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CRM-37056-2024
CRM-37058-2024
IN CRA-D-1218-2022

BHUPENDER SINGH V/S STATE OF HARYANA

Present : Mr. Ankur Mittal, Addl. A.G., Haryana with
 Mr. P.P. Chahar, Sr. D.A.G., Haryana.

 Mr. Sartaj Singh Gill, Sr. D.A.G., Punjab.

 Mr. Manish Bansal, Public Prosecutor, U.T. Chandigarh.

CRM-37056-2024 AND CRM-37058-2024

1. Considering the valid, and, good reasons, as meted in the instant applications, the same are **allowed**. The Chief Secretary to the Government of Punjab, and, the Director General of Police, Punjab, are respectively granted exemption from respective personal appearance(s) today before this Court.

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2. The hereinafter extracted directions became passed by this Court, on 12.07.2024, upon all concerned. In pursuance to the said directions, (i) the Chief Secretary, Government of Punjab; (ii) Director General of Police, Punjab; and (iii) Director General of Police, Haryana, did file their respective compliance affidavits and the same were taken on record.

“Direction No. I

8. If so, this Court directs the Director General of Police, U.T., Chandigarh to draw further batches of Chandigarh Police personnel, to undergo training at Police Training College, Daroh, District Kangra. The requisite expenses towards the board and lodging be forthwith remitted to the establishment of P.T., Daroh. The trainings to be imparted to them shall be, on the same curricula whereons trainings earlier also became imparted to the police personnel of Chandigarh Police. Moreover, the earlier deputed subject experts shall also be re-engaged,

thus at the said establishment, hence to ensure the effective imparting of trainings to the police personnel of Chandigarh Police. Ms. Soumya Sambasivan, IPS is requested to through video conferencing oversee the said imparted trainings.

Direction No. II

9. Be that as it may, this Court had made certain directions, as carried in paragraphs 15 and 16 of the order made on 22.5.2024, paras whereof become extracted hereinafter, therebys the said directions are also required to be complied with by the Director General of Police, U.T., Chandigarh. The requisite affidavit with all the apposite statistics and inputs be ensured to be subsequently tendered on an affidavit sworn by the Director General of Police, U.T., Chandigarh.

“15. Nonetheless, the Director Generals of Police, respectively of the State of Punjab and Haryana both, are directed to ensure, on the subsequent date of hearing, that they file their respectively sworn affidavits, thus with speakings qua the Investigating Officers concerned, who have been imparted trainings have completely imbibed in themselves, the nuances of intensive trainings as became imparted to them at Himachal Pradesh Police Training College, Daroh, District Kangra,

16. The above would emerge only when the investigations as become conducted by them, thus subsequent to trainings being imparted to them thus are fault free, therefore for ascerting that the earlier faults which were occurring in the earlier made investigations into crimes under the NDPS Act, have become undone. Resultantly the supra are directed to personally regularly monitor the investigation made into NDPS offences.”

10. Since no indolence is to etch in the minds of the already trained police personnel of Chandigarh Police, thereby they are required to be hereafters too successively, thus imparted trainings at such Police Training Colleges, as may hereafter deemed to be fit to be opted by the Director General of Police, Union Territory, Chandigarh.

Direction No. III

11. The compliance affidavit in respect of the directions, which occur in paragraphs (supra), do become complied with but only at the instance of Director General of Police, Punjab, but remain uncomplied with, at the instance of the Director General of Police, Haryana. Therefore, the said

directions be ensured to be complied with, on the subsequent date of hearing by the Director General of Police, Haryana. The said compliances be reported on an affidavit to be sworn by the Director General of Police, Haryana.

12. It is necessary to refer to the relevant paragraphs of the said affidavit sworn by the Director General of Police, Punjab. The said paragraphs are embodied in paragraphs 5 to 7 of the affidavit tendered by him, paras whereof, become extracted hereinafter.

“5. That in compliance with the aforesaid order dated 22.05.2024, a detailed mechanism has been formulated to enable the Director General of Police, Punjab to personally monitor the investigation of cases registered under NDPS Act, 1985.

Under the aforesaid mechanism, Circular No. 13 of 2024 has been issued vide No. 7590/7633/CR-LA-4 dated 05.07.2024 to all the field units and other Police Offices/Wings. It has been provided in the aforesaid Circular No. 13 of 2024 that the work of Investigation Officers shall be supervised by the supervisory hierarchy from SHO upwards. Each officer in the chain of command has been made responsible to ensure regular and personal monitoring of NDPS investigations so that the investigations conducted are of high quality and convictions are secured by meticulous investigations and successful prosecution. A copy of Circular No. 13 of 2024 is annexed alongwith and marked as ANNEXURE R-2.

In the aforesaid Circular No. 13 of 2024, it has been provided that accurate factual report about investigation of the cases, particularly cases under investigation with the Investigating Officers who were imparted training at HP, PTC, Daroh, Dharamshala, District Kangra, Himachal Pradesh, should be put up to the senior supervising officers. The senior supervisory officer should monitor the extent to which the investigating officers have imbibed the training imparted and make qualitative suggestion about the inputs which may need to be incorporated in the training itself based on the feedback, and, monitor the improvements in the quality of investigations into NDPS offences.

Under the aforesaid mechanism devised by this office, each

supervisory officer has been asked to ensure regular and personal monitoring of NDPS investigations. The Special DGP, Special Task Force/Additional DGP, Special Task Force have been deputed to examine the reports submitted by the Range ADGPS/IGPS/DIGs and the Commissioners of Police in an analytical and critical manner and suggest course of action to the deponent. A copy thereof be also sent to the office of Director, Bureau of Investigation, Punjab. The aforesaid reports shall, inter-alia, contain the following:

- i. Whether the Investigating Officers who were deputed for training at HP, PTC, Daroh, Dharamshala, District Kangra have imbibed nuances of investigation during intensive training imparted to the 517 Investigating Officers and other Investigating Officers who would be further trained in due course of time.*
- ii. Whether investigation conducted by 517 Investigating Officers and other Investigating Officers who would be further trained in due course of time, is fault free and the fault(s)/shortcomings occurring earlier in the investigation are not repeated in the current investigation.*

The analysis conducted by the STF shall include the performance of the Investigating Officers, the quality of supervision being exercised by the SHOs/Sub-Divisional Police Officers/SSPs, whether the training imparted is being reflected in the investigations being conducted by utilization of the concepts/new techniques in which the investigating officers have been trained, whether the compliance of the mandatory provisions of the NDPS Act is being effected, and any other observations which can improve the quality of NDPS investigations. The Director General of Police, Punjab would examine the monthly analytical report of the STF and would issue directions to the field officers on its basis.

6. That this Hon'ble Court has directed the Director General of Police, Punjab to file affidavit about nuances of intensive training imparted at HP PTC, Daroh, Dharamshala, District Kangra, Himachal Pradesh have been imbibed by the Investigating Officers. It can be ascertained from the earlier faults occurring in the investigations into crimes under NDPS, Act that

have now been rectified in the current investigation conducted by the Investigating Officers. In this regard, the Director General of Police, Punjab has been directed to personally regularly monitor the investigations made into NDPS offences.

The Special Director General of Police, HRD has been asked to ensure study of investigations conducted prior to and post training of Investigating Officers to ascertain that nuances of intensive training imparted at HP PTC, Daroh, Dharamshala, District Kangra, Himachal Pradesh have been imbibed by the Investigating Officers. Further, HRD Wing shall endeavour to fill-up any gap in the training imparted to the Investigating Officers in the State of Punjab. The HRD Wing shall update syllabus keeping in view the gaps noticed in the training imparted at HP, PTC, Daroh, Dharamshala, District Kangra, Himachal Pradesh and accordingly, schedule the training to be imparted to Investigating Officers for maintenance and enhancement of their investigative skills.

7. That this Hon'ble Court had further directed that investigating skills acquired by the trainees are both maintained and enhanced through successive trainings imparted to investigating officers at respective Police Training Colleges. These training courses be ensured to be conducted bi-annually.

In furtherance to above, the training curriculum for the training of Investigating Officers has been circulated to all the Training Centres of Punjab Police by the office of Special Director General of Police, HRD, Punjab. These Training Centres have been directed to incorporate this curriculum into their training programs. Further, syllabus for bi-annual training programs for Investigating Officers has been redrafted and instructions have been issued to all the Training Institutes to conduct bi-annual training programs for the Investigating Offices on the investigation of cases registered under NDPS Act, 1985. A copy of the aforesaid syllabus is annexed alongwith and marked as ANNEXURE R-3.”

