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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 02 of 2013**

1. Smt. Santra Kathe Wife of Guha Ram Kathe, aged about 60 years, Resident of village Bhadra, PS & Tahsil Pamgar, District Janjgir Champa, Chhattisgarh.
2. Chhattisgarh Sarva Viklang Kalyan Sangh (CG), Through its President, Smt. Vindeshwari Adile, W/o Shri Jaswant Kumar Adile, aged about 28 years, R/o Pamgar, PO, PS and Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh.

---- Petitioners**Versus**

1. State of Chhattisgarh, Through Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Raipur, Chhattisgarh.
2. High Court of Chhattisgarh, Through Registrar General, Bodari, District Bilaspur, Chhattisgarh.
3. Chhattisgarh State Bar Council, Through the Secretary, Chhattisgarh High Court Campus, Bilaspur, Chhattisgarh.
4. Secretary, Chhattisgarh State Legal Services Authority, Ware House Road, Bilaspur.

---- Respondents

For Petitioner : Smt. Meena Shastri, Advocate.

For Respondent/State : Shri Vikram Sharma, Deputy Government Advocate.

For Respondent No. 2 : Shri R.S. Marhas, Advocate.

For Respondent No. 3 : Shri Sunil Otvani, Advocate

For Respondent No. 4 : Shri Ashish Shrivastava, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**Per P.R. Ramachandra Menon, Chief Justice****06/01/2020**

1. Laxity in the matter of strict compliance of the directions given by the Apex Court in ***The State Punjab v. Gurmit Singh & Others***; (AIR 1996 SC 1393) and ***Sakshi v. Union of India***, (2004) AIR SCW 3449 and the

relevant provisions of the Criminal Procedure Code, 1973 **in connection with the cases involving rape, the necessity to have a time bound trial, video conferencing of the victim, effective and meaningful compliance of the Victim Compensation Scheme etc.** form the subject matter of challenge in this writ petition, preferred as a 'public interest litigation'.

2. The 1st Petitioner is a social activist, whereas the 2nd Petitioner is a society registered under the Societies Registration Act, 1860 and constituted with an intent to protect women and to work for their economical, educational and social progress and prosperity, including welfare for the disabled persons. The Petitioners are stated as committed to the cause of women and children. The alarming increase in the instances of rape committed against girls including of tender age and women of the age 18 years and above, made Petitioners to collect data as to the facts and figures and have approached this Court by way of this writ petition.
3. Referring to the cause as aforesaid, particularly in the light of the verdicts passed by the Apex Court at different points of time, the reliefs sought for are in the following terms:

"10.1 The Hon'ble Court may kindly be pleased to issue appropriate writ/direction/order commanding the respondents to assure the strict compliance of Supreme Court's direction given in Gurmit Singh's case (reported in AIR 1996 SC 1393) and Sakshi's case (reported in 2004) AIR SCW 3449) as well as concerned provisions of Criminal Procedure Code, 1973 including Sections 26(a), 157(i), 173, 309, 327, 357-A of the Code in rape cases.

10.2 The Hon'ble Court further be pleased to issue certain appropriate guidelines for better and quick enquiry and trial in rape cases like constitution of Special Court in each District of Chhattisgarh State exclusively for rape cases trial, time bound trial, video conferencing of victim during trial, strict compliance of victim compensation scheme given in Section 357-A of Criminal Procedure Code, 1973 in rape cases etc.

10.3 The Hon'ble Court be pleased to issue appropriate direction/order commanding the

respondent No. 3 to frame out certain guidelines for the advocates to ask questions from the rape victim during trial complying the parameters given by the Apex Court in Gurmit Singh's case (reported in AIR 1996 SC 1393) and Sakshi's case (reported in 2004 AIR SCW 349)

10.4 Any other relief(s) which may deems fit, looking to the facts and circumstances of the case may be given for the protection and welfare of women in the State of Chhattisgarh."

