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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 13061/2018 & CM No. 50735/2018

MISS X (MINOR) THROUGH JASTIN KOSHY Petitioner

Through: Ms Tara Narula, Ms Ankita Goswami
and Ms Pawani Mathur, Advocates.

versus

GNCT OF DELHI AND ANR. Respondents

Through: Mr Ramesh Singh, Standing Counsel,
GNCTD with Mr Manashwy Jha,
Advocate for Mr Sameer Vashist,
ASC, Civil for R-1.
Mr Sarfaraz Khan and Mr Mirza
Amir Baig, Advocates for R-
2/DSLISA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **26.04.2019**

1. The petitioner is a minor and is currently residing in a shelter home. The petition has been filed on her behalf by the NGO which runs the said shelter home.
2. The petitioner impugns an order dated 06.07.2018 passed by the Secretary, Delhi State Legal Services Authority (DSLISA), whereby the petitioner's claim for compensation has been denied on the ground that she is not a 'victim'.
3. A perusal of the order dated 17.01.2018 passed by the learned ASJ, Special Court (POCSO) indicates that the Court had made a

recommendation to DSLSA to consider the compensation payable “to the victim” for her rehabilitation, as per the provisions of the Delhi Victim Compensation Scheme, 2015.

4. In view of the aforesaid orders, it is difficult to accept DSLSA’s contention that the petitioner was not a victim.

5. DSLSA has passed the impugned order after examining the case and considering that the accused (which was the petitioner’s father) has been absolved of the allegations for offences, under the Protection of Children against Sexual Offences Act, 2012 (POCSO).

6. It is seen that the accused had been acquitted as there was insufficient evidence to support the allegations made by the petitioner. The Court had also noticed that there were lacunae in the conduct of the investigation, and the necessary testimony of neighbours had not been recorded.

7. Although, there is no finding that the offence had been committed and further the accused has also been acquitted, the petitioner is not in a position to go to her home as her family members have abandoned her. In view of the allegations against her father, it is not possible for the petitioner to be rehabilitated in that environment. The concerned Court, conscious of the same, had noticed that there is need for her rehabilitation. It is in this context that the Court had recommended that compensation be paid to her.

8. Considering that the petitioner has been described as the victim in the order, this Court considers it apposite to direct DSLSA to disburse the compensation, under the Delhi Victim Compensation Scheme, 2015. Since, there is some controversy regarding whether there was an offence, this Court is of the view that atleast the minimum amount as payable under the

aforesaid scheme ought to have been considered for the payment to the petitioner.

9. In view of the fact that considerable time has elapsed, this Court does not consider it apposite to remand the matter to DSLSA for considering afresh. In the facts of the present case, DSLSA is directed to disburse the minimum compensation payable under the said Scheme in case of a physical abuse of a minor. As per the schedule annexed with the said Scheme, the minimum amount of ₹2 lakhs is payable. Accordingly, DSLSA is directed to disburse a sum of ₹2 lakhs to the petitioner, within a period of four weeks from today. This order has been passed in the peculiar and mitigating circumstances of this case.

10. The petition is disposed of in the aforesaid terms. The pending application is disposed of.

VIBHU BAKHRU, J

APRIL 26, 2019
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