13. The above extracted paragraphs unfold that an oversight mechanism becomes devised by the Director General of Police, Punjab, thus to ensure the optimal effectivity of investigations, as made in respect of

offences covered under the NDPS Act.

Direction No. IV

14. Be that as it may, it is further expected, that the said made speakings in the above extracted paragraphs, rather do not remain on paper but also become ensured to be effectively galvanized hereafters. In consequence, for ensuring the above, the statistics in respect of the well workings of the said evolved mechanism, be ensured to be placed on record, thus on an affidavit to be sworn by the Director General of Punjab. The said affidavit be placed on record on the next date of hearing.

Compliance by Ms. Soumya Sambasivan, IPS, Deputy Inspector General of Police, Central Range, Mandi, H.P.

15. In addition, on the previous date of hearing Ms. Soumya Sambasivan, IPS, (the then Principal, Himachal Pradesh Police Training College, Daroh, District Kangra), now Deputy Inspector General of Police, Central Range, Mandi, H.P, had placed on record an affidavit carrying speakings in paragraphs 4 to 7 thereof, paras whereof become extracted hereinafter.

“4. A new perspective into curbing the drug menace was introduced. Policing now needs to be more emphatic about the demand aspect of drugs whereas most of its time and astuteness is focussed on the supply side, in terms of apprehending the suppliers of psychotropic substances. Participants were familiarized with a drug detection kit, which uses urine as a sample to detect drugs like cocaine & heroine instantly. This would act as a very effective deterrent for high-risk adolescents, who are vulnerable to drugs, helping the law enforcing agencies to deter youth from substance abuse.

5. This test kit was obtained from Addiction Treatment Facility (ATF), Kullu, a de-addiction and rehab center, under the Nasha Mukta Bharat Abhiyan (NMBA), a special initiative governed by the Ministry of Social Justice & Empowerment. These kits are not available in pharmaceutical shops and are sometimes found only in online markets at this point in time.

6. The states can make significant efforts to make these drug detection kits available to the police force, so that they can work with authorities in hospitals, schools, colleges, other educational institutions and Panchayats with Asha workers to conduct random



screening tests which would be a revolutionary step in creating deterrence in youth who might be lured or tricked into the drug trap in the times to come. This will hit the consumption base eventually leading to reduction and eradication of drugs.

7. Also ATF facilities can be opened at State level too and doctors at panchayat and block level can be trained in addiction treatment at a large scale, who with the help of beat police can identify and addicts and treat them at the basic level”.

16. On the basis of the said paragraphs embodied in the earlier sworn affidavit by Supra, this Court had passed certain directions which occur in paragraphs 11 to 13 of the order passed by this Court, on 22.5.2024, paras whereof become extracted hereinafter.

“11. That there is under focussing on the demand aspect of drugs, and in case there is pointed focus on the said aspects, thus in the manners as detailed in the above extracted paragraphs, therebys there would necessarily emerge a well situation, wherebys there would not only be the requisite purposeful lessening of apposite demands from the addicts concerned, but naturally thereby there would occur a consequent fall in the ill indulgences into drug traffickings by the suppliers of either narcotic substances or psychotropic substance concerned.

12. Therefore, the above extracted paragraphs, which are at this stage not encyclopaedic in nature on the subject, therebys they are required to be more comprehensively dilated upon as such by the Principal of Himachal Pradesh Police Training College, Daroh, District Kangra, thus for therebys theirs being directed to be considered to be adopted, as a befitting model, by the other States in the Country.

13. In consequence the Principal of Himachal Pradesh Police Training College, Daroh, District Kangra, is directed to, on the subsequent date of hearing, ensure her personal appearance before this Court, alongwith a complete and comprehensive report, with respect to the above. At this stage, somewhat imprecise suggestions, occur in paragraphs 4, 5, 6 and 7 of the compliance affidavit, suggestions whereof are well engineered, and also are well appreciated, but yet are required to be more fine tuned, as well as the requisite extensive and intensive dilations

thereofs are also required to be made.”

Direction No. V

17. In addition, a direction, as embodied in paragraph 18 of the order passed by this Court on 22.5.2024, became also rendered, direction whereof becomes extracted hereinafter. The said direction was respectively made, upon the Director Generals of Police of the State of Punjab and of Haryana, direction whereof, though becomes complied with at the instance of Director General of Police, Punjab but remains uncomplied with at the instance of Director General of Police, Haryana. Therefore, the Director General of Police, Haryana is directed to, on the subsequent date of hearing, even with respect of the said made directions upon him, place on record a compliance affidavit.

“18. Moreover, the Director Generals of Police of the State of Punjab and of Haryana, shall also file suggestions supplementing and augmenting, the suggestions which occur in the affidavit sworn by the principal concerned. The compliance affidavit of U.T., Chandigarh, be filed on the subsequent date of hearing. He is also directed to forthwith ensure that all the requisite expenses towards the board and lodging of the police personel concerned, becomes deposited with the establishment of Principal of Himachal Pradesh Police Training College, Daroh, District Kangra.”

18. In pursuance to the direction (supra), as made upon Ms. Soumya Sambasivan, IPS, Deputy Inspector General of Police, Central Range, Mandi, HP, she personally appeared before this Court and placed on record, the apt comprehensively drawn well suggestions, thus for ensuring that the demand of drugs which is now in full spate amongst various sections of society rather suffers some erosion. The said suggestions are as under:-

**Suggestions of Ms. Soumya Sambasivan, IPS, Deputy Inspector
General of Police, Central Range, Mandi, H.P.**

19. Suggestion relating to Addiction

For curbing the demand of drugs by addicts theretos, thereby the drug detection kit, which has been placed on record, can be most usefully employed by all concerned.

20. Though, the term ‘addict’ is defined in Section 2(i) of the NDPS Act, thus as under:-

(i) “addict” means a person who has dependence on any narcotic drug or psychotropic substance;

21. However, there is no further amplificatory definition rendered qua the term “dependence”, thereby the said term remains somewhat nebulous. Resultantly, the connotation to become imparted qua the term “dependence” thus to the considered mind of this Court, hence may become gauged from employment of the drug detection kit. However, yet the purchasing and stocking of the said kit, rather is a primary requirement, thus for its becoming usefully employed for detection purposes, rather for thereby the detected users of narcotic drugs and psychotropic substances, who but are dependent thereons, thus becoming detoxified at de-addiction centres.

Direction No. VI

22. Necessarily, hence the Directors of Health Services, respectively in the State of Punjab, and, in the State of Haryana, besides in the Union Territory, Chandigarh are directed to ensure the purchasing and stocking of the said drug detection kit(s). The said drug detection kit(s) shall be made readily available at the de-addiction centres, which are hereafter directed to be established both at the Sub-Divisions level, and, also at the District Headquarters concerned.

23. Before proceeding to make directions, thus for the employments of the said detection kits vis-a-vis the drug addicts for thereby curbing demands thereof, which ultimately may curtail the supply chain. Resultantly, when thereby there would be to a large extent reduction in drug trafficking. Importantly also, when given the spate in the commission of offences under the NDPS Act, thus thereby when it is but imminently clear, that penology has not fully subserved the purpose of curbing drug trafficking(s) thereby alternative theretos remedial measures are required to be evolved. Consequently, the employment(s) of the drug addiction kit naturally becomes a keen weapon for identification of the drug addicts, as on the apposite identification(s) being made, thus the drug addicts may become voluntary sent for detoxification at the de-addiction centres. Therefore, thereby there is a dire, and, imperative necessity cast upon the de-addiction centres to carry out the exercise of detoxification of drug addicts, and, in that regard, this Court would be making the hereinafter directions upon all the concerned. Moreover, thereby there would be a definite curtailment on the demand side but with a concomitant well effect of thereby there

being a curtailment in drug trafficking.

24. **Suggestion relating to Narcotic Drugs**

Though Section 27 of the NDPS Act, provisions whereof become extracted hereinafter, penalizes a consumer of any narcotic drug or psychotropic substance, to the extent that rigorous imprisonment extending upto six months becoming imposable upon the consumer of narcotic drugs or psychotropic substances, besides the consumer concerned also becoming amenable for an alternative thereto sentence of fine, thus extending to Rs. 10,000/- becoming imposable, upon him, or both the sentences (*supra*) are amenable to be imposed upon the consumer of narcotic drugs or psychotropic substances.

“27. Punishment for consumption of any narcotic drug or psychotropic substance.—Whoever, consumes any narcotic drug or psychotropic substance shall be punishable,—

(a) where the narcotic drug or psychotropic substance consumed is cocaine, morphine, diacetylmorphine or any other narcotic drug or any psychotropic substance as may be specified in this behalf by the Central Government by notification in the Official Gazette, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand rupees; or with both; and

(b) where the narcotic drug or psychotropic substance consumed is other than those specified in or under clause (a), with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.]”

