman Rawat another guardian may be appointed by this Hon’ble High Court, which may be a Banking Institution or such other competent Institution appointed by the Local level committee or a suitable person from Ananda by action for autism, for managing the Estate of Mr. Rohan Podar by including the Respondent No. 3 and 4 in the Management of the Estate of Mr. Rohan Podar to serve the interest of justice.

c. That the entire moveable and immoveable assets of the Late Sunil Podar be divided into 50% each including the amounts as that are available under WILL dated 13/10/2023, executed in USA in favour of the Respondent No. 3 and be distributed between both the legal heirs equally by making a suitable arrangement,

d. That this Hon’ble High court may be pleased to grant permission to the Respondent No. 2 and 3 for shifting Mr. Rohan Podar to USA by way of an alternate arrangement by following the due process of law, since a Rohan Podar is USA citizen. It is further submitted till such time R. Rohan Podar is Shifted to USA, the said Mr. Rohan Podar may be kept in Ananada by action for Autism. The Respondent No. 2 to 5 may be allowed to have access with Mr. Rohan Podar from time to time and the limited caregivers may be permitted to reside with Mr. Rohan Podar in the said Ananada institution, in the interest and welfare of Mr. Rohan Podar, being a 90% disabled person.

e. That the Respondent No. 3 and 4 be also appointed as trustees of



the trust as that may be formed for the Estate of Mr. Rohan Podar and be permitted to monitor the income and expenses relating to said Mr. Rohan Podar to serve the interest of justice.

In view of the above facts and circumstances, it is hereby submitted that the above points may be considered by this Hon'ble High Court for passing the appropriate orders in above matter, to serve the interest of justice."

14. In fact, in the written submission dated 20.04.2025, the said respondents have again conceded to the proposal of shifting Mr. Rohan Podar to Ananda by Action for Autism. The same reads as under:

"s. That the Respondent no 3 and 4 have consented for shifting of Mr Rohan Podar and hereby Submit that the process of mediation of division of the assets of late Sunil Podar may kindly be processed simultaneously, since the Respondent no 3 is a student and she also needs the monthly expenses for her higher education in highly expensive place like, New York in U S A. That both the transit process for Mr. Rohan Podar shifting and mediation process for division of assets may be taken up simultaneously, so as to provide justice to both the surviving members of Late Sunil Podar"

15. The learned Court Commissioner in her proposal for guardianship dated 22.02.2025 has brought out that the Ananda by Action for Autism is a premiere non-profit institution which has been providing support and services to persons with autisms and their families since 1991. It is a fully residential facility located at Garat Pur Bas, Haryana with a security guard, CCTVs installed in all common areas, on-site medical facility and a hospital which is just 20-25 minutes away. The institution is only about 40 kms away from current residence of Mr. Rohan Podar. The aforesaid description has been set out in detail by the learned Court Commissioner in her proposal for guardianship as under:

Number of Current	13 residents with full-time residential staff to take care of the residents.
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<i>Residents</i>	
<i>Daily Routine</i>	<i>The routine of the residents is structured and they spend 4 hours every day at a workplace within the facility learning data entry, arts/crafts and other skills.</i>
<i>Availability of Medical Care</i>	<i>The nearest Hospital is 20-25 minutes, and two doctors are available on call. The facility also has a nurse during the daytime. They also organize medical checkup twice in the week for the residents.</i>
<i>Security</i>	<i>The campus has a security guard and has CCTVs in all the common areas.</i>
<i>Initial Assessment</i>	<i>The individuals need to visit the facility 2-3 times for 3 hours per visit, after which the facility will issue a detailed report and will share the plan for shifting the individual. No overnight stay is required for the assessment.</i>
<i>Fees</i>	<i>Registration: Rs. 3000/- Functional Skills Assessment: Rs. 7000/- Refundable security deposit refunded after deductions of any incidental charges during the stay: Rs. 3 lakhs Refundable Medical deposit refunded after one year if not used for any medical emergency: Rs. 2 lakhs Per month towards operational expenses taken six months upfront: Rs. 3,60,000/-</i>
<i>Holidays</i>	<i>Residents can remain in the facility through the year if they wish, as it aims to create a home for the residents. Relatives' permission/intimation.</i>

