

**103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-31475-2019

Date of decision: 1.11.2019

Modhen Singh

.....Petitioner.

vs.

State of Punjab and others

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Sanjeev Sharma, Legal Aid Counsel
for the petitioner.

Mr. Luvinder Sofat, Assistant Advocate General, Punjab.

Mr. Amit Jhanji, Advocate for respondent No. 3.

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Sanjay Kumar, J. (ORAL)

This writ petition was filed seeking a direction to the authorities to terminate the pregnancy of the petitioner's daughter, who is mentally retarded. This pregnancy was allegedly caused by the rape committed upon her by an unknown individual. Pursuant to the order dated 30.10.2019, passed in this writ petition, the Post Graduate Institute of Medical Education and Research, Chandigarh, the third respondent, subjected the petitioner's daughter to medical examination to ascertain as to whether her pregnancy could be safely terminated without any danger to her life and health. The Permanent Board of Doctors constituted by the third respondent examined the first petitioner and submitted Report dated 31.10.2019 stating that it did not recommend termination keeping in mind the advanced stage of the pregnancy. The Board advised that the petitioner's daughter should continue the pregnancy and recommended her hospital

admission for further evaluation and treatment.

Mr. Sanjeev Sharma, learned counsel representing the petitioner, would however submit that the petitioner's daughter is entitled to claim compensation apart from reimbursement of medical expenditure.

Mr. Luvinder Sofat, learned Assistant Advocate General, Punjab, appearing for the authorities would inform this Court that in terms of the Punjab Victim Compensation Scheme, 2017, promulgated by the Government of Punjab, vide Notification dated 30.11.2017, the petitioner's daughter would be entitled to lay a claim for compensation.

Clause 6 of the Notification dated 30.11.2017, titled '*Criteria for Grant of Compensation*', deals with this aspect. In terms thereof, as the petitioner has already registered a criminal case on 6.7.2019 in relation to the rape committed on his daughter (FIR No. 123 dated 6.7.2019 on the file of Lambi Police Station, District Faridkot), he can make a claim for compensation as per the State Policy. Any such application made by the petitioner shall be processed by the State authorities concerned expeditiously and in any event, not later than three months from the date of receipt of such application.

Reference may also be made to the judgment of this Court in ***Sikander versus State of Haryana and others, 2018 (3) Law Herald 2583***. That was also a case pertaining to a rape victim and in terms of the medical recommendation, this Court did not grant permission for termination of the pregnancy. However, this Court

issued various directions in relation to the protection of the victim and the steps to be taken during the rest of her pregnancy.

For reasons alike as were stated in the aforesaid decision and in terms thereof, the third respondent is directed to provide accommodation to the petitioner's daughter so that she can be given the required medical and family attention. All necessary steps shall be taken by the third respondent to properly attend to the first petitioner during the rest of her pregnancy.

The Chief Secretary, Punjab, the Principal Secretary of the Health Department, Punjab, and all other concerned departments of the State of Punjab, including the Finance Department, shall ensure quick reimbursement of the bills and medical expenditure incurred by the petitioner, in relation to the delivery of his daughter and her hospitalization in connection therewith in the third respondent.

Such reimbursement shall be effected forthwith upon direct submission of the bills by the third respondent without unnecessary red tape. Such exercise, in any event, shall not exceed a period of one month after the date of submission of the bills by the third respondent. The third respondent shall also take necessary measures to secure and retain the samples of DNA of the fetus for the purposes of the criminal case. The authorities and the third respondent shall also take all necessary steps to coordinate with the Child Adoption and Resource Agency (CARA) to arrange for the adoption of the child born to the petitioner's daughter in due course. The petitioner shall complete all necessary formalities in this regard.

process.

The writ petition is disposed of accordingly.

A copy of this order shall be given to the parties under the signature of the Bench Secretary of this Court.

(SANJAY KUMAR)
JUDGE

1.11.2019
preeti

whether speaking/non speaking	yes/no
whether reportable/non reportable	yes/no