

What about my Right to vote?

People with psychosocial disability who have recovered continue to live inside government mental hospitals. Anjali is an advocate for their rights. Often, they are ignored, neglected, deprived and even denigrated due to their predicament. Anjali started its work in 2001 as a prerogative to counter these violations and abuse. It works inside four mental hospitals in West Bengal¹. At the Institute of Mental Care Purulia, Anjali has been working for the past two years².

In a democracy, voting is not only a human rights issue, it is a social issue, a development issue, and also a feminist issue³. Voting right, for Anjali, is a means to an array of possibilities in the lives of the people living with psychosocial disabilities and languishing inside mental hospitals. Voting rights recognizes a person's agency. This helps counter stigma, poor access to mental health care services and knowledge, and social exclusion.

In all the four hospitals, Anjali initiated the process to enroll the residents who had recovered in the electoral register. This would allow them to receive Voter ID cards. Application forms were duly filled, and submitted to the concerned offices. Voter ID cards bears the name, a picture, and an address of the person. Anjali advocated that the address should only be the address of the hospital without a mention of 'mental hospital' in it. This was

anything but easy to achieve. Anjali had to negotiate with the State, law enforcement authorities and the Election Commission to get this done. After repeated negotiations, it was finally agreed that no mention of 'mental hospital' would be made on the address in the voter ID card. This was a major victory. The recovered residents of these hospitals would now be free of the stigma of mental hospital in an important government identity document.

Anjali started the process of submitting applications for issuance of voter ID cards. The process started smoothly at Pavlov, and Berhampore. In Lumbini Park Mental Hospital, the Superintendent refused to go ahead until he received an approval specifically for Lumbini from *Swasthya Bhawan*⁴

Swasthya Bhawan had granted permission for Calcutta Pavlov Hospital. It was presumed that this would extend to Lumbini hospital, both located in Kolkata. There was very little time to salvage the situation before the upcoming elections. Anjali approached *Swasthya Bhawan* for the permission but the upcoming elections were too near and they were advised to submit the applications after the elections were over. This was a setback but it helped Anjali learn how to deal with the system.

At the Institute of Mental Care (IMC), Purulia, Anjali was in for another rude shock. At Purulia, as part of the application process Anjali had approached the office of the Election Commission. They were told that it was impossible for persons living inside mental hospitals to get voter ID

¹ Calcutta Pavlov Hospital, Kolkata; Lumbini Park Mental Hospital, Kolkata; Berhampore Mental Hospital, and Institute for Mental Care, Purulia

² This article is written in 2020

³ This is Anjali's position on the topic

⁴ Swasthya Bhawan refers to the West Bengal Health and Family Welfare Department

cards. Anjali approached the office of the Sub Divisional Officer (SDO), Purulia. They were unable to get an appointment with the SDO. With time running out, Anjali met the local Member of Legislative Assembly (MLA) who in turn directed them to the Block Development Officer (BDO). The BDO directed the Block Level Officer (BLO) to visit IMC, Purulia. The BLO handed over the application forms to the Anjali team inside IMC and guided them how to fill the forms. The Superintendent of the hospital issued an approval that no mention of 'mental hospital' shall be made in the address. He also issued a '*fit for discharge*' certificates for the recovered residents, a mandatory requirement to prove that they had recovered.

Forty four applications were thus submitted. Two officials from the office of the BDO came to Anjali's office inside IMC, Purulia and verified the applications. However, after these applications reached the office of the SDO, all forty four were disqualified. The SDO cited Section 16 of the Representation of People Act (ROP Act), 1950 as a ground for disqualification of the applications.

According to the Representation of People Act, 1950 (Section 16), a person is disqualified for registration in an electoral roll if he is declared to be of '*unsound mind*' by a competent court. The term '*unsound mind*' however has not been defined anywhere in any Indian law or even the constitution.

Anjali countered that being of unsound mind was not the same as having a mental illness and that the illness was not a permanent state. All these person had recovered, and there was a certificate to that effect. Being of unsound mind was a

legal, not a medical, finding. This had also been reiterated by the recently enacted Mental Health Care Act, 2017.

The Mental Health Care Act, 2017 in Section 3 (5) states that '*Determination of a person's mental illness shall alone not imply or be taken to mean that the person is of unsound mind, unless he has been so declared as such by a competent court*'. A person's name cannot be denied inclusion in the electoral register solely on the grounds that they have a mental illness. For that it would have to be proved that the person is of 'unsound mind' and get a declaration to that effect from a court. The onus of proving that a person is of an unsound mind is on those refusing inclusion and not on the person concerned. Thus, a person with a mental illness does not have to go to court and prove that he or she is of sound mind.

Treatment or hospitalization inside a mental hospital did not make a person of unsound mind. These were all recovered patients.

What about the situations in which residents who have recovered from their illness found themselves stuck inside the mental hospital due to other issues like lack of family, abandonment, etc? If there was no family to take a person back, should not the State provide other facilities in turn for them, such as halfway homes/rehabilitation centres, as mandated by the Mental Health Care Act, 2017? Even if a person was admitted under the older Mental Health Act 1987, the State is obligated to follow the new Act, which makes all residents of the hospitals

‘Independent Patients’ and they must in spirit be treated as such.

Despite these valid arguments the SDO was not convinced and stuck to his point. With little time left for the elections nothing more could be done. At both Lumbini and IMC, Purulia, time or rather the lack of it played a pivotal role.

The hardest part was to explain to the residents why their applications were disqualified. One of them said, *“amra toh bhalo achi, shere gechi...eta SDO babu ke bolle uni bujhben na? Ain toh bolche je amra vote dite pari, tobu uni ato shikkhito hoye kano shunchen na?”* (We have recovered now. If we talk to the SDO, won't he understand and reconsider? The law says that we can vote. Then why, despite being so educated, is the SDO not listening?).

Once the elections ended, Anjali met the District Magistrate (DM) and submitted a request to look into their appeal. The DM referred the matter to the Additional District Magistrate (ADM), Development. The ADM assured Anjali of a response soon. However, even after passage of a month, there was no response. Anjali wrote to the SDO countering all his earlier arguments.

This time the SDO was far more accommodating. Unlike the previous meeting, he heard the appeal and informed that he would forward their application to the office of the Chief Electoral Officer, (CEO), of the Election Commission along with his own objections. He assured that that he would help Anjali throughout the process if their appeal was granted by the CEO. At the time of writing this article, Anjali was waiting for a response from the CEO to restart the procedure.

The whole incident informed of the contradictions and lacunae that existed in the current law but also made Anjali realise the importance of changing the language of existing laws. That mental illness is still equated with an ‘unsound mind’ despite the latter not having any definition in any law is in itself astonishing.

Anjali also realised the need to involve the state authorities in its work, keep them informed and build their capacities on new developments for person with psychosocial disabilities.

Right to vote is important for persons with mental illness. Denial of this right could mean they were not seen as a ‘constituency’, not acknowledged as citizens of this country with equal rights as everyone else. This could lead to their marginalisation without any accountability of the State. In pursuit of this right, Anjali countered the ROP Act and the way they did it is a learning that could be helpful to other organisations working in this field who might encounter a similar barrier.