25. The said provision to the considered mind of this Court, is to be read in alignment with Section 64-A of the NDPS Act, provision whereof becomes extracted hereinafter.

“64-A. Immunity from prosecution to addicts volunteering for treatment.—

Any addict, who is charged with an offence punishable under section 27 or with offences involving small quantity of narcotic drugs or psychotropic substances, who voluntarily seeks to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognised by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under section 27 or under any other section for

offences involving small quantity of narcotic drugs or psychotropic substances:

Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-addiction.”

26. *Since there is an inter se alignment inter se the provisions embodied in Section 27 and in Section 64-A of the NDPS Act, thereby the statutory immunity from prosecution, as contemplated therein, thus vis-a-vis those addicts volunteering for treatment, but also requires its becoming effectively galvanized.*

27. *The said provisions are not to remain on the statute book but are required to be fully mobilized into action. The reason for the fullest galvanization becoming made qua the above statutory provisions, is to ensure, that thereby but the dire requirement of activations thereof spurring, thus on the part of the State agencies, rather for ensuring the detoxification of drug addicts, who voluntary choose for their detoxification, thus at the hospital(s) or institution(s) maintained or recognized by the Government or local authority. As stated (supra), the said volunteering(s) by the drug addicts to undergo detoxification hence is to purvey qua them, thus not only a channel whereby they navigate into the main stream, but also thereby the apposite curtailment(s) rather happening on the demand side, thus with an inevitable corollary thereof, inasmuch as, thereby there being decimation in the trafficking of drugs. Ultimately thereby, there would be lessening of investigating burden, upon the investigating officer(s) vis-a-vis the offences covered within the NDPS Act, besides there would be lessening of burden, upon the trial Courts in respect of offences covered within the said Act.*

28. *The salient underpinning(s) of the above extracted provision, is the necessity of the accused being charged for an offence punishable under Section 27 of the NDPS Act. The further statutory requirement for enforcing the hereinabove statutory provision, is embedded in the factum, that such a person who faces a charge for an offence punishable under Section 27 of the NDPS Act or faces a charge vis-a-vis offences involving small quantity of narcotic drugs or psychotropic substances, thus is required to be volunteering to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognised by the Government or a local authority. Furthermore, in terms of the thereunder proviso, yet the said granted immunity from prosecution*

becomes amenable to become withdrawn if the addict does not undergo the complete treatment for de-addiction. Moreover, for determining whether as a matter of fact, the person concerned is a consumer, thus the drug detection kit, is required to be employed upon him. Therefore, there is an imperative requirement that before he volunteers to undergo treatment at the de-addiction centre concerned, the apposite satisfaction is but be drawn either by the Public Prosecutor concerned, thus through the voluntary employment of the drug detection kit upon him at the centre concerned, or satisfaction being drawn by the learned trial Judge concerned, thus through his making a direction, upon the nodal officer concerned, supervising the de-addiction centre concerned, to with the consent of the consumer, employ upon him the drug detection kit, so that therebys on his being declared to be a drug addict, thus resultantly a direction becoming passed for his undertaking the de-addiction treatment, on completion whereof statutory immunity for prosecuting a consumer/addict may become granted.

Direction No. VII

29. Therefore, unless a standing operating procedure for galvanizing the said statutory provision is formulated, besides is put into action, respectively at the instances of the States of Punjab and Haryana, and, by the U.T., Chandigarh, thereupon, the said Section would remain a mere spectator or would remain an idly spoken provision in the statute book. Resultantly, therebys the holistic purpose for which, it has been engrafted in the said statute would become completely defeated. Consequently, for obviating the above ill-consequences, rather besetting the workability of the above statutory provision, hence with a holistic purpose for curbing the demand side, besides with a well corollary thereof, which but is for ebbing the menace of drug trafficking. Resultantly, the Chief Secretaries to the States of Punjab and Haryana, and, the Advisor to the Administrator, U.T., Chandigarh, are directed to draw standing operating procedure(s) with unequivocal echoings therein to ensure (i) that an application with the consent of the person facing a charge qua the commission of an offence punishable under Section 27 of the NDPS Act, becomes filed before the learned trial Judge concerned, so that, the learned trial Judge concerned renders an order directing the voluntary detoxification of the person concerned, at the de-addiction centre concerned. The factum of his being a consumer or an addict be ensued to be gauged through consensual employment upon him of the drug

detection kit at the de-addiction centre concerned. (ii) that on completion of the treatment at the de-addiction centre concerned, thus an order may become passed by the learned trial Judge concerned, so that thereby the person concerned, thus may become immune from further prosecution(s) in respect of the charge drawn against him for the commission of an offence punishable under Section 27 of the NDPS Act (iii) that for ensuring that no untoward incident occur at the centres concerned, a direction is passed, upon the Directors General of Police concerned, to ensure that an adequate posse of police personnel becomes deployed at the centres concerned, but in plain clothes.

Direction No. VIII

30. In addition, the mere preparation of the said standing operating procedure(s) is not sufficient to completely render workable the said provision, provision whereof but for the reasons (supra) is engrafted in the apposite statute with the insightful legislative wisdom hence for curtailing the demand side. Therefore, directions are also required to be passed, upon the learned trial Judges concerned, within the territorial jurisdiction of this Court, to the extent that upon theirs becoming seized with a report under Section 173 Cr.P.C or the corresponding thereto provisions carried in Section 193 Bharatiya Nyaya Sanhita, 2023 to, before proceeding to draw a charge qua an offence punishable under Section 27 of the NDPS Act, to elicit from the accused concerned, his voluntariness to employ vis-a-vis him the drug detection kit. Subsequently, upon his being affirmatively declared to be a drug addict, thereupon, the learned trial Judge concerned, may proceed to after seeking the further apposite consent of the accused, send him for detoxification treatment at the de-addiction centre concerned. In sequel, the learned trial Judge concerned, on an application in that regard becoming preferred by the Public Prosecutor concerned, may proceed to grant immunity in terms of Section 64-A of the NDPS Act, thus for thereby, making the said provision fully awakened, but the making of an order qua the said withdrawal from prosecution, thus at the stage (supra), rather may be deferred until the drug addict is certified by the Rehabilitation Centre concerned, to have completed the detoxification treatment which he underwent at the centre concerned.

31. Conspicuously, the said immunity extends not only to those addicts, who volunteer for treatment but amplifyingly the said immunity can be opted to be availed by the persons who indulge in the trading of small

quantity(ies) of narcotic drugs or psychotropic substances.

32. Reiteratedly, the benefit of Section 64-A of the NDPS Act, thus is to be purveyed at the instance of the trial judge concerned, wherebefore whom, stands the person charged for an offence punishable under Section 27 of the NDPS Act, and, who but is a person who is a consumer of narcotic drugs or psychotropic substances.

33. Be that as it may, reiteratedly the factum of the person being a consumer of any narcotic drugs or psychotropic substance can only become fathomed on employment of a drug detection kit, upon him which as stated (supra), thus is required to be imperatively purchased and stocked by all the concerned. Therefore, reiteratedly after seeking the consent of a charged person vis-a-vis the apposite offence, thus for employing vis-a-vis him, the drug testing kit, hence for detecting whether he is a consumer of drugs or is an addict thereof, thereafter the learned trial Judge concerned, is required to be sending the said drug addict to undergo treatment for de-addiction from the hospital or the institution maintained by the Government or the local authority. Resultantly, reiteratedly therebys if the complete treatment for de-addiction is undergone by a consumer or by an addict, thereupon the learned Public Prosecutor, may file an application seeking withdrawal of the prosecution launched against the person charged for an offence under Section 27 of the NDPS Act, 1985, and, also therebys the learned trial Judge concerned, may pass orders permitting such withdrawal from prosecution wherebys there would be an immunity, as contemplated in Section 64-A of the NDPS Act, thus from further prosecution qua the addict volunteering for treatment.

34. Conspicuously therebys unless a consumer or an addict is proven to be a consumer or an addict, thereupon, the benefit of the immunity envisaged in Section 64-A of the NDPS Act, thus cannot be availed by him nor can become granted to him through the aegis of the learned Court concerned, thus on an apposite application becoming filed before it by the learned Public Prosecutor concerned. Necessarily also, therebys the direction (supra) for purchasing, and, stocking of the drug testing kit, thus at the centres concerned, is a dire necessity, besides is obviously a dire necessity even for purveying to the accused, thus the statutory benefit(s) thereof, as become envisaged in Section 64-A of the Act.

