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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 544/2026

Date of Decision: **11.03.2026**

**IN THE MATTER OF:**

ARUN SINGH

.....Petitioner

Through: Mr. Divyansh Tiwari, Advocate.

versus

GOVT. OF N.C.T. OF DELHI AND ANR. ....Respondents

Through: Mr. Raghvendra Upadhyay Panel  
Counsel GNCTD, Ms. Purnima Jain  
Advocate & Mr. Madhur Advocates  
for R-1.

Ms Sangita Malhotra Advocate SPC  
for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV**

**J U D G E M E N T**

**PURUSHAINDR KUMAR KAURAV, J. (ORAL)**

The present petition has been filed under Article 226 of the Constitution of India, invoking the doctrine of *parens patriae*, seeking the appointment of the petitioner, Shri Arun Singh, as the legal guardian of his aunt, Smt. Rajeshwari Singh, for the purpose of managing her personal, medical and financial affairs.

2. It is stated that Smt. Rajeshwari Singh has been diagnosed with progressive senile dementia and is also suffering from bronchial asthma.



Medical certificates dated 24.07.2025 record that she suffers from progressive senile dementia with tremors in both hands and is unable to carry out daily activities, sign documents or manage her estate.

3. The facts manifest that Smt. Rajeshwari Singh, born on 30.01.1941, is presently about 84 years old and was married to Late Lt. Col. Brajendra Singh. The couple had one son, Shri Raghav Singh, who presently resides in the United States of America. It is stated that Shri Raghav Singh suffered an accident in April 2013 resulting in paralysis of his lower body and is wheelchair dependent, owing to which he is unable to travel to India. It is further stated that the husband of Smt. Rajeshwari Singh passed away on 12.03.2022.

4. It is the case of the petitioner that in view of the aforesaid circumstances and the inability of her son to travel to India, the petitioner, who is the nephew of Smt. Rajeshwari Singh, has been taking care of her and making arrangements for her support. However, in the absence of a judicially recognised guardianship, he is unable to manage her personal and financial affairs.

5. The instant petition first came up for hearing on 15.01.2026 and the Court directed for issuance of notice. Subsequently thereto, on 29.01.2026, in order to assess the condition of Smt. Rajeshwari Singh, the Court directed Respondent no.2 UOI to constitute a medical board at the Safdarjung Hospital, Delhi and examine the condition of the petitioner.

6. *Vide* notice dated 21.02.2026, the Union of India constituted a medical board, and the meeting of the Board was scheduled on 23.02.2026. Thereafter, UOI has brought on record the medical board opinion dated 24.02.2026. *Vide* the said opinion, the medical board is of the view that Mrs.



Rajeshwari Singh is having “progressive Dementia (advance stage)” and “needs aid in daily activities of life”.

7. Furthermore, the petitioner has also placed on record a No Objection Certificate of Mr. Raghav Singh, son of Mrs. Rajeshwari Singh, for the appointment of the petitioner as the legal guardian.

8. Before adjudicating on the merits of the instant petition, it is deemed appropriate to briefly outline the settled legal position with respect to the invocation of the doctrine of *parens patriae*.

9. In *S. D. v. Govt. of NCT of Delhi and Ors.*<sup>1</sup>, this Court observed that *parens patriae* jurisdiction can be invoked only in exceptional circumstances and must be exercised with great caution and seriousness. It was observed that Constitutional Courts, including High Courts, are empowered to exercise this jurisdiction to meet the ends of justice, particularly where a person suffers from mental incapacity. It was noted that such jurisdiction may be invoked if the person concerned is unable to protect their interests or is subjected to abuse, neglect, coercion or undue influence, and can also extend to the protection of vulnerable adults. The Court further examined the statutory framework under the Rights of Persons with Disabilities Act, 2016 (*RPWD Act*) and noted that the power to appoint guardians is vested in the District Court and the Designated Authority. However, the Court recognised a vacuum in the statutory framework concerning the appointment of guardians and the protection of mentally incapacitated adults. It held that such legislative gaps do not preclude the High Court from exercising its *parens patriae* jurisdiction under Article 226 of the Constitution of India to safeguard the interests of vulnerable persons. The Court also observed that



the conduct of the person proposed to be appointed as guardian is of significant relevance while considering such an appointment. The Court emphasised that individuals having a conflict of interest or vested interests should ordinarily not be appointed as guardians. Similarly, persons who may have engaged in conduct detrimental to the mentally ill individual, or who have exercised undue influence, coercion, or duress, ought not to be considered suitable for such appointment.

