

KERALA STATE CHILD RIGHTS PROTECTION COMMISSION  
TRIVANDRUM.

Present: Smt. Sobha Koshy( Chair person)  
Sri. K. Naseer ( Member)  
Smt. Meena C.U ( Member)

Date: 8/8/ 2016  
CRMP No: 1849/07/LA1/2015/ KeSCPCR

Petitioner:  
Smt. Seema Lal,  
4-D, Serene Orchard,  
Mather Apartments,  
Vidyanagar,  
Kadavanthara,  
PIN 682020  
Kochi  
Ernakulam District

Defendants:

1. Secretary, Dept of Health and Family Welfare, Trivandrum
2. Secretary, Dept of Regional Self government, Trivandrum
3. Secretary, Dept of Social Justice, Trivandrum
4. Director, Dept of Health and Social welfare, Trivandrum,
5. Director, Dept of Panchayaths, Trivandrum
6. Director, Dept of Town affairs ( Nagara kaarya vakuppu)
7. Director, Dept of Social Justice
8. Director, Kerala State Social Security Mission, Trivandrum
9. Director, National Institute of Speech and Hearing ( NISH) Trivandrum
10. Director, State Institute for Mentally Challenged, Pangappara, Trivandrum, 695581.
11. Director, Institute of Communicative and Cognitive Neuro Sciences (ICCONS),  
Thuruvikkal P.O. Pulayanar Kotta, Trivandrum. 695031
12. District Medical Officer, Ernakulam,
13. Secretary, Kochi Corporation, Ernakulam Dist.
14. Deputy Director of Panchayath, Ernakulam.

**Order**

The petitioner has complained before the commission with the request that the above complaint is filed for "Together We can" a forum by the parents of differently abled children and the petitioner, who is a psychologist

- that unhealthy practices are being carried out in centers for children with different abilities
- that the parents of these children and the teachers have an important role to play since these children have to be given training for their integrated education
- that most of these therapy centers are functioning without registration

- that these centers do not allow parents to be inside during therapy sessions and so they are not aware of how their children are being trained and so unable to continue the training at home
- that the children when coming out from the training are often found to have undergone physical abuse
- that these centers do not prepare individualized education program(IEP) for each child
- that no information is given to the parents as to what is being done during therapy in these centers
- that there is no provision for CCTV coverage in any of these centers; that there is no current provision in the govt to supervise the functioning of these centers
- that the situation is such that there is no progress in the condition of the children going to these centers for months together
- that an enquiry should be conducted to know about the functioning of all the centers meant for children with different abilities
- that the government should take steps to ensure that these centers are registered and their functioning is made transparent
- that strict rules should be there for the functioning of these centers
- that parents should be allowed to be inside when the children are being trained.

2. The commission issued notifications to

- Secretary, Health Dept
- Director, Health Dept; Director, Town affairs
- Director, State Institute for the Mentally Challenged
- Director, National Institute of Speech and Hearing( NISH)
- Director, Institute of Communicative and Cognitive Neuro Sciences (ICCONS).

The following reports were submitted

- Health Dept Director report no: UIP 2/33164/2015/DHS on 13/8/2015
- Panchayat Director, report no: J3p34176/2015 on 21/8/2015
- Director, Town Affairs, report no: 10058/15 on 12/8/2015,
- Director, State Institute for the Mentally Challenged, report no: 1029/A5/2015/SIMC on 17/12/2015
- Director, National Institute of Speech and Hearing(NISH) report on 08/12/2015 and 22/03/2016
- Director, Institute of Communicative and Cognitive Neuro Sciences (ICCONS). report no 201/Estt/15/ICCONS-TVM on 18/7/2015

3. In the reports by Health Dept Director and the District Medical Officer, EKM, it is stated

- Ernakulam District Reproductive and Child welfare officer visited 13 centers in Ernakulam District
- As the petitioner mentioned in her complaint, the parents are not allowed inside while the therapy is going on
- If the parents are inside, the children will not co operate
- After the therapy session, the parents are informed about what is taught
- Time spent on each child is ranges from 45 minutes to 1hour
- The number of trained therapists are minimum in these centers
- No reports about the physical abuse on the children so far
- Registration under law is needed for all these centers
- There should be monitoring committee at the District level, to supervise the functioning of these centers
- The floor of these centers should be suited for imparting safe training to the children without causing any physical harm to them
- Only a few centers have psychiatrist's service available
- It should be compulsory that all centers have the facility of the psychiatrist available
- Proper guidelines should be prepared regarding all the above including the physical and material comforts and conveniences related to the functioning of these centers

4. The report submitted by the Panchayat Director states

- Centers for children with neurological disabilities function in 5 village Panchayats in Ernakulam District
- In Ayyampuzha Panchayat, 15 children are undergoing therapy
- A physiotherapy unit functions in Buds school under Kanjoor panchayat
- In Kavalangat panchayat, 14 children are coming for therapy as out patients
- A physiotherapy centre is functioning under the jurisdiction of the Chottanikkara panchayat and steps were taken for its function for four days a week.
- Two physiotherapy sessions are conducted per week, in Pallikkara, under the jurisdiction of Kunnathunaadu panchayat
- The report does not say anything about allowing the parents inside during therapy sessions

5. The report by the Town Affairs Director, states

- Centers are being allowed to be registered and fees are collected by the Corporations as per the 1997 Municipal Act/ Rule for private hospitals and para medical institutions
- It is clearly stated in the Rule that such centers should not function without registration and therefore the concerned department can verify whether such centers are registered
- The Dept of Health can check the functioning of these centers and the needs and facilities for their proper functioning

6. The report of Director, the State Institute for mentally challenged states that

- The petitioner's complaint about the functioning of therapy centers should be considered as grave
- It is impossible to find out if the children are harmed or exploited if therapy is done inside closed doors
- At present, these centers do not function under proper guidelines
- The centers for children with different abilities should be child friendly
- The floor and walls of these centers and also physical conveniences should be barrier free and suited for children with different abilities
- Closed room therapy may be needed for children with ADHD and Autism who are in need of more attention, but there should be facilities for the parents outside to view what is happening inside
- All centers should have CCTV cameras installed for this purpose
- There should be provision to record the therapy session to be given to the parents
- There should be clear and proper guidelines for the functioning of the therapeutic centers run for children with different abilities
- There should be proper behavior guidelines for the therapists who are working with such children
- There should be an authorized body to supervise, and evaluate the functioning of these centers
- An Institution at the government level should be formed to ensure the professional registration of these centers and also for appointment of qualified and trained personnel in these centers.