Direction No. IX

35. The provisions embodied in Section 64 of NDPS Act, provisions

whereof become extracted hereinafter, may also become opted by the accused concerned, for extension of benefits thereof to him/them, but subject to his/theirs making a full disclosure of the whole circumstances leading to such contravention.

“64. Power to tender immunity from prosecution.—

(1) The Central Government or the State Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the contravention of any of provisions of this Act or of any rule or order made thereunder it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act or State Act, as the case may be, for the time being in force, on condition of his making a full and true disclosure of the whole circumstances relating to such contravention.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made.

(3) If it appears to the Central Government or, as the case may be, the State Government, that any person to whom immunity has been tendered under this section has not complied with the conditions on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government or, as the case may be, the State Government, may record a finding to that effect and thereupon the immunity shall be deemed to have been withdrawn and such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter.”

36. Be that as it may, Section 64 of the NDPS Act, provisions whereof becomes extracted hereinabove, but is a precursor to Section 64-A of the NDPS Act, inasmuch as, Section 64 of the NDPS Act comes into play post the filing of a report under Section 173 Cr.P.C., before the learned trial Judge concerned, whereas, Section 64 comes into play prior to the filing of a charge sheet against the accused. Therefore, the statutory

empowerments, as contemplated in Section 64 of the NDPS Act are to be exercised not by the learned trial Judge concerned, but the extension of the statutory benefits, vis-a-vis the accused, thus as contemplated in Section 64 of the NDPS Act are to be exercised, rather by the Executive. However, the extension of the benefits vis-a-vis the accused, thus as contemplated in Section 64 of the NDPS Act are subject to the conditions or ingredients thereof becoming satiated. The said conditions are delineated hereinafter.

- (i) The accused making a full and true disclosure of the whole circumstances relating to such contravention.*
- (ii) The said immunity being conditional in nature, and ;*
- (iii) in case the condition underpinning, the immunity as becomes purveyed to the accused in terms of sub-Sections (1) and (2) of Section 64 of the NDPS Act, becoming breached, thereupon, the authority concerned, becoming empowered to for well informed reasons to withdraw the immunity, whereafters the drug addict concerned, or the drug peddler concerned becomes amenable for becoming tried for the offence in respect of which the tender of immunity was made or for any other offence qua which he appears to have been guilty in connection with the same matter.*

Direction No. X

37. Even the said statutory provision(s), but with an insightful legislative wisdom to bring to book the drug warlords, who rather deploy the drug peddlers for trading(s) in narcotic drugs or psychotropic substances, thus has remained inactioned or has remained idle on the statute book. If it is to be galvanized, the hereinafter directions are required to be made, upon the Chief Secretaries to the States of Punjab and of Haryana, and, upon the Advisor to the Administrator, U.T., Chandigarh:-

- (i) Since the Central Government or the State Government(s) concerned, are empowered to exercise the thereunders echoed apposite statutory leverages but yet the apt “designated authority”, by whom the said statutory empowerment, thus is to be exercised, rather has not been created, either at the instance of the State of Punjab, State of Haryana, or at the instance of the Adviser to the Administrator, U.T., Chandigarh. Therefore, also the said statutory provisions remain idle. In consequence, directions are passed upon the Chief Secretaries to the States of*

Punjab and Haryana, and, upon the Advisor to the Administrator, U.T., Chandigarh to forthwith constitute a “designated authority” to thus proceed to exercise the statutory leverages as bestowed by sub-Sections (1) and (2) of Section 64 of the NDPS Act, respectively upon the Central Government or the State Government(s).

(ii) The investigating officers concerned, are also peremptorily required to be completely mentored in respect of making the said provisions well functional, inasmuch as, the imperative (supra) underlined condition therein, rather for the exercisings of discretion(s) by a designated authority, is the apt dire necessity, rather for the person claiming immunity, but on his making a full and true disclosure of the whole circumstance relating to the contravention.

Direction No. XI

38. The salient nuance of the hereinabove provision, is that, it has imminent proclivity towards unearthing incriminatory echoings from the drug peddlers concerned, who are deployed by the drug warlords. Naturally, the person purveying evidence in respect of the engagements of drug warlords in drug trafficking, but thus subserves the salutary well being of the entire society, as therebys there would be a curtailment in the supply side, which would ultimately have a cascading well effect, upon the reduction in drug trafficking. Furthermore, the plenitude and amplitude of the said provision is not limited only to immunity from prosecution being renderable, only qua the offences covered under the NDPS Act, but also is extended to immunity from prosecution for any offence, rather even under the IPC or under the Central Act or the State Act. Therefore, since the person revealing information about the incriminatory participation, thus directly or indirectly of any person rather in the ill act of drug trafficking, is to be bestowed the immunity from prosecution, in respect of an offence under the NDPS Act or under the IPC or either in the Central Act or in any other State Act. Resultantly, therebys unless the person is facing prosecution for the offences as named therein, thereupon alone he can be granted immunity from prosecution. Moreover, the said immunity from prosecution, thus is extendable but only when the person claiming immunity renders a full and truthful disclosure in respect of the offences covered under the NDPS Act.

39. Therefore, in other words, the fullest and truthful disclosure is to be made in respect of offences covered within the NDPS Act, but if the informer/accused is alleged to commit an offence either under the NDPS Act or under the IPC or under any Central or State Act, therebys too, the said informer, who makes a fullest and truthful disclosure in respect of the offence covered under the NDPS Act, thus is purveyed a statutory privilege to seek immunity from prosecution, but when he is an accused qua an offence under the NDPS Act or under the IPC or under any Central or State Act.

40. Resultantly, for fully activating the said provision, a standing operating procedure is required to be formulated at the respective instances of the Chief Secretaries to the States of Punjab and Haryana, and, at the instance of the Advisor to the Administrator, U.T., Chandigarh, thus for the following purposes:-

(a) Peremptory mentorings being made to the investigating officers concerned vis-a-vis any person who is an accused qua an offence under the NDPS Act, qua the said accused becoming ensured to become awakened about his amenability for becoming provided, thus immunity from prosecution in respect of the said offence(s), but subject to his making the apposite full and truthful disclosure.

(b) The investigating officer(s) concerned be peremptorily mentored to after making the relevant awakenings to the accused, to elicit from the accused concerned, the full and truthful disclosure about the contravention made in respect of the offences covered under NDPS Act. The elicitation, as made by the investigation officer concerned, be forwarded to the apt designated authority, so that resultantly the apt designated authority, thus proceeds to make a well considered, and, well informed order, thus granting immunity from prosecution to the maker of the disclosure.

(c) The said made order may become forwarded to the Public Prosecutors concerned, so that in terms thereof, the same becomes filed before the learned Criminal Court of competent jurisdiction.

(d) In sequel thereof, the learned trial Judge concerned, may accept the said granted immunity from prosecution, thus to the accused rather by the designated authority, and, therebys also

may permit the prosecution to withdraw prosecution against the accused.

41. However, the obstacle in the apposite elicitations being made from the accused by the investigating officer concerned, is the ill-assumed over-lordship by the drug warlords over the drug peddlers, which may debar the drug peddlers engaged or deployed by the drug warlords, rather against theirs unveiling the names of the drug warlords, who work behind the curtains. Resultantly, the well effects thereof which is but to ensure the happenings of steep declines or cascading falls in the demand of drugs, but obviously would become threatened or baulked. For overcoming the said obstacle, a well evolved mechanism be peremptorily evolved, and, be purveyed to this Court on the subsequent date of hearing.

Direction No. XII

42. However, the said Section appears to be also not effectively made workable, but reiteratedly for the reasons that no apt “designated authority”, becomes created, thus for making the said statutory provision effectively workable. It appears, that it has not been made workable for the further reason, that there is no large scale public dissemination about the existence of provisions (supra) in the statute. Resultantly, a direction is required to be made, upon the Directors, Public Relations in the States of Punjab, Haryana and in U.T., Chandigarh, to proceed to make the fullest disseminations by all the concerned, about the existence of the said provisions.

43. Reiteratedly, to a large extent also it appears, that drug peddlers who may choose to seek the extension qua them of the benefit envisaged in Section 64 of the Act of 1985, rather may become deterred from availing the benefits thereof, but for the simple reason, that the drug warlords, who work behind the curtains, rather apprehending that such made disclosures about the previous illegal transactions, thus by the seeker of the benefits contemplated in Section 64 of the NDPS Act, but obviously would result in theirs names becoming unraveled. In sequel, thereby they would actively engineer ill-tactics or employ ill-strategems, thus to withhold the deployed drug peddlers from either making a full and true disclosure to the investigating officer concerned or in theirs accessing the designated authority to be created by the Supra.