*“209. The Supreme Court therefore held that in order to invoke the parens patriae jurisdiction, exceptional circumstances have to exist. It quoted with approval the observations of the Supreme Court of Canada in E v. Eve (supra) that the said jurisdiction is carefully guarded and there shall be no presumption that the parens patriae jurisdiction is removed by legislation. The scope of parens patriae jurisdiction being unlimited, it has to be exercised with great caution and with enormous seriousness. The Supreme Court recognises that Constitutional Courts, including High Courts, can also act under their parens patriae jurisdiction to “meet the ends of justice”. Mental incompetency is listed as an exceptional circumstance which would justify the exercise of this jurisdiction. If the Court is satisfied that the person concerned is either being abused or neglected, parens patriae jurisdiction can be exercised. Even vulnerable adults can be protected under this jurisdiction if there are any factors that point towards undue influence, coercion, constraint etc.”*

*“217. While exercising parens patriae jurisdiction, Courts used to apply the principle of “best interest of the individual”. However, with the introduction of the UNCRPD, “best interest” of the individual has to be in the light of the “wills and preferences” of the individual. The same could be determined by means of advance directives and in the absence of advance directives, facts and circumstances which point towards the wishes/intent of the concerned person. Thus, the “wills and preferences” of the mentally ill person have to be considered by the Court in deciding the manner in which care is to be given.”*

*“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*

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<sup>1</sup> 2021: DHC: 3463



*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”*

*“226. It is also the settled legal position that the conduct of the person being considered for appointment as the guardian would be extremely important and relevant. Persons with conflict or vested interest, naturally, ought not to be appointed. Persons who may have engaged in conduct that is detrimental to the mentally ill person or who have exercised undue influence, coercion, duress ought not to be appointed. These factors have been considered by Courts in various cases, especially under the MHA-1987.”*

10. In the case ***Vijay Ramachandra Salgaonkar v. State***<sup>2</sup>, the petitioner approached the Bombay High Court under Article 226 seeking to be appointed as the legal guardian of his wife, who was suffering from vascular dementia, diabetes, and hypertension. She was described as being in a "living dead" or vegetative state and was unable to manage her personal or financial affairs. The Bombay High Court, exercising its writ jurisdiction and the doctrine of *parens patriae*, held it imperative to fill the lacuna in the various statutes dealing with guardianship, to protect the interests and survival of incapacitated persons. The petitioner therein was appointed as the legal guardian of his wife, authorised to manage her bank accounts, properties, and financial transactions solely for her benefit and welfare. The Court held that these powers must be exercised with great caution and only in exceptional circumstances where no other rightful protector exists.

11. In ***Pooja Sharma v. State of Uttar Pradesh***<sup>3</sup>, the Allahabad High Court observed that the jurisdiction of *parens patriae* should be invoked sparingly and only where it is necessary to meet the ends of justice. In this regard, mental incapacity was recognised as an exceptional circumstance

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<sup>2</sup> 2021 SCC Online Bom 14114



that may justify the exercise of this jurisdiction. Therefore, where the Court is satisfied that a person is in a vegetative state, the doctrine of *parens patriae* may be invoked to protect the interests of such a person. The relevant extract is reproduced as under

*“33. The Supreme Court in Aruna Ramachandra Shanbaug v. Union of India, has explained difference between permanent vegetative state and minimal conscious state. Section 2(s) of the Rights of People with Disabilities Act, 2016 defines persons with disabilities. This category of persons are those who are able to interact though not fully coherent. Hence, guardian was to be appointed under Section 14 of the Act. However, for a person in comatose state, there is no interaction and the victim would not respond to any stimuli, hence, the provisions of personal disability defined under Section 2(s) of the Act cannot be said to be attracted in such cases. Therefore, in the larger interest of patient lying in comatose state, who is in urgent need of treatment, support and for that they need funds to take care of this extraordinary situation, which cannot be ignored or compromised, hence, the court is consciously bound to invoke power under Article 226 of the Constitution of India, to deal with such situation.”*

