

WEST BENGAL HUMAN RIGHTS COMMISSION

PURTA BHAVAN (2ND FLOOR), SECTOR – I,
DF BLOCK, SALT LAKE, KOLKATA – 700 091
PH. NO. 2337 1338 FAX NO. 2337 9633

Ref. No. 131/WBHRC/15-16

Date: 14/05/2015

From : Smt. Shampa Dutt Paul,
Registrar,
West Bengal Human Rights Commission

To : The Registrar (General),
CALCUTTA HIGH COURT,
Appellate Side,
Kolkata – 700 001.

Sub: Compliance of the provisions of
THE MENTAL HEALTH ACT, 1987

Sir,

I am directed to state that the Commission on inspection of Calcutta Pavlov Hospital, Kolkata has observed that the provisions of the Mental Health Act, 1987 are not being complied with by the Judicial Magistrates.

Reception orders are being passed without any further date of production of the mentally ill person as per Sec. 28 of the Act thus leading to their indefinite detention in the hospitals, causing violation of their Human Rights as provided u/s 81 of the Act.

“Sec. 28 of the Act : **Detention of alleged mentally ill person pending report by medical officer.** – (1) When any person alleged to be a mentally ill person appears or is brought before a Magistrate under section 23 or section 25, the Magistrate may, by order in writing, authorize the detention of the alleged mentally ill person under proper medical custody in an observation ward of a general hospital or general nursing home or psychiatric hospital or psychiatric nursing home or in any other suitable place for such **period not exceeding ten days** as the Magistrate may consider necessary for enabling any medical officer to determine whether a medical certificate in respect of that alleged mentally ill person may properly be given under clause (a) of sub-section (2) of section 24.

(2) The Magistrate may, **from time to time**, for the purpose mentioned in sub-section (1), by order in writing, authorize such further detention of the alleged mentally ill person for periods not exceeding ten days at a time as he may deem necessary:

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Provided that no person shall be authorized to be detained under this sub-section for a continuous period exceeding thirty days in the aggregate.”

Reception orders are being passed without due compliance of Sec. 23, 24, 25 & 28 of Part – III B of the Act.

You are, therefore, requested to kindly move the Hon'ble Court for necessary directions upon the Judicial Officers of this state for strict compliance of the provisions of Mental Health Act, 1987 in the interest of the basic Human Rights of the mentally ill person & also in the interest of Justice.

Yours faithfully,

SD/-
Registrar