44. The withholdings or the said created ill-deterrence(s), rather by the drug warlords vis-a-vis the drug peddlers employed by them for drug

trafficking, is also required to be curbed. In that endeavour, the State Governments are respectively required to be creating an effective boosting mechanism, whereby the drug peddlers who opt to avail the benefit of Section 64 of the NDPS Act, become encouraged to even without theirs being found in conscious and exclusive possession of any narcotic drugs or psychotropic substance, at the crime site, thus make a full and true disclosure about theirs being merely employed as drug peddlers by the drug warlords. Resultantly, therebys, the drug warlords would become nabbed, and, therebys there would also be a consequent useful effect in curbing the drug menace.”

3. However, this Court also made certain observations and directions, which become carried in the hereinafter extracted paragraphs of the order dated 23.08.2024.

“3. Be that as it may, all concerned, mentioned in the earlier order and, who were previously directed to be making useful voluntary assistances to this Court, and, who earlier appreciably did so, are hereby directed to, with utmost despatch, ensure that on the subsequent date of hearing, each of them personally records their respective personal appearances before this Court, so that this Court further receives their already appreciated and further appreciable useful assistances for making further improvisations in the now evolved, yet nascent system, for eradicating the drug menace prevailing in the State of Punjab, State of Haryana and in the Union Territory, Chandigarh.

4. Emphasisingly for better sub-serving the holistic purpose underpinning the engineerings by this Court, of measures which would obviate the ill-effects, thus on the socio economic fabric of the nation, rather of drug trafficking and drug addiction, thus interface delebrations with all concerned is a dire necessity, in respect whereof, this Court naturally expects exhibition of utmost sensitivity on the part of all concerned, with the same fervour, as earlier became appreciably exhibited.

5. Furthermore, on the subsequent date of hearing, the Chief Secretary to Government of Haryana is directed to place on record the compliance affidavit in terms of the order rendered by this Court on 12.07.2024.

6. List for personal appearances of all concerned on 13.09.2024, so that each of them purveys further inputs and assistances to this Court.

7. It is submitted by the counsel for U.T. Chandigarh that a request for

further imparting of training to about 60 police personnel under the command of the Director General of Police, Union Territory, Chandigarh has been sent to H.P. Police Training College, Daroh, Kangra, HP and, the said requisition has been accepted. Therefore, the trainings to the police personnel concerned, be ensured to be effectively imparted and the said fact be stated on affidavits to be sworn by all concerned.”

4. Though the directions, as occur in the hereinabove extracted paragraph No.7, do appreciably become complied with by all concerned. Be that as it may, there was a clear explicit underpinning in the said made order that, there is a necessity of interface deliberations being made by this Court with all concerned. Moreover, this Court had also proceeded to pass directions for the respective personal appearances of all concerned becoming recorded before this Court.

5. All concerned, except the Chief Secretary to the Government of Punjab, and, the Director General of Police, Punjab, in whose respect exemptions applications (supra) became filed and also became allowed, did appear before this Court.

6. Nonetheless, despite his being available at Chandigarh, yet Mr.Gurkirat Kirpal Singh, Secretary, Home Affairs and Justice, Government of Punjab, who was otherwise not required to be participating, chose to appear through video conferencing, and that too, while travelling in a car. The above deployed mode of appearance by the supra does not augur well with the holistic purpose, in which this Court is engaged. Therefore, the said officer may, in case, he chooses to, in future, render his assistance to this Court, thus make his personal appearance.

7. Moreover, since the subject at hand has PAN India ramifications, therebys this Court can choose to seek inputs even from officers, who are

outside the State of Himachal Pradesh, as this Court had chosen Ms. Soumya Sambasivan, IPS, DIG, Central Range, Mandi, cum, Principal, HPPTC, Daroh, District Kangra, H.P., thus to enable her to render useful inputs, which she has most appreciably purveyed to this Court. Even if the said officer was positioned at Himachal Pradesh, yet when she was not deployed to investigate any offence, which occurred within the territory of Punjab and Haryana, wherebys alone there may have been a jurisdictional error becoming thus committed by this Court. Since the above was not done and when this Court, only for seeking the domain expertise of Ms. Soumya Sambasivan, IPS, had asked her to render assistance to this Court, thus on a topic of PAN India importance, thereupons this Court appreciates that she has made extremely useful exemplary interface deliberations on the subject at hand with this Court.

8. Moreover, Mr. T.V.S.N. Prasad, Chief Secretary, Government of Haryana, has most appreciably, in compliance of the directions (supra) passed by this Court, made the hereinafter echoings in his sworn affidavit. Though some of the directions have become adequately complied with, but yet some other directions, which remain uncomplied with, thus require strict compliance theretos becoming made. Moreover, continuous mentorings and monitorings are also required to be made, but, on a personal basis by the Chief Secretary, Government of Haryana, vis-a-vis, the officers engaged in the process of implementing the apposite directions, which yet do not become complied with. Compliance affidavit in the said regard be placed before this Court, on the subsequent date of hearing. Moreover, compliance affidavit be also placed on record with respect to the effective proactive mentorings and monitorings being done by the supra, in respect of the compliances, which have been done

by him, so as to ensure the pragmatic effective workings of the apposite inputs.

“4. That vide letter dated 21 August 2024 Director General, Information, Public Relations & Languages Department informed that from time to time the department issues advertisements to make the common public are about the bad affects of drugs consumption. From 1 to 25 September 2023 the department also ran a campaign namely 'Cyclotron' for drugs free Haryana. A copy of letter dated 21 August 2024 is annexed herewith as Annexure-R-1.

5. That vide letter dated 22 August 2024, the Director General, Social Justice and Empowerment Department informed that:-

“After obtaining the license of the de addiction center from the department some private de addiction centers/voluntary institutions are working under the NAPDDR Scheme and at present 09 voluntary institutions/private de addiction centers are being provided grant in aid under the scheme of National Action Plan Drug Demand Reduction of the Government of India, Ministry of Social Justice and Empowerment. Proposals are submitted online at the district level on the e anudaan portal. In this, a district level committee has been formed by the department vide notification no. 844-S.W. (4) 2015 dated 20.08.2015 (Annexure-B). In which the district level committee inspects various programs/projects such as Integrated Rehabilitation Centres for Addicts (IRCA), Community based Peer led Intervention (CPI), Outreach and Drop in Centres (ODIC) as per the proposals received from the e anudaan portal and examines the records related to the project. After that the inspection report is sent online. Apart from this, as per the departments notification No. 947 S.W. (4) 2007 dated 31.05.2007 (Annexure-C), Multi disciplinary Grant in aid Committee has been formed and the grant in aid proposals/inspection reports received from the institutions are examined under the Chairpersonship of the Administrative Secretary to Govt. of Haryana, SEWA Department and after detailed deliberations the proposals are sent to the Govt. of India along with State recommendations. Apart from this, awareness generation campaigns against drugs abuse are run by the department from time to time in which people are made aware

about the misuse of drugs and its ill effects. Details are as follows:-

- i. The department launched an awareness campaign through radio jingles in the month of June 2024.*
- ii. People were made aware through tree plantation programs in every district of the state on 26th June 2024.*
- iii. On 12.08.2024, awareness programs have been organized in every district of the state under the slogan 'Viksit Bharat Ka Mantra, Bharat hu Nashe se Swatantra' in which a pledge has been taken by approx. 4.50 lakh people/students etc. and about 2.025 lakh people have been made aware through various programs i.e. rallies/cycles rallies/marathons/nukkad nataks, poster making etc. (photographs of activities are attached herewith for information please).*

It is pertinent to mention here that, the State Govt. has adopted zero tolerance policy against the persons/institutions who violates the rules and regulations that are meant for drug demand reduction. Since, 24.03.2023 the State Level Licensing Authority has cancelled/rejected licences/applications of 26 Drug de addiction centers/Counseling cum Rehabilitation Centers (Annexure-D) in the State. Further, in order to eradicate the social evil of drugs abuse from the Haryana, the State Govt. has formed a society for prevention of drug abuse i.e. 'Haryana State Society for Prevention of Substance Use' so that work can be done on drug demand reduction. The posts for manpower under the society at state level and district level have been approved by the Finance Department. Further, necessary steps are being taken by the department to make this society operational."

A copy of letter dated 22 August 2024 is annexed herewith as Annexure-R-2.