16. Moreover, pursuant to the initial assessment report/functional skill assessment, a detailed transition plan (as noticed above) has been charted out by the said institution for smooth shifting/transition of Mr. Rohan Podar from his current residence to the institution. A perusal of the said transition plan also brings out that the said institution is willing to offer Mr. Balram i.e., one of the primary caregivers of Mr. Rohan Podar, an opportunity to work as an employee of the institution subject to an assessment and provided that the caretaker agrees to be employed as a full-time employee of the residential facility and not as an exclusive caretaker of Mr. Rohan Podar.

17. Thus, the apprehension/terms stated by the respondent nos.3 to 5 in



their aforesaid brief submissions for shifting Mr. Rohan Podar from his residence to institution stand addressed and satisfied.

18. In the aforesaid conspectus, it is evident that the parties to the present petition are *ad idem* that Mr. Rohan Podar may be shifted under the institutional care of Ananda by Action for Autism situated at Garat Pur Bas, Haryana.

19. In the written submissions filed on behalf of respondent no(s). 3 to 5 on 20.04.2025, certain reckless and unwarranted allegations/insinuations have been made by the respondents against the learned Court Commissioner. This Court strongly deprecates the same and cautions the said respondents indulging in such conduct. This Court acknowledges the diligence and sincerity of the Court Commissioner in performing the task entrusted to her and the constructive steps taken to ensure the well being of Mr. Rohan Podar.

20. It is evident that the primary grouse of the respondent no(s). 3 to 5 is as regards handling/division of financial assets of Late Mr. Sunil Podar. At present, this Court is not determining the aspect pertaining to distribution/administration of the assets; the same shall be considered at the appropriate stage after hearing the parties concerned and taking all aspects into consideration.

21. A perusal of the transition plan laid down by the Ananda by Action for Autism would reveal that it is in consonance with the medical report submitted by the medical board of RML Hospital. The transition plan clearly considers and is emphatic on the aspect that it would be detrimental to shift Mr. Rohan Podar overnight and a smooth transition, spanning over weeks in



order familiarize Mr. Rohan Poddar with new environment is necessary for his comfort and welfare. Furthermore, in the transition plan, categorically Ananda by Action for Autism has agreed to provide employment to one of the primary caregivers of Mr. Rohan Podar. The welfare of Mr. Rohan Podar at each and every stage is being kept as the utmost and primary aim of the transition plan.

22. Furthermore, the contention of the respondent nos. 3 to 5 (in its written submissions dated 20.04.2025) that additional charges have been disclosed by the learned Court Commissioner in written submission dated 17.04.2025 at the eleventh hour are also misplaced inasmuch as the charges which are laid out by the learned Court Commissioner in written submissions dated 17.04.2025 were already on record and disclosed in the recommendations of the Court Commissioner for guardianship of Mr. Rohan Podar dated 22.02.2025.

23. It is a settled position of law that Regulation 11 of the Board of Trust Regulations, 2001² empowers a registered organisation to be appointed as a guardian for a specially-abled adult. Furthermore, Ananda by Action for Autism meets the requirements as set out in Rule 17(iii)(iv) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000³ for appointing an

²**11. Who may apply for guardianship.** — (4) In the event of non-application of sub-regulation (1), (2) and (3), any registered organization may make an application for guardianship.

³**17. Procedure for removal of Guardian.** — (1)

(iii) While taking a decision on the appointment of guardian, the local level committee shall ensure that the person whose name has been suggested for appointment as guardian is:

iv) In case of an institution or organisation being considered by the local level committee for appointment as a guardian, the following guidelines shall be followed:

(a) the institution should be recognised by the State or the Central Government;

(b) the institution should have a minimum of 2 years' experience in offering disability



institution as legal guardian for a specially-abled adult.