4. Considering the importance of the subject matter involved, various interim orders came to be passed by this Court and pursuant to such orders, the course of action pursued by the State, the High Court, the Bar Council and also by the State Legal Services Authority have been put on record. Returns/additional returns/supplementary pleadings and affidavits have been filed on different occasions, also bringing in additional documents in support of such pleadings.
5. We heard Smt. Meena Shastri, the learned counsel for the Petitioners, Shri Vikram Sharma, the learned Deputy Government Advocate representing the State, Shri R.S.Marhas, the learned counsel representing the High Court of Chhattisgarh, Shri Sunil Otvani, the learned counsel representing the Chhattisgarh State Bar Council and Shri Ashish Shrivastava, the learned counsel representing the Chhattisgarh State Legal Services Authority.
6. The Petitioners point out that before the recent amendment of the Code of Criminal Procedure, 1973 (*for short 'the CrPC'*), the Apex Court had given exhaustive directions in **Gurmit Singh** (supra) as to the cross-examination of the prosecutrix during the trial, also alerting that it was the Court's duty to see that the prosecutrix was not unnecessarily harassed and humiliated. Subsequently, the scope of video conferencing of the rape victim was also highlighted by the Supreme Court in **Sakshi** (supra), the crux of which among other directions is to the following effect:

"(2) In holding trial of child sex abuse or rape :

- (a) a screen or some such arrangements may be made where the victim or witnesses (who may be equally vulnerable like the victim) do not see the body or face of the accused;
- (ii) the questions put in cross-examination on behalf of the accused, in so far as they relate directly to the incident, should be given in writing to the President Officer of the Court who may put them to the victim or witnesses in a language which is clear and is not embarrassing;
- (iii) the victim of child abuse or rape, while giving testimony in court, should be allowed sufficient breaks as and when required."

7. After amendment of the CrPC as per the Act 5 of 2009, which came into force on 09.01.2009, the trial in a criminal case including rape cases has to be conducted in conformity with the amended provisions. Some of the amendments which are having relevance in the given context are extracted below:

Amendment to Section 26 CrPC

In section 26 of the principal Act, in clause (a), the following proviso shall be inserted, namely:

"Provided that any offence under Section 376 and Sections 376-A to 376-D of the Indian Penal Code (45 of 1860) shall be tried as far as practicable by a Court presided over by a woman"

Amendment to Section 157 CrPC

In section 157 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:

"Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality."

Amendment to Section 173 CrPC:

(a) after sub-section (1), the following sub-section shall be inserted, namely:-

(1A) The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station."

(b) in sub-section (2), after clause (g), the following clause shall be inserted, namely:

"(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under section 376, 376-A, 376-B, 376-C or 376-D of the Indian Penal Code (45 of 1860)."

Amendment to Section 309 CrPC:

In section 309 of the principal Act,- (a) in sub-section (1), the following proviso shall be inserted, namely:-

"Provided that when the inquiry or trial relates to an offence under sections 376 to 376-D of the Indian Penal Code (45 of 1860), the inquiry or trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses."

{There have been further amendments by Act 13 of 2013 and Act 22 of 2018. As on date, the said proviso reads as follows:

"Provided that when the inquiry or trial relates to an offence under section 376, 376A, Section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code (45 of 1860), the inquiry or trial shall be completed within a period of two months from the date of filing of the charge sheet"}.

Amendment to Section 327 CrPC:

(a) in sub-section (2), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that in camera trial shall be conducted as far as practicable by a woman Judge or Magistrate.";

(b) in sub-section (3), the following proviso shall be inserted, namely:-

"Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties."

Amendment to Section 357 CrPC:

After section 357 of the principal Act, the following section shall be inserted, namely:-

"357.A. Victim compensation scheme. - (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim

or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

- (2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).
 - (3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.
 - (4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.
 - (5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.
 - (6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit."
8. It is the case of the Petitioners, that these amendments have not been properly given effect to and the lapse in this regard is sought to be illustrated with reference to Annexure P/3 to P/8 and Annexure P/9. It is contended that the index as to the crime rate against women is mounting up day by day and the necessity to constitute a 'separate cell' for investigation of crimes against women, especially for rape cases stated as the need of the hour; adding that the investigation shall be conducted by an experienced superior officer, not below the rank of Superintendent of Police, as pointed out by the Supreme Court. The necessity to have a fast trial in such cases is also asserted from the part of the Petitioners, referring to the mandate of Article 15(3) of the Constitution of India, providing for special

provision for women so as to eliminate the socio-economic backwardness and to empower them in the manner that would bring about effective equality between men and women, besides the right to live with dignity as included under Article 21 of the Constitution of India.

