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Maharashtra State Human Rights Commission (MSHRC) Mumbai

Allotted to Court No. : 1/ 2/ 3
DOCKET SHEET

SUO MOTU CASE NO: 4548/13/16/2022-WC

News item appeared in English Newspaper (Hindustan Times) on
10TH November, 2022 "Over 6,000 rape, acid attack survivors await
compensation", Mumbai.

Case to :- Hon'ble, Justice K.K. Tated, (Retd.).
Date of allotment :- 17.11.2022

SUMMARY

HINDUSTAN TIMES

MY MUMBAI

Page No. 6

4548/13/16/2022-WC

10-11-2022

{ PENDING UNDER MANODHAIRYA SCHEME }

Over 6,000 rape, acid attack survivors await compensation

KAY DODHIYA

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MUMBAI: A 22-year-old survivor of sexual assault in 2015 finally received her compensation under the state government's Manodhairya Scheme recently, after persistent follow-ups with authorities. However, another survivor of sexual assault in 2020, at a shelter home, is yet to receive interim compensation, as she does not have a bank account. Another minor rape survivor, also lodged in a shelter home, is awaiting interim compensation, as she does not have an Aadhaar card. The three women are part of over 4,000 rape, sexual assault, acid attack and immoral trafficking survivors, who are yet to receive monetary compensation under the state's scheme.

The compensation, which is intended to help victims overcome trauma and give them a chance to improve their condition, is delayed in the absence of

a deadline fixed for the disbursement of the amount. This leads to them running from pillar to post for years together to avail of the benefit. The problem, say NGOs and social workers, can be rectified if authorities set a deadline to disburse the interim and final compensation payable under the scheme.

The Maharashtra State Legal Services Authority (MSLSA) and District Legal Services Authority (DLSA) entrusted with the task of disbursing the compensation, however, claim that they have disbursed more than ₹15 crore as compensation in 2021-22 and efforts are on to clear pendency.

Confirming the backlog, Aruna Pai, chief public prosecutor, Bombay high court (HC) said, "It is tragic for the women - first, they are traumatised by the offence and then they have to endure the long wait for compensation under the Manodhairya Scheme. Instead of relief, they are subjected to additional

stress." An advocate representing the survivors on behalf of the NGO Rescue Foundation concurred with Pai, stating there were over 120 survivors with their shelter home awaiting compensation.

"The survivors brought to the shelter are usually minors. They leave the shelter once they attain adulthood or even earlier, if they come from responsible families. However, as most of them have been victimised by their own family members or acquaintances, they are unable to leave as there is no place for them to go," said advocate Ashley Cushner.

Of the various reasons for pendency, survivors not having an Aadhaar card is a vital lacuna, said an official from MSLSA. "The interim or final compensation amount has to be directly credited to the bank account of the survivors. However, as many of them come from underprivileged families, they don't have Aadhaar cards,

let alone bank accounts," said the MSLSA official.

Victims face another problem - that is police stations failing to fill up the requisite forms and sending them to the DLSA. The police however said that there were many issues, which contribute to the delay. As Baling Rajput, spokesperson for Mumbai Police and deputy commissioner of police, said, "The form has to be accompanied with many documents such as Aadhaar card, school leaving or birth certificate, bank account details, names and documents of guardians and nominees of the survivors, among others. As these are not provided on time, the process of clearing the forms gets delayed."

An official from Rescue Foundation agreed, adding, "Bank officials often refuse to open accounts once apprised of the condition of such a person. Not having a deadline for disbursement further leads officials to delay the process on one pretext

or the other," said Leena Jadhav, an official from the NGO.

The compensation also helps families of many survivors foot the bills for medical treatment, said Pai. "The treatment gets delayed when the money does not arrive on time," she said, underscoring the need for a deadline. Cushner said the police are the most important link between the survivor and the implementation of the scheme. "Everyone needs to focus on the development of best practices, which will ensure survivors receive appropriate support and care. The police must also be adept at implementing the schemes because they are their first point of contact, and their dignity must always be honoured," said Cushner.

"We understand the importance of the compensation. Efforts are on to find ways to deal with the problems and reduce the pendency at the earliest," said Milind Todkar, secretary, MSLSA.

What is Manodhairya Scheme

It was introduced in 2017, based on a direction by Bombay high court and a government decision of 2016. Under this scheme, survivors of rape, sexual exploitation, acid attack and immoral trafficking are given compensation, primarily to help them rebuild their lives. Its implementation is entrusted to the District Legal Services Authority (DLSA). It offers financial assistance of ₹1 lakh to and in special cases ₹10 lakh to the survivors. Based on the requirement, rehabilitation of the survivors and their dependents by way of shelter, counselling, medical and legal support, and education are also provided under the scheme. As soon as a case is registered, the victim has to be paid an interim compensation of ₹30,000 and the final compensation disbursed on the conclusion of the trial and conviction of the accused.