24. The Supreme Court in ***Shafin Jahan vs Ashokan K.M. and others***, (2018) 16 SCC 368 at length discussed the *parens patriae* jurisdiction of a Constitutional Court and observed as under:

31. Another aspect which calls for invalidating the order of the High Court is the situation in which it has invoked the parens patriae doctrine. Parens patriae in Latin means “parent of the nation”. In law, it refers to the power of the State to intervene against an abusive or negligent parent, legal guardian or informal caretaker, and to act as the parent of any child or individual who is in need of protection. “The parens patriae jurisdiction is sometimes spoken of as ‘supervisory’” [P.W. Yong, C. Croft and M.L. Smit, On Equity.] .

32. The doctrine of parens patriae has its origin in the United Kingdom in the 13th century. It implies that the King as the guardian of the nation is under obligation to look after the interest of those who are unable to look after themselves. Lindley, L.J. in Thomasset v. Thomasset [Thomasset v. Thomasset, 1894 P 295 (CA)] pointed out (p. 299) that in the exercise of the parens patriae jurisdiction, “the rights of fathers and legal guardians were always respected, but controlled to an extent unknown at common law by considering the real welfare”. The duty of the King in feudal times to act as parens patriae has been taken over in modern times by the State.

33. Black's Law Dictionary defines “parens patriae” as:

“1. The State regarded as a sovereign; the State in its capacity as provider of protection to those unable to care for themselves.

2. A doctrine by which a Government has standing to prosecute a lawsuit on behalf of a citizen, especially on behalf of someone who is under a legal disability to prosecute the suit. The State ordinarily has no standing to sue on behalf of its citizens, unless a separate, sovereign interest will be served by the suit.”

rehabilitation services including running residential facilities or hostel to the respective category of persons with disability;

(c) the residential facility or hostel for persons with disabilities shall maintain minimum standards in terms of space, staff, furniture, rehabilitation and medical facilities as specified by the Board.



34. *In Charan Lal Sahu v. Union of India [Charan Lal Sahu v. Union of India, (1990) 1 SCC 613], the Constitution Bench, while delving upon the concept of parens patriae, stated : (SCC p. 648, para 35)*

“35. ... In the “Words and Phrases” Permanent Edn., Vol. 33 at p. 99, it is stated that *parens patriae* is the inherent power and authority of a legislature to provide protection to the person and property of persons *non sui juris*, such as minor, insane, and incompetent persons, but the words *parens patriae* meaning thereby “the father of the country”, were applied originally to the King and are used to designate the State referring to its sovereign power of guardianship over persons under disability. *Parens patriae* jurisdiction, it has been explained, is the right of the sovereign and imposes a duty on sovereign, in public interest, to protect persons under disability who have no rightful protector. The connotation of the term *parens patriae* differs from country to country, for instance, in England it is the King, in America it is the people, etc. The Government is within its duty to protect and to control persons under disability. Conceptually, the *parens patriae* theory is the obligation of the State to protect and takes into custody the rights and the privileges of its citizens for discharging its obligations. Our Constitution makes it imperative for the State to secure to all its citizens the rights guaranteed by the Constitution and where the citizens are not in a position to assert and secure their rights, the State must come into picture and protect and fight for the rights of the citizens. ...”

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38. *In Aruna Ramachandra Shanbaug v. Union of India [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , the Court, after dealing with the decision in State of Kerala v. N.M. Thomas [State of Kerala v. N.M. Thomas, (1976) 2 SCC 310 : 1976 SCC (L&S) 227] wherein it has been stated by Mathew, J. that “the Court also is “State” within the meaning of Article 12 (of the Constitution) ...”, opined : (Aruna Shanbaug case [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , SCC p. 521, para 130)*

“130. In our opinion, in the case of an incompetent person who is unable to take a decision whether to withdraw life support or not, it is the Court alone, as *parens patriae*, which ultimately must take this decision, though, no doubt, the views of the near relatives, next



friend and doctors must be given due weight.”