9. The 1st Respondent State has filed reply dated 02.04.2013 as to the various steps and remedial measures taken on the part of the State/Police, in the light of the directions given by the Apex Court. It is stated that Annexure R-1/1 order dated 29.12.2012 has been issued by the Director General of Police at the instance of the State to give effect to the guidelines/directions given by the Apex Court, simultaneously ordering to post women police officers in civil dress at public places like bus stands, railway stations, cinema halls, shopping malls, gardens, or places of public transport and religious places to keep an eye over the criminals as part of prevention of crime. Another order was issued by the Director General of Police on the same day, whereby the Senior Superintendent of Police, Raipur and Superintendent of Police of all Districts including Railway Police have been directed to sensitize the investigating officers of all the police stations to take certain precaution and that negligence should not happen in recording the FIR, besides alerting them as to the language to be used, lest it should be indecent, vide Annexure R-1/2. For monitoring the crimes against women, another order was issued on the same day by the Director General of Police, a copy of which has been produced as Annexure R-1/3, to cause the investigation to be completed in a time bound manner and to submit the charge sheet, and also as to the effective steps for serving the summons or executing the warrants issued by the trial Courts. On 09.01.2013, Annexure R-1/4 order was issued by the Director General of Police constituting a Women Police Desk in all the Police Stations of the State, directing the Inspector General of Police to transfer lady police force, on the basis of their consent, to such Districts wherever there was deficiency. Yet another order,

by way of Annexure R-1/5, was issued by the Director General of Police on 09.01.2013 itself with regard to providing of security to the Girls Ashram/Hostels in the State and directing other officers concerned to keep the updated information of the Ashrams/Hostels in their jurisdiction.

10. The 1st Respondent has pointed out in the said return that Annexur R-1/6, Victim Compensation Scheme 2011 was published in the Chhattisgarh State Gazette dated 03.08.2011, adding that apart from the said Scheme, the State has also been granting compensation to the victims belonging to the Scheduled Castes and Scheduled Tribes (both male and female), who are victims of crime. The factual inputs have been given as per Annexure R-1/7 chart. The number of cases and the extent of compensation disbursed during the different periods have been given in paragraph 19 onwards and particulars of rape cases registered in the State have been given in Annexure R-1/8. Details of the infrastructure/installation for video conferencing in 12 different jails (Central/District/Sub Jails) have been stated in paragraph 22, adding that the work for installation of video conferencing system is in progress in other 13 jails; also giving particulars as to the funds provided in this regard. It is pointed out that, as per the Scheme, the State intends to connect 330 Courts and 29 Jails of the State by way of video conferencing in the second phase of the Jail Modernisation Scheme as disclosed from Annexure R-1/9.
11. The 2nd Respondent-High Court of Chhattisgarh has filed return dated 27.07.2013 pointing out that, pursuant to the directions issued by the Supreme Court in **Gurmit Singh** (supra) and **Sakshi** (supra), the High Court has recommended constitution of 16 Fast Track Courts, for which the Government has accorded approval vide Annexure R-2/1 memo dated 11.04.2013 and vide Annexure R-2/2 notification dated 30.04.2013, and that Fast Track Courts have been established at different places for speedy trial

of offences against women. On the very same date i.e. 30.04.2013, Annexure R-2/3 notification was issued by the State, with the concurrence of the Chief Justice of the High Court, designating these Fast Track Courts as the Children's Court as well, for speedy trial of offences against children or involving violation of child rights. It is added that Additional District Judges have taken charge of these Courts and wherever lady officers are available, they are being given the charge of such courts. Compliance of the directions given by the Supreme Court in **Gurmit Singh** (supra) and **Sakshi** (supra) have been given separately in the form of a chart/table, which is reproduced below:

