



**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Habeaus Corpus Petition No. 44 of 2026**

Ankush Chauhan

.....Petitioner

Versus

State of Uttarakhand and others

....Respondents

Present:

Mr. Ankush Chauhan, petitioner present in person.  
Mr. Gaurav Singh, Advocate for the petitioner.  
Mr. V.S. Rawat, A.G.A. for the State.  
Mr. Aditya Singh, Advocate for the respondent no.7.  
Mr. Ashish Chauhan, District Magistrate Dehradun is present through video conferencing.

**JUDGMENT**

**Coram: Hon'ble Ravindra Maithani, J.**

**Hon'ble Siddhartha Sah, J.**

**Hon'ble Ravindra Maithani, J. (Oral)**

In the instant *Habeas Corpus* Petition, it is the claim of the petitioner that he has been detained by the respondent no.7/Ashirwad Wellness Samiti, Dehradun ("the *Samiti*") against his will and consent.

2. Heard learned counsel for the parties and perused the record.

3. Yesterday, when the matter was taken up, this Court observed that there should be some more material with regard to the functioning of the *Samiti*, and passed the following order:-

"9. The In-charge shall also bring along with him all the valid documents which permit the institution to take the person into custody. Along with it, the In-charge of respondent no.7 shall also place for perusal of the Court the list of enrolled doctors in the institution along with their qualifications, their assignment letters and documents pertaining to the payment of remuneration to them.

10. The Court requests the District Magistrate, Dehradun also to immediately inquire about the functioning of respondent no.7 institution and submit a detailed report as to under what provision of law it is being functional and any other information which the District Magistrate, Dehradun considers would help this Court to decide the matter.

4. A report was tendered for the perusal of the Court by learned State counsel, but it does not touch upon the issue on which this Court had directed the District Magistrate, Dehradun to submit a report. It is, thereafter, the Court required the District Magistrate to join the proceedings through video conferencing. He joined the proceedings through video conferencing at 02:15 p.m. today. According to him, due to paucity of time, the report which was sent by the office could not be perused by him. The *Samiti* is functional. In the *Samiti*, there are 28 more persons. The registration of the *Samiti* had expired on 09.08.2025. There is no renewal of it. The *Samiti* has recently changed the place of operation. The *Samiti* has no legal authority to run the facility and the administration proposes to proceed as per provision of the Mental Healthcare Act, 2017 ("the 2017 Act"). That is one part of the story.

5. Learned counsel for the petitioner submits that the petitioner is detained in the *Samiti* against his will and without his consent. Therefore, he should be freed forthwith.

6. Learned counsel for the respondent no.7 submits that if the petitioner proposes to leave the *Samiti*, he could do so. He would submit that the provisions of the 2017 Act, are being followed by the *Samiti*.

7. The Court interacted with the petitioner. According to him, he is in the *Samiti* for the last 42 days. He wants to go his home. He

has a dispute with his wife for divorce. His wife got him admitted in the *Samiti*.

8. The Court has required the *Samiti* also to produce documents with regard to its functionality. Certain documents have been produced for the perusal of the Court. Let them be taken on record.

9. It is submitted that the doctors on call are available in the *Samiti*. The provisional registration has not expired, but permanent registration may not be refused by the authorities and the *Samiti* had applied for permanent registration in the year 2025. It has been though disputed by learned State Counsel saying that the *Samiti* has applied for renewal yesterday only. The Court leaves it at it.

10. The Court further wanted to know from learned counsel for the respondent no.7 as to under what provisions of law, the admission of the petitioner was taken in the *Samiti*? He would refer to Section 89 of the 2017 Act. It reads as follows:-

**“89. Admission and treatment of persons with mental illness, with high support needs, in mental health establishment, up to thirty days (supported admission).-(1)** The medical officer or mental health professional in charge of a mental health establishment shall admit every such person to the establishment, upon application by the nominated representative of the person, under this section, if—

(a) the person has been independently examined on the day of admission or in the preceding seven days, by one psychiatrist and the other being a mental health professional or a medical practitioner, and both independently conclude based on the examination and, if appropriate, on information provided by others, that the person has a mental illness of such severity that the person,—

- (i) has recently threatened or attempted or is threatening or attempting to cause bodily harm to himself; or
- (ii) has recently behaved or is behaving violently towards another person or has caused or is

causing another person to fear bodily harm from him; or

(iii) has recently shown or is showing an inability to care for himself to a degree that places the individual at risk of harm to himself;

(b) the psychiatrist or the mental health professionals or the medical practitioner, as the case may be, certify, after taking into account an advance directive, if any, that admission to the mental health establishment is the least restrictive care option possible in the circumstances; and

(c) the person is ineligible to receive care and treatment as an independent patient because the person is unable to make mental healthcare and treatment decisions independently and needs very high support from his nominated representative in making decisions.

(2) The admission of a person with mental illness to a mental health establishment under this section shall be limited to a period of thirty days.....”

11. Learned counsel for the respondent no. 7 would submit that on 12.08.2026, when the petitioner was brought in the *Samiti*, he was examined by the Dr. Sanjibani Panigrahi of Shri Mahant Indresh Hospital, Dehradun. He has referred to a document, which has been tendered for the perusal of the Court, on left side of which F10 and F12 is written and it is argued that they are alcohol and drugs related issues. It is also argued that on the same day, the blood test of the petitioner was done and based on it, a conclusion was drawn that his admission is required.

12. In fact, Section 89 (1) (a) of the 2017 Act, requires something more before a person is admitted by some other person. It requires examination by one psychiatrist and the other being a mental health professional or a medical practitioner. Further, it requires that these two persons should independently conclude based on the examination and, on information given, that the person has a mental illness on such severity that the person,-

- (i) has recently threatened or attempted or is threatening or attempting to cause bodily harm to himself; or
- (ii) has recently behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or
- (iii) has recently shown or is showing an inability to care for himself to a degree that places the individual at risk of harm to himself;.

13. The Court wanted to know from learned counsel for the respondent no.7, as to whether, any such certification has been given by the psychiatrist and by a mental health professional or a medical practitioner? The answer is in negative. It is argued that, in fact, based on the examination by Dr. Sanjibani Panigrahi and the blood test report, admission was done. As stated, the requirement of law is written under Section 89 of the 2017 Act.

14. In the instant case, there has no compliance of the provisions of the 2017 Act before the petitioner was admitted in the *Samiti*. This Court cannot say at this moment, based on the documents, which have been produced by the respondent no.7 that the petitioner is suffering with any mental illness. The report that has been submitted by the Chief Medical Officer dated 22.09.2025 though records that the petitioner is addicted of *Ganja* and alcohol, but it *per se* cannot be termed as mental illness. It has to be concluded by the psychiatrist or a mental health professional or a medical practitioner, in view of Section 89 of the 2017 Act.

15. This Court cannot conclude that the petitioner is suffering with mental illness as defined under Section 2 (s) of the 2017 Act. There is no certificate to that effect under Section 89 (1) of the 2017 Act. The petitioner is before the Court. He has interacted with the Court and submits that he wants to go back to his home. Therefore, this Court has no other option, but to set him free. The petitioner is free to go wherever he wants to go.

16. The petition is disposed of accordingly.

(Siddhartha Sah, J.)

(Ravindra Maithani, J.)

23.09.2026

Jitendra