



2026:DHC:1806



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

+ **W.P.(C) 5959/2024**

Date of Decision: **25.02.2026**

IN THE MATTER OF:

BHAVNA GULATI & ANR.

.....Petitioners

Through: Mr Arjeet Gaur, Advocate.

versus

GOVT. OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr Shashi Pratap Singh with Ms Shagun Sabharwal, Ms Anamika Tyagi & Ms Laqshyaa Saluja, Advocates for GNCTD.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

JUDGEMENT

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

The Court *vide* order dated 29.04.2024 has succinctly captured the controversy involved in the instant writ petition. Paragraph nos. 1 to 6 of the said order is extracted as under:

“1. The Petitioners have approached this Court with the following prayers:-

“Issue a writ of mandamus or any other similar writ order or direction to the respondents commanding them to appoint Petitioner No. 1 as a guardian of person and property of Petitioner no.2 in the light of the facts and circumstances of this case;

OR

In the alternate, this Hon'ble Court may kindly be pleased to issue



a writ of mandamus or any other similar writ, order or direction commanding the Respondent no.2 to consider the application for the appointment of Petitioner No. 1 as a guardian of Petitioner No.2 without any discrimination/disqualification based on nationality of petitioner no. 1; and

Pass any other further order which this Hon'ble Court deems fit and proper may also be passed in favour of the Petitioners in the interest of justice.”

2. It is stated that the Petitioner No.1 is the sister of Petitioner No.2. It is stated that the parents of Petitioner No.2 have passed away.

3. It is stated that Petitioner No.2 has been diagnosed with Cerebral Palsy with Dolico Cephalo with seizures with Mental Retardation and suffers 100% Locomotor Disability from birth.

4. It is stated that Petitioner No.2 is not in any position to take care of himself. It is stated that Petitioners have approached the Trial Court and the Trial Court refused to entertain the application. The Petitioner also approached the District Magistrate to grant any relief on the ground that Petitioner No.1 is not an Indian national. Therefore, the Petitioner approached this Court by filing the instant writ petition.

*5. Mr. Udit Malik, learned ASC for GNCTD, raises preliminary objection stating that the matter stands fully covered by a Division Bench judgment of this Court in *Sunil Poddar v. The National Trust for Welfare of Person with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and Anr.*, 2023 SCC OnLine Del 832.*

6. Learned Counsel for the Petitioner seeks to distinguish the same by stating that in the said case both the child and the parent were foreign nationals whereas in this case Petitioner No.2 is an Indian national.”

2. A plain reading of the decision in the case of ***Sunil Podar v. National Trust For The Welfare Of Person With Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and Anr¹***, would clearly indicate that there is an embargo for a foreign national to seek for appointment of a guardian under Rule 17 sub-Rule 3(a) of the Rules of National Trust Rules, 2000. Paragraph 26 of the said decision is extracted as under:

¹ 2023 SCC OnLine Del 832



“26. The Court also finds merit in the submissions addressed by the learned ASG and Mr. Kumar when they contended that the requirement of a guardian being a citizen of India is designed to subserve a larger societal and public purpose. As is manifest from a conjoint reading of Sections 15, 16 and 17 of the Act, the affairs and the well-being of a person with disability is subject to periodical monitoring by the Local Level Committee and other authorities charged with discharging that obligation. In terms of Section 16(1), a person appointed as a guardian is to deliver an inventory of all immovable property belonging to a person with disability within six months from the date of his appointment. The guardian, additionally and in terms of Section 16(2), is further obliged to furnish returns in respect of the property and assets in his charge every three months on the closure of a financial year. A guardian may also come to be removed, if he be found to be abusing or neglecting a person with disability or even in a case where he has misconducted himself and mismanaged while dealing with the property and assets of such a person. In terms of Rule 17(1)(vi) various misdemeanours stand chronicled and which are recognised under the Rules to constitute abuse and neglect. Those too would lend credence to the statute obliging the competent authorities under the Act to continually monitor and oversee the welfare and the condition of persons with disabilities. Not only would the appointment of a person who is neither a citizen of the country nor ordinarily residing herein give rise to serious apprehensions and leave the authorities grappling with various imponderables and a state of continued uncertainty, it would also impede the discharge of the monitoring obligation placed upon the statutory authorities.”

3. The Court, therefore, finds that Petitioner No. 1, who seeks appointment as the guardian of Petitioner No. 2, is a foreign national. In view thereof, no writ of mandamus can be issued directing such appointment. The distinction sought to be drawn by the petitioners is immaterial and has no relevance when examined in the context of the scheme of the Act and the Rules governing the field. The distinction which the petitioner seeks to draw would have no bearing keeping in mind the scheme of the Act and the Rules in question.



2026:DHC:1806



4. However, in view of the humanitarian approach which the Court had adopted *vide* its order dated 07.11.2024, the Court finds that the said arrangement shall remain in force unless the same is specifically modified by any of the competent court.
5. With respect to other issues including visa etc., the petitioners shall be at liberty to take appropriate recourse in accordance with law.
6. With these observations, the petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

FEBRUARY 25, 2026

Tr/ap