"State of Punjab Vs. Gurmit Singh (1996) 2 SCC 384

Sl. No.	Directions	Compliance
1.	Trial of Rape Cases should be held in Camera in compliance of Sections 327 (2) and (3) of the Code of Criminal Procedure, 1973	All trials in rape cases pending in different Courts are being held in Camera, especially when the evidence of Prosecutrix is recorded
2.	Anonymity of victim of Crime must be maintained	As far as possible the anonymity of rape victims is being maintained
3.	Court not to sit as a silent spectator while the victim of rape crime is cross-examined by the defense	All Courts are vigilant and ensure that the rape victim is not subjected to embarrassment, harassment or humiliation by lengthy and repetitive cross-examination
4.	No stigma of having a loose character should be cast on a rape victim	Courts are vigilant to see that no stigma is attached to the character of the victim and sobriety is maintained
5.	Award of Compensation to the victim	The State Government has floated the Victim Compensation Scheme, 2011 which is made applicable
6.	Trial of rape cases may be conducted by lady judges where they are available	Lady judges have been appointed as Presiding Officers of Fast Tract Courts wherever they are available

Sakshi Vs. Union of India and Others (2004) 5 SCC 518

Sl. No.	Direction	Compliance
1.	In case of trails of child sex abuse-Screen or arrangements may be made where the victim or witness do not see the body or face of the accused	Instructions to all District Judges have been issued to comply with the directions contained in the judgments of Hon'ble Supreme Court.
2.	In case of trails of child sex abuse-questions in cross-examination on behalf of accused should be given in writing to the Presiding Officer who may put them to the witness in a language that is clear and is not embarrassing	Instructions to all District Judges have been issued to comply with the directions contained in the judgments of Hon'ble Supreme Court.
3.	Victim while giving testimony should be allowed breaks as and when required	Instructions to all District Judges have been issued to comply with the directions contained in the judgments of Hon'ble Supreme Court."

It is pointed out that as per Annexure R-2/6 memorandum dated 24.07.2013, the 2nd Respondent has given directions to all the District & Sessions Judges to ensure strict compliance of the directions issued by the Apex Court in **Gurmit Singh** (supra) and **Sakshi** (supra).

12. The bounden duty of the 3rd Respondent/Bar Council to give effect to the verdicts passed by the Supreme Court in **Gurmit Singh** (supra) and **Sakshi** (supra) has been asserted in the return dated 19.07.2013 filed by the said Respondent. Particulars of various workshops conducted and intended to be conducted to appraise the Advocate fraternity with regard to the dictum and the commitment of the said Respondent to take strict action against any lawyer, if a complaint is received as to conducting of a trial in a rape case contrary to the dictum laid down by the Apex Court, have been asserted in the said return. With reference to the existing provisions in the Bar Council of India Rules and the Advocates Act, the 3rd Respondent points out that there is no need, as on date, to frame further guidelines for the Advocates in putting questions to the rape witness during the trial, as sought for by the Petitioners.

13. Pursuant to the order dated 22.10.2013 passed by this Court directing the State to file a supplementary counter-affidavit; an affidavit dated 06.12.2013 has been filed giving the particulars of the lady Additional Superintendents of Police and the lady Deputy Superintendents of Police, posted at the district level in various Districts in the State of Chhattisgarh. Similarly, particulars of the lady Police Inspectors and lady Police Sub Inspectors who are posted at district level in various Districts in the State are also given therein. The ongoing exercise with regard to the organizing of regular meetings for effective functioning in the above regard is mentioned in the said affidavit, including as to the steps as to the training programmes to be conducted in the Police Academy and such other places, besides the involvement of various lady NGOs and para-legal volunteers to have concerted action for effective results.
14. The Petitioners have filed a rejoinder dated 02.05.2014 pointing out that the pleadings brought on record from the part of the Respondents do not show anything with regard to the requirement to constitute a 'separate cell' for investigation of crimes against women including rape cases. So also, nothing is stated as mentioned in respect of compensation scheme for rape victims in which prosecutrix is a minor, discarded by the society. There is also an allegation, that despite the instructions given, there is no proper compliance.
15. Pursuant to the order dated 15.07.2014 passed by the this Court, the 1st Respondent State has filed an affidavit dated 12.09.2014 as to the steps taken by the Police Department to organise special training programme of its officers, especially at the field level, for sensitizing them with regard to manner in which victims of crimes are to be dealt with, particularly the young girls and women under the suppression of immoral trafficking cases, treating them more as a 'victim', rather than as accused. A copy of the

details of the special training programme has been given as Annexure R-1A. The other relevant particulars in respect of cases involving provisions of Prevention of Children from Sexual Offences Act and the details of training, compensation made to the victims and steps taken for proper implementation of the Act are also produced as Annexure R-1A and R-1B respectively.