Collective disbursement

10,270

₹15.41 crore

Applications received by MSLSA in 2021-22

2,360

Pendency 6,055

Applications (including past applicants)

Mumbai





MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus, Mumbai – 400 001

Tel : 22092857 Email: - court1-mshrc@mah.gov.in

KKT/Suo Moto Case No.—4548/13/16/2022 -12C

Name of Respondent

:1 The Principal Secretary
Women and Child Development Department
Mantralaya, Mumbai

2. The Commissioner of Police
Mumbai

Date

: 16th November 2022

Coram

: Justice K.K. Tated, Chairperson

PROCEEDING

Not on board. Taken on board.

2. We noticed news in English news paper in Hindustan Times dated 10.11.2022 on page 6 with title "Over 6,000 rape, acid attacks survivors await compensation". In the said report it is explained what is Manodhairya Scheme, the same is reproduced below:

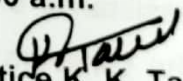
✓ It was introduced in 2017 based on a direction by Bombay High Court and a government decision of 2016. Under this scheme, survivors of rape, sexual exploitation, acid attack and immoral trafficking are given compensation, primarily to help them rebuild their lives. Its implementation is entrusted to the District Legal Services Authority (DLSA). It offers financial assistance of Rs. 1 Lakh and in special case Rs. 10 Lakh to the survivors. Based on the requirement, rehabilitation of the survivors and their dependants by way of shelter, counseling, medical and legal support, and education are also provided under the scheme. As soon as a case is registered, the victim has to be paid an interim compensation of Rs. 30,000 and the

final compensation disbursed on the conclusion of the trial and conviction of the accused."

3. It is stated in the said news item that more than 4000 rape, sexual assault and immoral trafficking survivors, who are yet to receive monetary compensation under the said scheme. It is reported in the said mostly the delay is on the part of Police Authority. Not only that for compensation, victim requires Bank Account. In many cases for want of Aadhar Card and other documents it is not possible for the victim to open the Bank Account. It is stated in the said report that officer from the Rescue Foundation agreed that Bank Officers often refuse to open Accounts once apprised for the condition of said person. Not having a deadline for disbursement further leads officials to delay the process on one pretext or the other.

4. Considering these facts the following order is passed:

- a) Office is directed to issue Summons to Principal Secretary Women and Child Development Department, Mantralaya, Mumbai and Commissioner of Police, Mumbai calling upon them to hold inquiry and file their affidavit in reply on or before 15.12.2022.
- b) **Matter to appear on board before Division Bench of Justice K.K. Tated and Shri. M. A. Sayeed, Member in Court No.1 on 15th December 2022 at 11.00 a.m.**


(Justice K. K. Tated)
Chairperson



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus, Mumbai – 400 001

Tel : 22092857 Email: - court1-mshrc@mah.gov.in

DIVISION BENCH

Suo Motu Case No.– 4548/13/16/2022-WC

Name of Respondent : Principal Secretary
Women & Child Development Department
Mantralaya, Mumbai

Commissioner of Police
Mumbai

Date : 10th March 2023

Coram : Justice K.K. Tated, Chairperson
M.A.Sayeed, Member

ORDER

(Per: Shri. M. A. Sayeed; Hon'ble Member)

An alarming news article in English newspaper 'Hindustan Times' dated 10.11.2022 reported about the plight of over 6000 rape, acid attack survivors awaiting compensation despite passing of Manodhairya scheme which was introduced by Government way back in 2017 pursuant to direction by Bombay High Court. Under this scheme survivors of rape, sexual exploitation, acid attack and immoral trafficking were provided with monetary assistance with sole object of helping them in rebuild their lives and future and its implementation came to be entrusted to District Legal Aid Authorities.

2. Pursuant to the summons issued by this Commission, affidavit by the respondents came to be placed on record vide Ex. 'A' & 'B'. Pertinent to note that respondent no. 2 – Commissioner of Police,

Mumbai in his affidavit Ex. 'B' vide para 2 to 7 affirmed about a proper scheme for payment of compensation to the aforesaid category of victims under the aforesaid project – Manodhairyaa. The said paras reads thus:

"2. With reference to the contentions made in paragraph no. 2 of the aforementioned proceeding, news in English newspaper in Hindustan Times dated 10/11/2022 on page no. 6 with title "Over 6,000 rape, acid attacks survivors await compensation and the said report is explained what is Manodharyaa Scheme and the same is reproduced as it was introduced in 2017 based on a direction by Hon. Bombay High Court and a government decision of 2016 and under the said scheme survivors of rape, sexual exploitation, acid attack and human trafficking are given compensation, primarily to help them rebuild lives and the same is true and correct.