39. Constitutional courts in this country exercise parens patriae jurisdiction in matters of child custody treating the welfare of the child as the paramount concern. There are situations when the court can invoke the parens patriae principle and the same is required to be invoked only in exceptional situations. We may like to give some examples. For example, where a person is mentally ill and is produced before the court in a writ of habeas corpus, the court may invoke the aforesaid doctrine. On certain other occasions, when a girl who is not a major has eloped with a person and she is produced at the behest of habeas corpus filed by her parents and she expresses fear of life in the custody of her parents, the court may exercise the jurisdiction to send her to an appropriate home meant to give shelter to women where her interest can be best taken care of till she becomes a major.

40. In *Heller v. Doe* [*Heller v. Doe*, 1993 SCC OnLine US SC 97 : 125 L Ed 2d 257 : 509 US 312 (1993)] , Kennedy, J., speaking for the US Supreme Court, observed : (SCC OnLine US SC)

“... ‘the State has a legitimate interest under its parens patriae powers in providing care to its citizens who are unable ... to care for themselves’....

41. The Supreme Court of Canada in *E. v. Eve* [*E. v. Eve*, 1986 SCC OnLine Can SC 58 : (1986) 2 SCR 388] observed thus with regard to the doctrine of parens patriae : (SCC OnLine Can SC paras 75-77)

The parens patriae jurisdiction for the care of the mentally incompetent is vested in the provincial superior courts. Its exercise is founded on necessity. The need to act for the protection of those who cannot care for themselves. The jurisdiction is broad. Its scope cannot be defined. It applies to many and varied situations, and a court can act not only if injury has occurred but also if it is apprehended. The jurisdiction is carefully guarded and the courts will not assume that it has been removed by legislation.

While the scope of the parens patriae jurisdiction is unlimited, the jurisdiction must nonetheless be exercised in accordance with its underlying principle. The discretion given under this jurisdiction is to be exercised for the benefit of the person in need of protection and not for the benefit of others. It must at all times be exercised with great caution, a caution that must increase with the seriousness of the matter. This is particularly so in cases where a court might be tempted to act because



failure to act would risk imposing an obviously heavy burden on another person.

42. The High Court of Australia in *Deptt. of Health and Community Services v. JWB and SMB* [*Deptt. of Health and Community Services v. JWB and SMB*, 1992 HCA 15 : (1992) 175 CLR 218] , speaking through Mason, C.J., Dawson, Toohey and Gaudron JJ., has made the following observations with regard to the doctrine:

“71. No doubt the jurisdiction over infants is for the most part supervisory in the sense that the courts are supervising the exercise of care and control of infants by parents and guardians. However, to say this is not to assert that the jurisdiction is essentially supervisory or that the courts are merely supervising or reviewing parental or guardian care and control. As already explained, the *parens patriae* jurisdiction springs from the direct responsibility of the Crown for those who cannot look after themselves; it includes infants as well as those of unsound mind.”

43. Deane, J. in the same case stated the following:

“4. ... Indeed, in a modern context, it is preferable to refer to the traditional *parens patriae* jurisdiction as “the welfare jurisdiction” and to the “first and paramount consideration” which underlies its exercise as “the welfare principle”.”

44. Recently, the Supreme Court of New South Wales, in *AC v. OC* [*AC v. OC*, 2014 NSWSC 53] , has observed:

“36. That jurisdiction, protective of those who are not able to take care of themselves, embraces (via different historical routes) minors, the mentally ill and those who, though not mentally ill, are unable to manage their own affairs : *Eve* [*E. v. Eve*, 1986 SCC OnLine Can SC 58 : (1986) 2 SCR 388] , SCR at pp. 407-17; Court of Australia in *Deptt. of Health and Community Services v. JWB and SMB* [*Deptt. of Health and Community Services v. JWB and SMB*, 1992 HCA 15 : (1992) 175 CLR 218] , CLR at p. 258; *PB v. BB* [*PB v. BB*, 2013 NSWSC 1223] , *Nswsc*, paras 7, 8, 40, 42, 57, 58 and 64, 65.

37. A key concept in the exercise of that jurisdiction is that it must be exercised, both in what is done and what is left undone, for the benefit, and in the best interest, of the person (such as a minor) in need of protection.”