16. In the meanwhile, the Petitioners filed IA No. 2 of 2015 for amendment, mostly in connection with the affairs of female prisoners and their children, with reference to the decision rendered by the Apex Court in ***R.D.UPadhyay v. State of Andhra Pradesh*** (2007) 15 SCC 337, Shankar ***Kisanrao Khade v. State of Maharashtra*** (2013) 5 SCC 546 and ***Ankush Shivaji Gaikwad v. State of Maharashtra*** (2013) 6 SCC 770. Pursuant to the order passed by this Court on 08.01.2015 directing the Respondent to furnish details about the steps taken in this regard, materials have been produced alongwith an application dated 10.03.2015. On 17.01.2017, this Court directed the 4th Respondent to inform the particulars about the reference to the Legal Services Authority for payment of compensation under the Victim Compensation Scheme in the light of the observations made in ***Tekan alias Tekram v. State of Madhya Pradesh*** (Now Chhattisgarh) (2016) 4 SCC 461. Pursuant to the said order, particulars including as to the total amount of settlements made during the periods from August 2011 to December 2016 have been given by the Respondents concerned. After considering the entire materials on record, an order was passed by this Court on 19.01.2018 in the following terms:

"This writ petition is filed seeking directions in relation to the conduct of investigation and prosecution of criminal cases where the victims are women and / or children.

1. Different orders have been issued from time to time in this Public Interest Litigation and statements are placed on record by the State Government, by the High Court and by the State Legal Services Authority. We had heard submissions in this case on the basis of different provisions

of the Code of Criminal Procedure, Protection of Children from Sexual Offences Act, 2012, the Evidence Act and other relevant legislations. Reference has also been made to the recommendations of the Malimath Committee on reforms of Criminal Justice System and the 154th Law Commission's Report on victimology, apart from the provisions of the Constitution and the International Covenants and Declarations.

2. The 2nd Respondent High Court has, in its return, made reference to the action taken by the High Court and the trial Courts to ensure compliance of the directions of the Apex Court issued in *State of Punjab Vs. Gurmit Singh* (1996) 2 SCC 384 and *Sakshi Vs. Union of India and Others* (2004) 5 SCC 518. That return was submitted on behalf of the High Court on 26.07.2013.

3. In the light of the report of the High Court and taking into consideration the pleadings of the 1st Respondent which are placed on record and also taking into consideration the subsequent affidavit (dated 12.09.2014) on behalf of the 1st Respondent, we have bestowed our anxious consideration to question as to whether this writ petition could be finally ordered recording all facts and factors which have emerged in relation to various aspects of investigation, trial, victim compensation scheme, establishment of fast track Courts and other aspects.

4. However, as at present, we cannot ignore the facts that vigorous pursuits are being made by the Hon'ble Supreme Court on the judicial side and the follow up action by the High Courts to provide further momentum to enhance the qualitative out put of investigation and prosecution of offences where the victims are women and / or children. The infrastructural requirements, child welfare atmosphere etc are also gaining attention in such process. Committee of judges at the High Court level also carries forward the supervision and guidance of such matters. Contextually, it is worth mentioning that through order dated 07.04.2017 in Writ Petition (C) No.203 of 2017, the Apex Court had issued directions to the different High Courts and the State Governments. The Hon'ble Supreme Court has required the High Courts, including the High Court of Chhattisgarh, to initiate *suo-motu* action for implementation of Section 32 of the Protection of Children from Sexual Offences Act, 2012, by making appointment of independent Public Prosecutors. The High Court is also to examine the issue of feasibility of existing infrastructure, so that child-friendly atmosphere is provided in the Courts, where the cases under the Protection of Children from Sexual Offences Act, 2012 are taken into consideration. We also note the proceedings of the Apex Court leading to the issuance of the judgment dated 09.03.2017 in Criminal Appeal Nos. 509 of 2017 and 511 of 2017. Having regard to the contents of that judgment and also the different other directions on the judicial side as well as the requirement of further actions on the administrative side, the High Court of Chhattisgarh is vigorously pursuing the requisite further actions to be taken to ensure the requirement that investigation and prosecution

of such cases are carried forward by maintaining the requisite bench marks regarding protection, privacy and insulation of women and children victims, as well as such witnesses of such cases.

