

CWP-4895-2007 (O&M).

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IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-4895-2007 (O&M).

Date of Decision: 02.08.2023.



.. Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Tanu Bedi, Advocate, (Amicus Curiae)
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Deepak Malhotra, Standing Counsel,
Ms. Simsi Dhir Malhotra, APP U.T. Chandigarh.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition was instituted for seeking issuance of directions to the respondents to pay compensation jointly to the petitioner as respondent No.2 violated not only modesty of the petitioner but also her fundamental rights including her right to live with dignity.

During the course of prolonged hearing of the present case, the scope of the writ petition was enhanced to examine the proposal for the rehabilitation of rape victims and improving the conditions of shelter homes as well as making provisions for rehabilitation of the child that may be born out of such violation committed on the victim. Schemes for financial

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assistance to the victim have already been notified and the grievance is addressed.

Various interim reports/affidavits/responses had been filed by the respective State Governments for compliance of the interim orders passed by this Court.

Learned *Amicus* contends that at this stage, in case the measures mentioned below are implemented, the issues with respect to the improvement of shelter home for women/rape victims as well as improving the conditions of the unborn child/the child born out of the rape shall be taken care of. The said suggestions, in addition to Schemes already instituted, are incorporated as under:-

The suggestions are broadly categorized into three parts:-

A) **Rehabilitation of victims of Sexual Assault.**

1. There should be one stop centre to assist the rape victims to overcome the trauma and consequence of the assault (State submits that such centres are already in existence).
2. In all these places, victims of all kinds of sexual assault be provided with regular psychological and emotional counseling.
3. These centres should assist the victim to take an informed decision for termination or continuation of the pregnancy as per victims's wishes and desires.
4. In addition to monetary compensation, as otherwise stipulated under various provisions of law, all expenses for MTP (medical termination of pregnancy) or pre-natal, post natal case, as the case may be, should be borne by the State.

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5. The Centres may also take assistance of District Social welfare officer for any/all of the following:-
- a) If pregnancy is detected post permissible time limit of termination and victim girl does not wish to keep child with her, then CARA(Central Adoption Resource Authority or any other authority as the case may be) should be involved for purpose of preparing all documents for quick, easy and expeditious adoption of child immediately on birth.
 - b) If the girl/woman wants to keep child with her
 - i) State should endeavour to render all assistance and help (depending on needs of each individual cases, which may include monthly allowance to child's nutritional and other needs) for proper, healthy, dignified growth of child.
 - ii) Give appropriate directions to all offices', especially, all educational institution not to insist for fathers' name of the child.

For Shelter homes:-

1. Most of Shelter homes are either homes only for woman or are orphanages where children can live till the age of 18. In places like nari-niketan if child is boy, he is not permitted to stay after completing 07 years of age. It is desired that State provides facilities where mother and child both can live together.

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2. Shelter homes should offer experience of normal life and not where they are confined to seclusion from social life under the pretext of security issues. Residents of these homes are victims and are not criminal offenders to be kept like jail inmates deprived of all social connect.

It is desirable that State Government conducts regular sessions in the nature of discussions, seminars, workshops, conferences to sensitize all stake-holders about the following:-

- i) Needs of peculiar cases and to prepare specific response to deal with it.
- ii) To train the handling of situation so that the affected girl/victim is not demoralized or degenerated and is dealt with respect and dignity.

Learned counsel appearing on behalf of the respective States/respondents contend that they have no objection to putting the aforesaid suggestions in implementation and it is submitted that some of the measures have already been adopted and are being implemented.

Taking into consideration that the respondents/States have no objection to the aforesaid suggestions made by the learned *Amicus*, the present petition is disposed of with a direction that the recommendations noticed above shall be given effect to and the respective State Administration shall take appropriate measures/steps to ensure that the aforesaid guidelines/suggestions are properly implemented for the welfare

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and rehabilitation of the rape victims as well as of their children and improve the conditions of the shelter home.

The petition is accordingly disposed of.

August 02, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No