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45. Thus, the constitutional courts may also act as parens patriae so as to meet the ends of justice. But the said exercise of power is not without limitation. The courts cannot in every and any case invoke the parens patriae doctrine. The said doctrine has to be invoked only in exceptional cases where the parties before it are either mentally incompetent or have not come of age and it is proved to the satisfaction of the court that the said parties have either no parent/legal guardian or have an abusive or negligent parent/legal guardian.

25. Further, the Supreme Court in **Sharmila Velamur vs V. Sanjay and Ors.**, 2025 SCC OnLine SC 482 had observed as under:

“24. Since we have already opined that Aadith cannot make independent decisions, it is the duty of the Court, under the parens patriae doctrine, to determine the course of action that would best serve his interests and welfare.

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31. In this vein, it is a settled position of law that the principle of comity of courts and a pre-existing order of a Foreign Court must yield to the best interests of the child, especially when the Court has decided to conduct an elaborate enquiry in this regard. Such cases must be decided on the sole and predominant criterion of ‘what would serve the interests and welfare’ of the minor. The preexisting order of a Foreign Court is merely one of the circumstances to consider when assessing the best interests and welfare of the person concerned. This doctrine was evolved to protect children who may, unwittingly, become collateral damage in their parents' legal disputes. It has gained significance over the past several years, owing to the frequency and ease of migration.

32. To consider the interests of the child, the Court must take into account all attending circumstances and the totality of the situation. The Court must consider the welfare and happiness of the child as the paramount consideration and go into all relevant aspects of welfare including stability and security, loving and understanding care and guidance, and full development of the child's character, personality, and talents. The Court has to give due weightage to the child's ordinary contentment, health, education, intellectual development, favourable surroundings, and future prospects. Further, over and above physical comforts, moral and ethical values also have to be taken note of, as they



constitute equal if not more important factors than the others.

26. Furthermore, a coordinate Bench of this Court in WP(C) 1271/2020 while appointing a guardian committee (comprising of family members/relatives) for an adult suffering from Fronto- temporal Dementia opined that a Constitutional Court has the power to adjudicate a petition filed before it for appointment of a guardian. The relevant portion of the judgment reads as under:

“220. In any event, this Court is of the opinion that the solemn nature of the said jurisdiction having been repeatedly recognised by the Supreme Court, the question as to which Court has to exercise it and in what manner is one of mere procedure. So long as the “wills and preferences” of the mentally ill person and the other factors set out in the rules are borne in mind by the Court exercising parens patriae jurisdiction, it cannot be held that the High Court exercising power under Article 226 is denuded of power in view of the provisions of the RPWD-2016 Act or the Rules thereunder.

221. Thus, both, while exercising jurisdiction under Article 226 and even in terms of the proviso to Section 14(1) of the RPWD-2016 and under the MHA-2017, this Court has the power to entertain the present petition seeking appointment of a guardian.”

27. The circumstances that prevail in the present petition undisputedly are peculiar in nature and call for this Court’s interference for welfare of a specially-abled adult who has been residing in India for more than 16 years, and after demise of his father/natural guardian is left to reside under the supervision of paid full-time caregivers/staff.

28. In the aforesaid conspectus, this Court is required to exercise *parens patriae* jurisdiction.

29. Considering the circumstances, this Court exercising *parens patriae* jurisdiction finds it apposite to appoint Ananda by Action for Autism as



legal guardian for Mr. Rohan Podar.

30. Accordingly, the following directions are issued:

- a) Ananda by Action for Autism is appointed as the legal guardian of Mr. Rohan Podar from the date of passing of this order i.e., 28.05.2025. The said institution shall primarily have the right to take decisions on the following matter/s pertaining to Mr. Rohan Podar:
 - i. Upkeep and care;
 - ii. Residential arrangements, including recreational travel and activities;
 - iii. Medical treatments in consultation with doctors. If need arises, the parties through the learned Court Commissioner are at the liberty to share their opinion/inputs pertaining to the treatment undertaken and doctors consulted. However, the same shall not be construed as conferring any right on the parties to interfere in decisions taken by the institution in the best interest of Mr. Rohan Podar.
- b) Mr. Rohan Podar shall be shifted from his current residence i.e., B-5/119, Safdarjung Enclave, New Delhi to Ananda by Action for Autism situated at Garat Pur Bas, Haryana in accordance with the transition plan dated 18.03.2025 submitted by the learned Court Commissioner on behalf of the Ananda by Action for Autism. In this regard, for a smooth execution of the said shifting an updated schedule/plan with tentative dates shall be prepared by the learned Court Commissioner and Ananda by Action for Autism in consultation with the petitioners as well as respondent nos. 3 and 4