*“37. The court further held that in order to invoke the parens patriae jurisdiction, exceptional circumstances have to exist. The scope of parens patriae jurisdiction has to be exercised with great caution and with enormous seriousness. The Supreme Court recognises that Constitutional Courts, including High Courts, can also act under their parens patriae jurisdiction to "meet the ends of justice". Mental incompetency is listed as an exceptional circumstance which would justify the exercise of this jurisdiction. If the court is satisfied that the person concerned is in a vegetative state, then surely "parens patriae" jurisdiction can be exercised.”*

*“55. Thus, on a perusal of the medical report of husband of the petitioner and various decisions of other High Courts as well as this Court, it is clear that a constraint court may act as parens patriae so as to meet the ends of justice. The guidelines laid down by various courts in identical matters appear to be sound. Thus, we fix the following norms/guidelines for appointing the petitioner as guardian of her husband:”*

12. In ***Simardeep Uppal & Anr. v. Govt. of NCT of Delhi & Anr<sup>4</sup>***, this Court again observed that there exists a legislative gap in the existing legal

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<sup>3</sup> (2023) 2 HCC (All) 511

<sup>4</sup> W.P.(C)- 11170/2024 dated 20.12.2024



framework in India regarding the appointment of family members as guardians for medically incapacitated adults. In view of such absence of a specific statutory mechanism, the Court invoked its *parens patriae* jurisdiction to protect the interests of Dr. Sarvajit Singh Uppal, a retired paediatrician suffering from advanced Alzheimer's disease. The Court noted that following the demise of his wife, who was his primary caregiver, Dr. Uppal had undergone significant cognitive decline and was no longer capable of managing his personal affairs, daily activities, or financial assets. Medical boards, including a court-appointed team from a government hospital, had certified that he was suffering from severe dementia and required constant supervision. This Court, therefore, passed the following order : -

*7. In the absence of a legal guardian, the Petitioners are facing difficulties in covering Dr. Uppal's medical expenses. Therefore, they request the Court to appoint both of them as joint legal guardians of Dr. Uppal enabling them to arrange the necessary care and safeguard his property.*

*10. The prevailing legal framework for the welfare of individuals incapable of self-care includes the Mental Healthcare Act, 2017, the Hindu Minority and Guardianship Act, 1956, the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, the Rights of Persons with Disabilities Act, 2016, and Order XXXII of the Code of Civil Procedure, 1908. Yet, as the Petitioners rightly observe, none of these statutes provides a clear path for designating a family member as the legal guardian of a person with significant mental health challenges such as advanced dementia. Several judicial decisions have acknowledged this legislative gap in addressing guardianship for such individuals. Nonetheless, in appropriate cases, the courts have invoked their *parens patriae* jurisdiction to appoint immediate family members as legal*

*11. The Court deems it fit to mention that the Joint Legal Guardians shall maintain a dedicated record of all transactions pertaining to Dr. Uppal's assets and care expenses, separately from their personal finances. They shall be answerable to this Court for any withdrawals or expenditures, and in the event of any suspicion or complaint by third parties or the Delhi State Legal Services Authority, the matter may be revisited. Should*



*Dr. Uppal's medical condition improve, or if any alternative arrangement emerges, the guardianship granted herein may be modified or revoked upon appropriate application.”*

13. In *Neeraj Jaiswal & others v. State of M.P. & others*<sup>5</sup>, decided by the High Court of Madhya Pradesh, the Court dealt with a petition seeking the appointment of a husband as the legal guardian of his wife, who was in a persistent vegetative state and incapable of managing her affairs. The petition was filed to enable the husband to administer and deal with jointly owned properties so that funds could be generated for the medical care of his wife and for the maintenance of the family. The Court observed that the medical material placed on record, including reports of expert medical boards, clearly demonstrated that the patient was in a persistent vegetative condition and was incapable of making decisions or executing documents. In these circumstances, the Court acknowledged the significant emotional and financial burden faced by the family in continuing long-term medical treatment while also meeting the needs of the dependents. Taking note of the aforesaid, the Court passed the following order: -