6. That the Director, Higher Education, Haryana vide letter dated 28 August 2024 informed that the department has already issued directions to all the State Universities, Govt. Colleges and Govt. Aided Colleges regarding for 'Drug Awareness Campaign' with the objective to educate the Haryana Education Institutions community about danger and negative effects of drug use and to create a drug free environment in the HEIs and promote healthy living among students. A copy of letter dated

28 August 2024 is attached herewith as Annexure-R-3.

7. That the Director, School Education Haryana vide letter dated 30.08.2024 informed that the department has taken following measures in the direction of prevention of substance/drug abuse:-

“The State Council of Educational Research and Training, Gurugram (SCERT) academic authority responsible for preparing the curriculum for Classes I to VIII has included the Chapter on ‘Prevention of Substance/Drug Abuse’ for classes VI to VIII in the moral education book. Further, in the books of moral education for classes IX, X and XII issued by Board of School Education Haryana chapters regarding prohibition to drugs have been included. These chapters have been included to make the students aware of ill effects of drugs and to inspire them to lead a healthy and a balanced life.

In order to create awareness about drug menace the Nodal Officers were appointed by the School Education Department of Haryana in each district for running awareness campaigns and organizing activities so as to create awareness about the issue. Under this ‘Awareness Campaign against Drug Menace’ students are made aware about the ill effects of substance abuse and are inspired to take ‘Anti Drug Pledge’.

In addition to above under Adolescent Education Programme the training of the teachers is organized on annual basis. The Adolescent Education Programme (AEP) includes separate section for drug abuse and each year at least two teachers from each Govt. High & Govt. Senior Secondary Schools are trained by this department.

The Directorate Elementary Education Haryana decided in the year 2016 that third week of May of every year in future will be observed as Awareness Week Against Drug Menace in all Govt. and Private Schools of the State. Under this awareness campaign many types of activities like rallies parent teacher meeting quiz and poster making competition an exhibitions and lectures by experts on harmful effects of Drug Abuses are being organized.”

A copy of letter dated 30 August 2022 is annexed herewith as Annexure-R-4.

8. That similarly, the Commissioner & Secretary, Women & Child

Development Department vide letter dated 30 August 2024 has directed all the District Programmes Officers and all District Child Protection Officers of Haryana to comply with the direction of this Hon'ble Court given vide order dated 12 July 2024 and in the above context following directions were also issued:-

- “1. Identify Vulnerable areas in the concerned districts in respect to NDPS Act.*
- 2. Co-ordinate with local Police for the said training.*
- 3. Co-ordinate with SEWA (Social Justice, Empowerment, Welfare of Scheduled Castes and Backward Classes and Antyodaya Department) Drug De-Addiction & Rehabilitation Centre.*
- 4. Co-ordinate with the School and Higher Education Institutions for organizing the training.”*

A copy of letter dated 30 August 2024 is annexed herewith as Annexure-R-5.

9. That the Director General Health Services vide letter dated 30 August 2024 has informed that the Civil Surgeons have been provided budget to procure urine drug detection kits as per requirement. Further, the process to establish de-addiction centers in sub-divisional Hospitals and remaining district Hospitals have been initiated. The Guidelines for management of drug addicts in drug de-addiction centers issued by Indian Psychiatric Society (IPS) and the guidelines issued by PGIMER, Chandigarh for Govt. of Punjab have been approved and shared with all the registered drug de-addiction centers and Civil Surgeons. A copy of letter dated 30 August 2024 is annexed herewith as Annexure-R-6. The status of availability of urine drug detection kits in district hospitals is as follows:-

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10. That vide letter dated 03 September 2024 the Director General, Medical Education and Research Haryana informed that 2 Govt. Medical Colleges i.e., PGIMS Rohtak and BPS GMC, Khanapur Kala Sonipat are running de-addiction centers and other 3 Medical Colleges i.e., MAMC Agroha, KCGMC Karnal and SHKM GMC Nalhar, Nuh are assisting in treatment of drug abuse cases. Further, all the Medical Colleges are actively involved in teaching, counseling public campaigns; capacity building and training programmers related to drug abuse. State Drug Dependence Treatment Centre, Institute of Mental Health PGIMS, Rohtak is planning to strengthen its services with aim to have

comprehensive community based service as well as establish a model rehabilitation center for Haryana. Further, the reports received the Govt. Aided medical Colleges of the State are as under:-

“1. Pandit Bhagwat Dayal Sharma Post Graduate Institute of Medical Sciences, Rohtak

1. State Drug Dependence Treatment Centre (SDDTC), Institute of Medical Health is regularly involved in serving the following NAPDDR objective.

2. Regularly conducting and educating people, especially young adults about harm related to drug abuse. Regular oaths programs are carried for medical students.

3. Contributing to capacity building by training psychiatry residents, M.Phil Social work and nursing students. Further, Institute of Mental Health conducted two online training courses where over 200 individuals were trained across the country. Further, IMH is currently in active discussion with DMHP Haryana to conduct online training for medical doctors and counselors for management of drug use disorders.

4. SDDTC, IMH regularly conducts research projects on various facets of drug use disorders.

5. SDDTC is planning to strengthen its services with aim to have comprehensive community-based services as well as establish a model rehabilitation centre for Haryana.

2. BPS Govt. Medical College for Women, Khanpur Kalan, Sonipat

1. It has been stated that our institute is running a De-addiction centre (10 bedded) and providing treatment for the alcoholism and other drug/substance abusers. It has been also stated that our institute is not having any facilities for Treatment and Rehabilitation centre at present and not assisting any residential stabilization programmes for alcoholics and other drug abusers.

3. Maharaja Agrasen Medical College, Agroha

1. Regular treatment of drug de-addiction patients is being done on regular basis in OPD as well as in Psychiatry ward.

2. Approximately around 10-12 index patients for drug de-

addiction treatment are seen on daily basis in OPD

3. Approx 3-4 patients are admitted on daily basis for de-addiction treatment in Psychiatry ward.

4. DHAKAD program has been implemented in institute for control of drug problem in students.

4. Kalpana Chawla Govt. Medical College, Karnal

1. De-addiction facilities are available with the District Civil Hospital, Karnal in the campus of KCGMC, Karnal.

2. Department of Psychiatry, KCGMC, Karnal provide the services for such serious patients in withdrawal & related conditions, as & when needed.

3. Counseling & OPD dispensing of the common drugs is also available through District Civil Hospital, Karnal in the campus of KCGMC, Karnal as well as Department of Psychiatry, KCGMC, Karnal.

5. SHKM Govt. Medical College, Nahar, Nuh

1. A part of our routine spectrum of cases in Psychiatry, Department at SHKM GMC regularly treat and counsel these patients through OPD, IPD and emergency services.

6. Shri Atal Bihari Vajpayee Government Medical College Chhainsa, Faridabad, Haryana.

This is new institute set up in 2022, and currently we are running Psychiatry and De-addiction OPD. De-addiction camp & counseling services are being provided in the community along with the help of local police. This institute presently does not have a De-addiction centre. The process of setting up a de-addiction centre will also initiated.”

A copy of letter dated 30 August 2024 is annexed as Annexure-R-

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11. That it is further submitted that the affidavit dated 21 August 2024 submitted by the DGP, Haryana in compliance of this Hon'ble Court's order may also be read as part of this affidavit. The affidavit dated 21 August 2024 is annexed herewith as Annexure-R-8.”

9. Mr. Rajeev Verma, I.A.S., Advisor to the Administrator, U.T., Chandigarh, has also most appreciably made declarations in his compliance

affidavit that, thereby he has ensured compliance being made to directions occurring at Sr. No. VI, VII, X, XI, XII and XIII, in the order dated 12.07.2024. Compliance thereto is not required to remain ideally on paper, but, is required to be fully pragmatically galvanized, through regular personal mentorings and oversights becoming made, by the officer (supra). Moreover, compliance affidavit be also placed on record with respect to the effective proactive mentorings and monitorings being done by the supra, in respect of the compliances, which have been done by him, so as to ensure that pragmatic effective workings of the inputs, thus to the optimum level, rather take place. The relevant portion of the compliance affidavit (supra) become extracted hereinafter:-

DIRECTION NO. VI:-

2. That this Hon'ble Court directed the Directors of Health Services, U.T., Chandigarh, to ensure the procurement and stocking of the drug detection kits(s). In compliance to the above said direction it is submitted that these kits are readily available at each Drug de-addiction centres situated at Chandigarh. The details of kits available in the Drug De-addiction Centres are attached herewith as Annexure A-1.

DIRECTION VII

3. That this Hon'ble Court, directed the deponent to develop Standard Operating Procedures (SOPs) to ensure the effective implementation of statutory provisions, prevent negative consequences, and enhance the functionality of measures aimed at curbing drug demand and reducing drug trafficking. In pursuance of this direction, the SOP in this regard has been prepared and circulated for meticulous compliance. A copy of the SOP dated 22.08.2024 is attached herewith as Annexure A-2 & A-3.