within one week from today. The petitioners and respondent nos.3 and 4 are directed to cooperate in the aforesaid exercise and not impede or hamper the same.

- c) In case, at any given point of time, the transition plan proves to be unsuccessful, the institution shall immediately inform this Court along with a detailed report pertaining to the same. The interest and comfort of Mr. Rohan Podar shall be the utmost priority of all the stakeholders and parties involved in the transition plan.
- d) Ananda by Action for Autism is directed to schedule an interview with Mr. Balram (primary caregiver of Mr. Rohan Podar) preferably with a week from today. The said meeting shall be held in the presence of the learned Court Commissioner. In case the institution finds him suitable for employment, the terms and conditions pertaining to the said employment as stated in the transition plan shall be clearly conveyed to Mr. Balram. Mr. Balram shall be given a weeks' time to respond. In case, the institution does not find Mr. Balram suitable for employment or Mr. Balram refuses to the said employment, institute may make suitable arrangements in consultation with the Court Commissioner.
- e) Since, this Court has not yet adjudicated upon the aspect of administration of assets/funds owned by Mr. Rohan Podar, the learned Court Commissioner as an interim arrangement shall continue to administer the moveable/immoveable assets of Mr. Rohan Podar in accordance with directions 9 (i) and (v) contained in order dated



15.07.2024 passed by this Court⁴.

- f) For the said purpose, learned Court Commissioner as and when required shall address a letter to the concerned bank of Late Mr. Sunil Podar i.e, HDCF Bank, Safdarjung Enclave branch (bearing Account no. 05031930003403) which shall consequently remit/release the aforesaid amount from the bank account of Late Mr. Sunil Podar. Therefore, the bank of Late Mr. Sunil Podar is directed to release amounts as and when a letter is addressed by the learned Court Commissioner for the aforesaid purposes.
- g) The logistic and administrative cost that the institution shall incur while shifting and admitting Mr. Rohan Podar to the said institution has been set out in written submission dated 17.04.2025 filed by the learned Court Commissioner as under:

“a. Registration: Rs. 3000/-.

⁴“ 9. In view of the prevalent situation and keeping in mind the physical and mental condition of Mr. Rohan Podar, this Court exercising *parens patriae* jurisdiction, issues the following direction:

i.) Ms. Swathi Sukumar (M: +91 9717918652) is appointed as the Court Commissioner who shall henceforth administer the movable/immovable assets of Mr. Rohan Podar, including all the bank accounts (individual or joint), renewal of term deposits, property leases, filing of returns, compliance of statutory formalities etc., All decisions for securing and preservation of the moveable and immovable assets shall be taken by the Court Commissioner. Reports shall be filed on a monthly basis before this Court in respect of all actions taken.

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v) The Court Commissioner shall henceforth, *inter alia*:

a) authorise and release funds for all the expenses which are to be incurred for the medical treatment of Mr Rohan Podar, maintenance of his residence and, expenses for the staff, etc. to meet the needs of Mr. Rohan Podar.

b) take any and all steps to preserve all movable and immovable assets of the Mr. Rohan Podar, including amounts lying in bank accounts, fixed deposits, term deposits, shares, debentures, bonds, PPF account, pension etc.

c) take all steps to secure the revenues of the Mr. Rohan Podar, if any, in the form of lease or rental amounts, dividends from the various companies etc.,”



- b. Functional Skills Assessment: Rs.7000/*
- c. Refundable security deposit refunded after deductions of any incidental charges during the stay: Rs. 3 lakhs*
- d. Refundable Medical deposit refunded after one year if not used for any medical emergency: Rs.2 lakhs*
- e. One month's operational expense of Rs.60,000/*
(TOTAL AMOUNT: Rs.5,70,000/-)”