3. It is also stated in paragraph no. 2 of the foregoing proceeding that the implementation of the aforementioned scheme is entrusted to the District Legal Service Authority (DLSA) and it offers financial assistance of Rs. 1 Lakh and in special cases up to Rs. 10 Lakh to survivors and based on the requirement, rehabilitation of the survivors and their dependents by way of shelter, counseling, medical aid and support and education are also provided under the scheme and as soon as a case is registered the victim has to be paid an interim compensation of Rs. 30,000 and the final compensation is disbursed on the conclusion of the trial and conviction of the accused is true and correct.

4. With reference to the contentions made in paragraph no. 3 of the aforementioned proceeding, more than 4000 rape, sexual assault and human trafficking survivors are yet to receive monetary compensation under the aforementioned scheme and it is reported in the pleadings that mostly the delay is on the part of Police Authority is not factually correct.

5. Whereas section 5 of the NALSA's Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes - 2018 mandates Police to share a soft or hard copy of the FIR with the State Legal Services Authority or District Legal Services Authority as soon as it is registered regarding the commission of an offence covered by the said Scheme, the SLSA or DLSA may also suo moto begin preliminary verification of facts for the purpose of awarding compensation in deserving cases.

6. That, in accordance with sections 6(a) to 6(c) of the Manodharyaa Victim Compensation Scheme Guidelines for District Legal Services Authority, it is mandatory on the Police to forward the FIR/Complaint to the District Board. The Application for Award of interim/final compensation can be filed by the Victim and/or her Dependents or the SHO of the area before the concerned SLSA or DLSA in FORM - I along with copy of First Information Report and Criminal Complaint of which cognizance is taken by the Court and available Medical Report, Death Certificate and copy of judgment of court if trial is over.

7. In addition to this, Form-I only contains information about the Applicant or victim, such as name, age, address, date of the incident, whether a police report was filed, and the status of any pending legal proceedings, among other things. The pertinent provisions of Section of the Manodharya Victim Compensation Scheme Guidelines of District Legal Services Authority are reproduced as follows:

(a) That as soon as an incident of rape is reported and registered the PSO/SHO of the concerned police station through the SP/DCP shall forward as provided in the Scheme the copy of the FIR/Complaint, medical report, and the preliminary investigation report of the IO to the Secretary of the District Board

(b)(1) A victim, or his legal heir or any person/voluntary N.G.O. espousing the cause of women/Commissions may also apply to the District Board for financial relief and rehabilitation in accordance with the provisions of the Scheme within 60 days.

Provided that in cases where the Application is made after 60 days, the Board may, after being satisfied with the reasons for the delay given in writing, condone the delay.

(2) Where the Applicant is

i. A child, the Applicant may be made on his/her behalf by a parent, Guardian, by any voluntary N.G.O commissions.

ii. A mentally ill person within the meaning of the Mental Health Act or a mentally retarded person, the Application may be made by the person with whom the Applicant normally resides or a duly authorized medical officer or a voluntary N.G.O.

(c) The Application under clause (b) shall be submitted in the prescribed proforma (Annexure 1) and shall include the - copy of the FIR/Complaint, Medical report, death certificate appropriate cases or complaint made to the court in cases where police have not registered the FIR, indicating reasons for non-registration of the FIR, Newspaper reports, if any."

3. It is further affirmed that the implementation of the scheme is in accordance with the scheme framed by NALSA compensation scheme for women victims/survivors of sexual assault/other survivors of 2018. Admittedly a government resolution no. MISC/2011/QNo.6/KA-2 issued by Department of Women and Child Development.

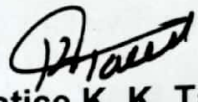
It is further affirmed that for efficacious implementation of the scheme, Mumbai police has ensured that FIRs are provided to SLISA/DLSA at the earliest.

4. Thus, with appropriate scheme in its place which is being duly implemented through the law enforcing agency and supervised by the State and District Legal Services Authority, we are of the opinion that further intervention by us is not warranted, Accordingly following order:

"ORDER"

- a) Present suo motu stands closed and disposed off with no order as to cost.


(M.A. Sayeed)
Member


(Justice K. K. Tated)
Chairperson