*“ 9. Heard. Having considered the rival submissions and on perusal of the record, it is apparent that the petitioner no. 1's wife/Rashmi Jaiswal is in a vegetative state as has been certified by a committee of six doctors of the Civil Hospital at Ahmedabad in its report dated 15.1.2022, and subsequently, on 11.08.2023, the report was given by a committee of five Doctors of the said hospital. An affidavit dated 10.3.2024 has also been filed to the same effect by the petitioner no. 1 himself that his wife is in a comatose condition, whereas the petition itself has been filed on 27.7.2021, in which also the same facts have been narrated by the petitioners.”*

*“10. In such facts and circumstances, the mental and physical state of the petitioner's wife that she is in a vegetative state cannot be denied, and apparently the same must have caused incomprehensible difficulties to the*

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<sup>5</sup> 2024 SCC OnLine MP 8467



*petitioner no. 1 who is continuously taking care of his wife, and at the same time, he is also required to look after his two children, the petitioners no. 2 and 3. In such facts and circumstances, and also taking note of the decisions rendered by various high Court in the case of Philomena Leo Lobo (supra), R. Usha (supra), Rajni Hariom Sharma (supra), Sairabanu Mohammad Rafi(supra), Sayardevi Chaudhary (supra), Shobha Gopalakrishnan (supra), Uma Mittal (supra) and Vandana Tyagi (supra), this Court is of the considered opinion that it is a fit case where the petitioner no. 1 can be appointed as a guardian to deal with the properties of his wife/Rashmi Jaiswal, accordingly the petition stands allowed in terms of the relief sought.”*

14. From the perusal of the aforesaid decisions, it emerges that the *parens patriae* jurisdiction of Constitutional Courts is an extraordinary power which may be invoked only in exceptional circumstances such as to protect the interests of persons who are incapable of managing their affairs due to mental incapacity, a persistent vegetative state, e.t.c. Where the existing statutory framework does not provide an effective mechanism for the appointment of a guardian for such persons, High Courts, in exercise of their jurisdiction under Article 226 of the Constitution of India, may step in to safeguard the welfare, dignity, and proprietary rights of the incapacitated person. While doing so, the Court must exercise such power with great caution, bearing in mind the best interests of the individual, and ensuring that the proposed guardian is free from any conflict of interest or adverse conduct. In appropriate cases, immediate family members may be appointed as guardians for the limited purpose of managing the medical, financial, and property-related affairs of the incapacitated person.

15. Having regard to the aforesaid legal position and the material placed on record, this Court is of the considered view that the petitioner has made out a case for the grant of the relief sought in the present petition. The medical record, including the opinion of the duly constituted Medical Board



at Safdarjung Hospital, clearly establishes that Smt. Rajeshwari Singh is suffering from advanced progressive dementia and requires assistance in carrying out her daily activities. The Court also takes note of the fact that her only son, who resides in the United States of America and suffers from physical disability, has furnished his no objection to the appointment of the petitioner as legal guardian.

16. It is seen that the petitioner, being the nephew of Smt. Rajeshwari Singh, has been taking care of her, and there is nothing on record to indicate any conflict of interest or adverse conduct on his part. In these circumstances, and keeping in view the object of protecting the welfare, dignity and property of a person who is unable to manage her affairs due to mental incapacity, this Court is satisfied that the present case warrants the exercise of *parens patriae* jurisdiction.

17. Accordingly, the prayer of the petitioner for appointment as the legal guardian of Smt. Rajeshwari Singh, for the purpose of managing her medical, legal and financial affairs, deserves to be acceded to.

18. In view of the aforesaid facts, the petitioner is appointed as legal guardian for all legal and financial purposes.

19. With the aforesaid directions, the petition stands disposed of.

**PURUSHAINdra KUMAR KAURAV, J**

**MARCH 11, 2026**

aks/mj