As an interim measure, the above amounts be released upon Rohan Podar being shifted to “Ananda by Action for Autism”, from the bank account of Late Ms. Sunil Podar being HDFC Account No. 05031930003403. Thereafter, the monthly operational expenses of Ananda, being Rs.60,000/- may be remitted before the 30th of every month upon the Court Commissioner’s letter to the bank, from bank account of Late Mr. Sunil Podar being HDFC Account No. 05031930003403, till the matters related to Rohan Podar’s moveable and immovable properties are decided. The concerned Manager of HDCF Bank, Safdarjung Enclave branch, is directed to comply with the directions.

- h) Ananda by Action for Autism shall maintain accounts of expenditure incurred on a monthly basis. Till the subsistence of the aforesaid interim arrangement, the expenditure incurred by the said institution shall be properly accounted and mailed/furnished to the learned Court Commissioner on or before 30th of every month. The aforesaid e-mail, solely for the purpose of keeping the parties informed, shall also be copied to the petitioners and respondent nos.3 and 4 by the institution through the learned Court Commissioner.
- i) The learned Court Commissioner upon receiving the said accounts



shall verify the same and thereafter administer the remittance of the monthly expenditure to the said institution through the aforesaid bank account of Late Mr. Sunil Podar.

- j) Parties to the present petition/family and friends of Mr. Rohan Podar shall be allowed to meet Mr. Rohan Podar at the said institution subject to the following terms:
- (i) Parties/visitors shall meet Mr. Rohan Podar at the institution in the common meeting areas, under the supervision of a staff member of the said institution.
 - (ii) Parties/visitors shall intimate the institution about the proposed visit at least 2 days prior to the visit. On the day of visitation, the visitors shall be allowed to meet Mr. Rohan Podar, provided that the visitor shall check in at the reception and provide valid government approved identification (Aadhar Card/Passport/Pan card/driver license etc.).
 - (iii) Visiting shall ordinarily be during daytime hours and each visit shall not exceed 2 hours unless otherwise approved by the institution.
 - (iv) Any disruptive behaviour, emotional distress caused to the Mr. Rohan Podar, or violation of the institution's policies may result in suspension or revocation of visitation rights.
 - (v) Parties shall not remove Mr. Rohan Podar from the premises of the institution without prior written approval from the Institution and obtaining an approval order from this Court.
 - (vi) Visitors must comply with all security and health protocols established by the Institution.



(vii) Visitors shall not be permitted to provide any external medication, food, or other items without prior consent from the Institution.

(viii) Any concerns regarding Mr. Rohan Podar's health, safety or emotional state should be reported immediately to the management of Institution.

(ix) The institution can temporarily suspend visits in case of emergencies, outbreaks, or any other situation requiring restricted access to the premises. However, during the said period, upon prior permission, if the circumstances allows, the institution shall permit communication of Mr. Rohan Podar with the concerned party through video conferencing/any feasible digital mode.

k) Learned Court Commissioner is directed to (personally /or depute a colleague) schedule monthly visit to the said institution for inspecting the well-being of Mr. Rohan Podar and file a status report pertaining to the same along with relevant photographs (if any) till the pendency of the present petition. For the said purpose the learned Court Commissioner shall be at liberty to visit as per her convenience on any day and with 2 hours prior intimation to the said institution.

31. As stated hereinabove, at this stage, keeping in mind the best interest and safety of Mr. Rohan Podar, this Court has passed the aforesaid directions to ensure the physical well being of Mr. Rohan Podar. The aspect of administration of assets of Mr. Rohan Podar needs further consideration. However, as an interim arrangement, till the final adjudication of the remaining dispute, the learned Court Commissioner shall continue to



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administer the moveable/immovable assets of Mr. Rohan Podar in accordance with directions 9 (i) and (v) contained in order dated 15.07.2024 and aforesaid directions passed by this Court.

32. List for further consideration on 22.07.2025.

SACHIN DATTA, J

MAY 28, 2025/sl