DIRECTION NO. X:-

4. That in compliance with the Direction no. X issued by this Hon'ble Court, a notification dated 09.09.2024 Annexure R-4 has been issued to notify 'Designated Authority' as directed by this Hon'ble Court.

DIRECTION NO. XI:-

5. That in compliance with Direction no. XI issued by this Hon'ble Court,

a standing operating procedure (SOP) for investigating officers is formulated at the instance of deponent to ensure that they inform the accused about their eligibility for immunity under the provisions of NDPS Act and SOP has also been circulated to Public Prosecutors for meticulous compliance of legal provisions. A copy of the SOP is annexed herewith as Annexure A-2 & A-3.

DIRECTION NO. XII:-

6. That in compliance with the Direction No. XII, the Department of Public Relations, UT Chandigarh and Police Department, Chandigarh has issued press releases to widely disseminate the provisions of NDPS Act.

Direction No. XIII:-

7. That in compliance with Direction No. XIII issued by this Hon'ble Court, the existing awareness cell within the Police Department has been designated as the "Special Cell" for the effective dissemination of information about the harmful effects of drug consumption. A copy of the same is attached as Annexure A-5. Additionally, financial assistance is provided to various organizations to support the commendable objectives of the National Action Plan for Drug Demand Reduction (NAPDDR). It would be pertinent to mention here that presently day to day, Drug Awareness drive is being run by the Chandigarh Administration in different areas of Chandigarh to aware the General Public about the harmful effects of drug consumption. A report pertaining to last three financial years regarding the same is attached herewith as Annexure A-6."

10. Since further compliance affidavits, in pursuance to directions (supra) passed by this Court on 23.08.2024, yet remain unfurnished respectively by (i) the Chief Secretary, Government of Punjab; (ii) Director General of Police, Punjab; and (iii) Director General of Police, Haryana; therebys the supra are directed to furnish, in respect thereof, the requisite compliance affidavits.

11. Through order drawn by this Court on 12.07.2024, this Court had emphasized upon reductions in the demand of drugs onto the drug market, so

that therebys there is a concomitant curtailment in the supply of drugs onto the drug market, wherebys, the PAN India menace of drug trafficking would become curbed. To the extent (supra), this Court had also passed various directions, which become extracted hereinabove. The action takings, in respect of the said directions, are required to be personally continuously monitored by all concerned. Moreover, reiteratedly as stated (supra), compliance affidavits in respect thereof are also required to be purveyed to this Court by the concerned (supra).

12. Importantly also, the statistics in respect of the care givings to the concerned at the de-addiction centres concerned, besides in respect of the effective deployments of drug detection kits by all concerned, be also purveyed on tendered affidavits to this Court by all concerned, as the said deployments are thus to ensure reduction on the demand side and with a concomitant well effect of therebys there being a decrease of supply(ies) of drugs onto the drug market. Since enigmatically, the said statistics do not become disclosed, nor also apart from certain compliances being made, that too, only by some of the concerned, and, besides only to some extent(s). Emphasizingly, also there are no statistics at hand, to the extent that, the said made compliances have also effectively worked on the ground, thus the apposite statistics in respect of able workings of the directions (supra) be displayed on affidavits to be tendered before this Court by the concerned, on the subsequent date of hearing. It is clarified that, the said affidavit(s) shall declare the effective deployments at all border/sub-border posts of drug detection kits, besides qua deployments thereof in all the jails within the Union Territory of Chandigarh, and, respectively in the States of Punjab and

of Haryana, as there are rampant incidents of drug trafficking taking place inside jails, whereupon, through deployment of drug detection kits thus, an endeavour can be made to reduce the incidents of drug trafficking happening inside jails. Moreover, thereby the holistic purpose, which engages this Court, would become ably forwarded thus in the interest of the nation.

13. The effect of this Court asking for further inputs from the concerned has resulted only in Ms. Soumya Sambasivan, IPS, making exemplary innovative inputs to this Court. The said inputs are enclosed in a compliance report sworn by her, and, which becomes reproduced hereinafter:-

“2. That the Hon'ble Court vide para 7 of the order dated 23.08.2024 was pleased to direct the Principal Police Training College Daroh to impart trainings to 60 Police Officers of Chandigarh Police as per request of the Director General Of Police, Union Territory, Chandigarh and to state the said facts on affidavit before this Hon'ble Court on the next date of hearing fixed for 13.09.2024.

3. That in compliance to the said directions, it is submitted that a request for imparting training to 60 Police Personnel of Chandigarh Police was received in the Office of Principal PTC Daroh from the Director General of Police, Chandigarh, U.T, through E-mail on 07.08.2024.

4. That the said request was accepted. However, the training programme could not be conducted immediately because, at present, 02 batches of promotional courses of 442 Police personnel of Himachal Pradesh Police is going on in the Institute, besides other courses. Due to busy schedule, accommodation constraint and engagement of faculty in the said courses, the institute is unable to conduct courses for Chandigarh Police till 13.09.2024. Hence, the training for Police Personnel of Chandigarh Police have been fixed in 02 batches of 30 police officials each from 16.09.2024 to 19.09.2024 and 23.09.2024 to 26.09.2024 and said fact has been duly conducted to the Director General of Police, U.T, Chandigarh. Copy of letter to DGP Chandigarh Police is enclosed as Annexure A-1.

5. That it is further submitted that earlier this Hon'ble Court vide para no 63 of its order dated 12.07.24 was pleased to direct

“...Moreover, this Court would hereafter welcome any further suggestions, from all the officers) (supra), as they may hereafter render to this Court 23.08.24.”

6. *That it is submitted that this Honourable court vide its order dated 12.07.2024 was pleased to issue extensive guidelines on the issue of demand supply reduction of NDPS substances. It is pertinent to submit that in the said order, the Court was further pleased to direct this office to submit further suggestions, if any. Thus, in pursuance to the said directions, the replying respondent would like to draw the attention of this Hon'ble Court towards the provisions of the Mental Healthcare Act 2017 which was enacted by the Government of India to provide mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services.*

7. *That it has been fairly established that there is correlation between Drug Abuse and Mental Health. Drug addicts have often been found to be suffering from transmissible diseases and mental health issues. Issues of Magnitude of Drug Abuse have also been dealt by the Government of India in its report on Magnitude of substance abuse in India 2019 under the aegis of Ministry of Social Justice and Empowerment Government of India.*

8. *That the De-addiction centres for drug abuse are established in accordance with section 71 of NDPS Act which mandates the Government to recognise and approve centres for identification, treatment, management, education, after care, rehabilitation and social integration of addicts. Under the section, the government can also make rules for management, maintenance and superintendence of centres and also for supply of psychotropic substances through these centres for persons under medical necessity. Whenever such centres are to be opened, Medical Healthcare Act 2017 necessarily comes into play which provides for establishment of mental health establishments for de-addiction by the government or NGO's.*

9. *That since drug addiction and mental health is interconnected and to reduce drug demand, the treatment of such a person is the first step. Being so, the role of a Psychiatrist becomes all the more important and so, in order to have more insight into this aspect detailed deliberations on the issue were made with Dr. Rajeet Kumar, MBBS, MD PSYCHIATRY, Senior Resident, Dr. Radha Krishnan Medical College*

and Hamirpur (HP) who is having more than 07 years of experience in examining persons suffering from mental health issues. On the basis of the said deliberations and discussions and keeping in view the provisions of Mental Healthcare Act 2017, the following submissions are being made.

A. That the issues relating to mental health have been addressed by the Government of India by enactment of the Mental Healthcare Act 2017. Coming to the provisions of the Act, section 2 provides definition of various terms including the following :-

(r) "mental health professional" means—

(i) a psychiatrist as defined in clause (x); or

ii) a professional registered with the concerned State Authority under section 55; or

(iii) a professional having a post-graduate degree (Ayurveda) in *Mano Vigyan Avum Manas Roga* or a post-graduate degree (Homeopathy) in *Psychiatry* or a post-graduate degree (Unani) in *Moalijat (Nafasiyatt)* or a post-graduate degree (Siddha) in *Sirappu Maruthuvam*;

(s) "mental illness" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by sub normality of intelligence;

y) "psychiatrist" means a medical practitioner possessing a post-graduate degree or diploma in psychiatry awarded by an university recognised by the University Grants Commission established under the University Grants Commission Act, 1956 (3 of 1956), or awarded or recognised by the National Board of Examinations and included in the First Schedule to the Indian Medical Council Act, 1956 (102 of 1956), or recognised by the Medical Council of India, constituted under the Indian Medical Council Act, 1956, and includes, in relation to any

State, any medical officer who having regard to his knowledge and experience in psychiatry, has been declared by the Government of that State to be a psychiatrist for the purposes of this Act;

B. That there are a lot of studies to show that there is strong correlation between drug abuse (substance abuse) and mental health. This issue was recently highlighted in an article published in the Times of India wherein correlation between substance abuse and mental health was highlighted. Even otherwise de-addiction treatment has to be done from dual perspective i.e from the perspective of de-addiction and from the perspective of mental health because drug de-addiction is more about winning against the mental faculties than a disease.

