

**BEFORE  
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH  
THE HON'BLE MR JUSTICE S.R.SEN**

**09-06-2015**

It is now well settled that in a country like India where democratic polity prevails, laws are from 3 sources:

- (i) Act enacted by the Parliament, State Assembly and other Authorities having the powers to enact Act and Statutes.
- (ii) Rules and Regulations.
- (iii) Judgment and order passed by the constitutional courts like the High Court and the Supreme Court.

2. The law propounded by the Apex Court and also direction issued by the Apex Court in the judgment and order are the law of the land. One should remember that there is law called judge made law. Nobody is above the law, whosoever high and exalted, law is above them.

3. One of the clearest example of lawlessness in the State of Meghalaya is reported in Shillong Times dated 9<sup>th</sup> June, 2015 under the caption "Dorbar confines mentally ill person." In that news item, it is stated that one mentally unstable person identified as Slinder Turnia (29) has been kept confined in a cell on the request of his relatives. For easy reference the said news item under the caption "Dorbar confines mentally ill person" is quoted hereunder:

**"Dorbar confines mentally ill person**

**By Our Reporter**

**Shillong:** *In a shocking incident, the village dorbar of Ngundro village in South West Khasi Hills has confined a mentally unstable person in a cell for the last one month.*

*When contacted on Monday, Rangbah Shnong of the village, Bloswell Lyngkhoi claimed that the mentally unstable person identified as Slinder Turnia (29), has been kept in the cell on the request of his relatives.*

*“Even the police have refused to take Turnia into custody since they are fed up of him,” Lyngkhoi said adding that the decision to lock the mental patient was arrived at after taking into account the safety of the people of the village.*

*“The girls and women did not feel safe when he is outside. He has attacked the girls of the village a number of times,” the Rangbah Shnong alleged.*

*Lyngkhoi added that Turnia was admitted at MIMHANS on three occasions. “He refused to take medicines every time he came out of MIMHANS. It is because of this that he had relapses,” he said. The Rangbah Shnong also claimed that the mentally unstable person used to consume and inhale dendrite and ganja.”*

4. In a democratic country, the so called authority cannot take the law in his own hands in the name of social service. The Apex Court in ***R.D. Upadhyay vrs. State of Andhra Pradesh (2007) 15 SCC 337*** had discussed the three major issues: (1) Creation of sufficient number of subordinate courts as well as providing adequate infrastructure and filling up of the existing vacancies (2) necessary direction with regard to the women under trial prisoner/women convicts for their children how to be dealt with inside the jail and (3) arrangement required to be made for mentally unsound person who are either under trial prisoners or have been convicted. Out of the three issues, the issue relating to women under trial prisoners, women convicts and their children was dealt with in an order reported in ***R.D.Upadhayay vrs. State of Andhra Pradesh (2007) 15 SCC 337***. The Apex Court in R.D.Upadhayay’s case (Supra) kept on issuing different directions to the State Government for the mentally ill persons. The Apex Court in an order dated 25-11-2014 in R.D.Upadhayay’s case (Supra) issued the following directions:

*“In the circumstances therefore we direct as under:*

*1) Copies of the reports received from the State Legal Services Authorities and Union Territories concerned shall be forwarded to the Jurisdictional High Courts along with a copy of this order with a request to the High Court to register a PIL and to continue the proceedings and issue such directions in accordance with law as may be considered necessary in the facts and circumstances of the case.*

*2) While examining the issue touching the rights of the under-trial prisoners especially the females and the children with them, the High Courts may also examine the question relating to the rights of mentally challenged under-trials and convicts and issue appropriate directions. The High Court may while examining the rights of such unfortunate members of the society as suffer from any mental disability also examine whether any directions are required to be issued in relation to people who suffer from such illness but are not involved in any crime and yet suffer harassment, neglect or deprivation at the hands of their family or are seen roaming about in public places without any one taking responsibility for their care, protection or maintenance.....”*

5. This Court, keeping in view of the direction issued by the Apex Court in the order dated 25-11-2014 in R.D.Upadhayay’s case, had registered the present PIL. This Court also passed an order dated 27-04-2015 in present PIL which read as follows:

*“PIL No. 1 of 2015*

BEFORE

THE HON’BLE MR JUSTICE UMA NATH SINGH,  
CHIEF JUSTICE  
THE HON’BLE MR JUSTICE T NANDAKUMAR  
SINGH

27.04.2015

*None appears for the petitioner.*

*Mr ND Chullai, learned senior GA, assisted by Mr S Sen Gupta, learned GA, represents the respondents.*

*This Court has already passed a detailed order on 18.03.2015 directing the Registry to furnish a copy of petition as well as judgment and order of the Apex Court dated 13.11.2014 to Mr ND Chullai, learned senior GA for compliance, but so far no affidavit has been filed.*

*Mr ND Chullai, learned senior GA, thus prays for further time to file such affidavit. However, till the affidavit is filed, some interim measures are required to be urgently taken for the implementation of Supreme Court's order.*

*We, thus direct all the Deputy Commissioners as well as Senior Superintendent of Police/Superintendent of Police to ensure that no mentally challenged person is seen abandoned by his family or roaming about uncared in public places, or in other places inviting danger and causing inconvenience to public.*

*List the matter on 11.05.2015. The Registry shall supply a copy of this order to Mr ND Chullai, learned senior GA for compliance.*

*JUDGE*

*CHIEF JUSTICE”*

6. In spite of giving the above directions to the Deputy Commissioner as well as the Superintendent of Police to

ensure that no mentally challenged person is seen abandoned by his family or roaming about uncared in public places or in other places inviting danger and causing inconvenience to the public, this Court is not getting any response from the Deputy Commissioner and the Superintendent of Police which we expected. It is very unfortunate.

7. Mr. N.D.CHullai, learned Sr. GA appearing for the State respondents prays for 2(two) weeks' time for taking instructions. Taking into consideration of the type of response we received from the Deputy Commissioner and the Superintendent of Police, we are of the considered view that a definite order is required to be passed instead of giving time to the learned Sr. GA for taking instructions.

8. Accordingly, in the interest of the denizen of the State of Meghalaya and also in the interest of the public, the Deputy Commissioner, South West Khasi Hills District, Mawkyrwat shall take immediate steps for shifting the said mentally ill person Mr. Slinder Turnia to a Mental Asylum so declared and recognized by the State of Meghalaya for treatment. In the peculiar circumstances of this case, the Headman and Secretary of the Dorbar of Ngundro Village of South West Khasi Hills District are to appear in person before this Court on 15-06-2015 at 10:30 AM sharp to explain as to why they take the law into their own hands in the name of social service. The Superintendent of Police of South West Khasi Hills District, Mawkyrwat is directed to ensure the personal appearance of the Headman and Secretary of that village before this Court without fail at 10:30 AM sharp on 15-06-2015. The Deputy Commissioner and the Superintendent of Police of South West Khasi Hills District, Mawkyrwat, shall also appear in person before this Court on 15-06-2015 at 10:30 AM sharp.

9. Registry is directed to send a copy of this order to the Deputy Commissioner and Superintendent of Police, South West Khasi Hills District, Mawkyrwat, by W.T.Message as well

as by a Special Messenger. The Special messenger shall obtain the acknowledgment from the Deputy Commissioner and the Superintendent of Police for receiving this order. Registry is further directed to furnish a copy of this order to Mr. N.D.Chullai, learned Sr. GA within 24 hours so that he may intimate this order to the Deputy Commissioner and the Superintendent of Police, South West Khasi Hills District.

JUDGE

JUDGE

S.Rynjah