7. In the report by National Inst of Speech and Hearing (NISH), it was submitted that the plaint filed by the plaintiff is justified, that the recommendations related to this complaint should not be restricted just to Ernakulam district but should apply throughout the state, that parents play a prominent role in the well being of a child with special needs, that counselling and training of the parents are very important to ensure holistic development and rehabilitation of a special needs child, that there should be a dedicated commissioner to address the needs of special needs children under the aegis of the Social Justice department and that training, licensing and certification of therapists should be brought under the control of Commissioner For Disabilities.

8. In the report by the Inst. for Communicative & Cognitive Neurosciences (ICCONS), the following was submitted. The complaint by the plaintiff is indeed grave and deserves attentions and the "Neurological Disability" mentioned by the plaintiff include varied forms of disabilities and each of these disorders need to have separate types of therapy and treatment, that currently there is no clear guideline available in the state that specifies what rehabilitation be offered for which type of disorder. Also, the plaintiff has specified that the role of parents in the rehabilitation is most important, but it also depends on the nature and condition of each family and that poor, uneducated families who go for daily wage labour, often use therapy centres as day shelter homes. All these factors considered, there should be survey conducted and in case of integrated

education, it should be decided based on the nature of the disability. Many schools do not even have toilet facilities for such differently abled children. CCTV and one-side viewing arrangements for therapy have their own pros and cons as it can lead to various types of blames being raised and can adversely affect the confidence and morale of the therapist and instead, an open and transparent approach between the therapists and parents will result in more benefit for the rehabilitation of the child. Also, compared the number of differently abled children availability of trained therapists is quite low and this disparity needs to be addressed. And before forming legal action, medical professionals like neurologists, paediatricians, ENT and ophthalmologist and paramedical professionals like Psychologists, Speech Language Pathologist, Physiotherapist, Social Workers and Education Experts should be made part of a committee to study the lacunae and offer suggestions and guidelines, with which the problems can be overcome and more awareness can be created.

9. Kerala Municipality, Kerala Panchayat Raj (Registration of Private Hospitals and Private paramedical concerns) rules specify that rehabilitation centres have to be registered under the Local Self Governance Centres and procure the requisite legal license. All rehabilitation staff in the centres should have qualifications from accredited universities or organizations. As per reports, such organizations or homecare therapies do not have a structured set of guidelines available. This commission recommends that a clear set of guidelines should be formed to govern activities of these organizations and about the actions to be taken by concerned govt. Authorities. These guidelines should be formed by consulting with experts in the field and with parents.

10. In light on the facts discussed above and in accordance with Child Rights Protection Commissions Act of 2005, Section 15 (1), the following recommendations are being ordered.

(a) All special needs rehabilitation centres working in Kerala, should get registered according to Kerala Municipality, Kerala Panchayat Raj (Registration of Private Hospitals and Private paramedical concerns) rules, under the connected Local Self Governance Centres and Parties 1,2,5,6 should ensure that no organization works without the said registration/licenses.

(b) Parties 1,4 in consultation with experts in the field and parents of special needs children, should formulate detailed guidelines for the functioning and activities of Rehabilitation (Therapy) Centres and roles and responsibilities of concerned officials and authorities. The said guidelines should be prepared and circulated to all rehabilitation centres functioning in Kerala, within a time of 3 months.

(c) The guidelines prepared as per instructions above should, adhering to the current rules and regulations, specify procedures for - Registration of Rehabilitation Centre, Code of Conduct for the organization and staff, Minimum Qualifications required for therapists and rehabilitation staff, Rules and regulations to be adhered to, how the organization should function, timings, child friendly infrastructure and other facilities to be maintained and also should nominate authorities who should audit and ensure implementation of these guidelines.

(d) As and when the guidelines are prepared in accordance with the existing rules and statutes, it should be ensured that all existing practitioners and therapists who work in rehabilitation and therapy, should compulsorily get registered with the authorities decided by parties 1,4 and before the date specified.

(e) Parties 1,4 should take steps to form a monitoring committee at the district level under the District Medical officer( health) to supervise the functioning of all the centers in the state. This committee should include representatives from the parents of children with different abilities. The registration of centers which do not follow the terms specified in the guidelines can be cancelled due to this reason. All benefits at the governmental level should be withdrawn for these centers until they rectify the shortcomings. The fact of cancellation of registration of the centers should be published in the media.

(f)Defendant 12 should verify all the therapy centers of EKM district and evaluate their functioning. If any violation of the law is noticed, legal action should be taken against them.

The report of the steps taken by the defendants on the recommendations of the commission should be submitted to the commission within 60 days, as per Rule 45 of the Kerala State Child Rights Protection Commission rules of 2012

Signature  
Sobha Koshy ( Chair Person)

Signature  
K.Naseer ( Member)

Signature  
Meena C.U ( Member)

As per order  
S. H. Jayakeshan ( Registrar)