C. The Mental Healthcare Act 2017 (MHCA) takes care of all such situations and provides for evaluation of persons suffering from mental health by a Psychiatrist who is first among the professionals listed in the definition of mental healthcare professional under section 3(r) of the Act. The Act lays greater emphasis upon treatment by the Psychiatrist since he is the best person to address the issues of mental illness wherever required. Thus it is need of the hour that all De Addiction centres whether run by the Government or NGO's have a permanent psychiatrist for addressing the mental healthcare needs of the person suffering from mental health issues (addict) in accordance with the scheme of the Act.

D. That as per section 89 and 90 of the Act whenever a person is to be admitted for treatment for mental health issues beyond 30 days the evaluation by psychiatrist is necessary. Section 97 further provides that person suffering from mental illness shall not be subject to seclusions/solitary confinement or physical restraint except with the consent of the psychiatrist in-charge of the person's treatment at the medical health establishment. These provisions clearly outline the role of psychiatrist in treatment of a person at a de-addiction centre.

E. That the above provisions do highlight the need of the psychiatrist in treatment of addict or person suffering from substance abuse and having issues of mental health care. Thus, there is need for having a permanent psychiatrist rather than a

visiting psychiatrist (which has become the norm in recent times) in every mental health institute/ De-addiction centre which provides all time de-addiction services to persons suffering from substance abuse/ drug abuse so as to provide a comprehensive treatment and ensure that the chances of relapse are rare. Such efforts would go a long way in addressing the issue of demand supply reduction of NDPS substances and making a drug free society.

F. It's time to accept drug abuse more as a subject of psychiatric medicine and addiction medicine than a subject of crime alone. Policy making bodies have to focus vehemently on creating infrastructure in every State for treatment of addicts to reduce the demand aspect of drugs.”

14. The emphasis by the officer (supra) relates to drug addiction being a mental care issue. Moreover, in terms of the definition assigned to a mental health professional, as borne in Section 2 of the Mental Healthcare Act, 2017 (hereinafter referred to as the ‘Act of 2017’), a prima donna position becomes assigned to a psychiatrist, as becomes defined in clause (x). Consequently, when it also becomes underlined therein that, mental health illness thus arising from drug addiction, rather requires administration of psychiatric medicine, but by a psychiatrist endowed with the professional competence, as declared in the hereinabove extracted clause (y) of Section 2 of the Act of 2017.

15. Consequently, for ensuring the purveying of utmost palliative care to a drug addict, who begets the ill consequence of apposite disorientation or impairments, thus making their respective ill onsetings onto his behaviour or psyche, therebys a direction is required to be passed upon the Chief Secretaries respectively of the States of Punjab, and, Haryana, besides upon the Advisor to Administrator, U.T., Chandigarh, to proceed to forthwith

appoint, on a regular basis, psychiatrists at all the de-addiction centres, so that to the drug addicts, who choose to seek de-addiction treatment at the de-addiction centres concerned, thus becomes purveyed the optimum palliative psychiatric medicine.

16. The purveying of psychiatric medicine to drug addicts would ultimately result in reduction in demand side, with a consequent well benefit upon reduction in supply side rather taking place, whereupon, there would be decrease in drug trafficking.

17. Be that as it may, there is but a requirement of occurrence of assimilations in society, thus of drug addicts, both during the tenure of their undertaking de-addiction treatments at the de-addiction centres concerned, besides post theirs successfully completing the drug addiction programmes at the de-addiction centres concerned. In the said regard, the Ministry of Social Justice and Empowerment, Government of India, has formulated certain guidelines. The magnum corpus on this subject is titled as “Magnitude of Substance Use in India, 2019”. The said guidelines be deeply researched into, and, be also ensured to be rigidly complied with by all concerned, on the subsequent date of hearing. Affidavits in the said regard be also ensured to be sworn by all concerned.

18. At this stage, last but not the least, since a statutory provision becomes enclosed in Section 71 of the Narcotic Drugs and Psychotropic Substances Act, 1985, provisions whereof become extracted hereinafter, thus requiring the government to establish, recognize or approve, as many centres as it thinks fit for identification, treatment, management, education, after-care, rehabilitation, social re-integration of addicts and for supply, subject to such

conditions and in such manner as may be prescribed, by the concerned Government of any narcotic drugs and psychotropic substance to the addicts registered with the Government and to others, where such supply is a medical necessity. Consequently, the said provisions be ensured to be complied with, on or before the subsequent date of hearing, and, compliance affidavits be also tendered before this Court. Moreover, if there is any deficit of fundings to be sourced from the Central Government, therebys requisitions be sent to the Ministry concerned, and, on the Ministry concerned receiving the said requisitions, it is expected to release the asked for funds to all concerned.

“71. Power of Government to establish centres for identification, treatment, etc., of addicts and for supply of narcotic drugs and psychotropic substances.—

(1) The Government may establish, recognise or approve as many centers as it thinks fit for identification, treatment, management, education, after-care, rehabilitation, social re-integration of addicts and for supply, subject to such conditions and in such manner as may be prescribed, by the concerned Government of any narcotic drugs and psychotropic substances to the addicts registered with the Government and to others where such supply is a medical necessity.

(2) The Government may make rules consistent with this Act providing for the establishment, appointment, maintenance, management and superintendence of, and for supply of narcotic drugs and psychotropic substances from, the centers referred to in sub-section(1) and for the appointment, training, powers, duties and persons employed in such centers.”

19. Since assimilation, social integration and rehabilitation of drug addicts, post theirs successfully completing the de-addiction programmes at the de-addiction centres concerned, requires both skilled and apposite engineerings being made by all concerned, so that the human resource(s), which become dissipated, through drug abuse, rather become well channelized

into the mainstream. Reiteratedly, therebys the immense swathe of human population, which can be well resourced for ensuring the socio economic development of the country, can rather become weaned from drug abuse, especially when the well effect thereof would ensure prosperity to the socio economic health of the nation.

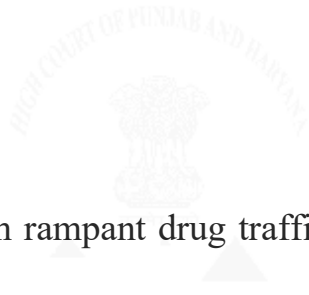
20. In other words, the demographic dividend, which can be well utilized, through a large swathe of the human resource(s) becoming weaned away from drug abuse, therebys necessarily all the directions (supra) are of PAN national importance and all concerned are required to become sensitized to the directions (supra), thus to make the nation move ahead.

21. For further compliance affidavits becoming placed before this Court, list the instant matter on 10.12.2024.

22. Furthermore, this Court appreciates the inputs purveyed to this Court by the Chief Secretary, Government of Haryana, and, by the Advisor to Administrator, U.T. Chandigarh. Moreover, this Court also acclaims the inputs purveyed by Ms. Soumya Sambasivan, IPS, DIG, Central Range, Mandi, cum, Principal, HPPTC, Daroh, District Kangra, H.P. The appreciation made to the supra be entered in the respective service records of the supra, but, in the successive ACRs concerned.

23. This Court also appreciates the inputs provided by Mr.Kapil Dev Sharma, District Attorney, now serving with the P.T.C., Daroh, District Kangra, H.P.

24. Moreover, the directions (supra) do have a wholesome purpose of benefitting the entire society. Therefore, when the entire country is facing a threat to its socio economic fabric through massive and rampant consumption



of drugs arising from rampant drug trafficking. Resultantly, this Court deems it fit and appropriate to direct the Registrar (Judicial) of this Court to circulate a copy of this order, to all the Chief Secretaries, and, also to all the Directors General of Police in all the federal States in the Union of India, so that this order may become considered to be complied with.

25. Copy of this order be also forwarded to all the trial Courts concerned respectively in the States of Punjab, Haryana, and in U.T., Chandigarh. Moreover, a copy of this order be forthwith transmitted to all the supra.

26. Lastly, a copy of this order be forthwith dispatched to the Union Home Secretary, and, to the Cabinet Secretary to Union Council of Ministers, so that they are led to consider the passing of directions to all concerned, which are in alignment with the extantly passed directions upon all concerned.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

13.09.2024
devinder

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No