5. In the aforesaid view of the matter, we think that it is necessary that this writ petition be continued on Board and could be decided finally at a later point of time. This would facilitate the State Government and the High Court, from the administrative side; as well as the State Legal Services Authority; placing for consideration further issues that may crop up in matters relating to streamlining investigation and prosecution of offences, including under the Protection of Children from Sexual Offences Act, 2012. The Victim Compensation Scheme and appropriate other measures of providing protection and insulation of the women and children who are victim and witnesses in such proceedings could also be dealt with in this writ petition, depending upon further reports that may be placed by the State Legal Services Authority, the High Court and the State Government as may be found required.

Hence, this writ petition is adjourned requiring the State Government, the High Court and the State Legal Services Authority to place further reports, as are necessary.

Post this matter after three months."

17. Based on the said order, the 2nd Respondent has filed a detailed report on 13.08.2018 furnishing the details (as mentioned in the written submission) as under:

"a. Respondent No. 2 has drafted "Victim compensation Scheme for survivors of Sexual Assault and Acid Attack-2018" the same has been forwarded to various government department, NGO's for suggestions.

b. Directions were issued to Government of Chhattisgarh for compliance of Section 32 of POSCO Act by appointing Special Public Prosecutor for every special court under the POSCO Act, 2012. Annexure R-2-10.

c. Compliance of Section 28 of POSCO Act by designating a court of Session to be Special court to try the offence under the POSCO Act, 2012.

d. Details report has been submitted regarding feasibility of the existing infrastructure to create a child friendly atmosphere in the courts and regarding actions taken to ensure requirement regarding protections, privacy and insulation of women and children victims as well as witnesses of such cases. Annexure R-2-11."

18. Further directions were given by this Court on 13.08.2018; which is to the following effect:

"A report on behalf of the High Court in terms of the compliance of the directions in the order dated 19.1.2018, is being filed today.

Let it be served on the other counsel including the petitioner.

The matter will be listed after 02 weeks.

It will be obligatory upon the petitioner to point out the shortfalls on what is remaining, if at all, since significant amount of work seems to have gone into the issue raised by the petitioner in the present PIL."

19. Later, on 10.10.2018, this Court passed the following orders:

"Let the matter be listed after eight weeks to give adequate time to the counsel for the Petitioners to gather inputs and data on the working of the infrastructure and facilities already put in place by the State on the suggestion provided by the State Legal Services Authority.

The State authorities are further directed that whichever districts or Courts lack certain facilities or certain districts where the children protective homes are not yet in place, what steps are being taken by them in this regard to ensure that the spirit behind the enactment i.e. Protection of Children from Sexual Offences Act, 2012 is actually implemented and brought to the ground."

20. In compliance of the order dated 10.10.2018, the 1st Respondent-State has filed an affidavit on 02.02.2019 pointing out the following aspects:

"a. Out of 27 Districts, the requisite infrastructure for Child Care Unit is already established in 22 district. Only in 5 Districts the request infrastructure is yet to establish. Remaining Districts are Gariaband, Surajpur, Bemetara, Balod and Balaoda Bazar. Relevant Annexure is X-1.

b. In compliance of order dated 10.10.2018, the Court under POSCO Act, 2012 has been already established in 27 Districts. Details submitted as Annexure X-2."

21. After considering the said affidavit, this Court passed an order on 05.02.2019 in the following terms:

"An affidavit in furtherance to the direction of this Court dated 10.10.2018 has been filed on behalf of respondent-State. The details of the facilities which are already in place in 22 districts of this State have been talked about. It is accepted that in five districts, the infrastructure is yet to be established but an assurance has been given that the steps are already on to ensure creation of proper infrastructure for child care facilities etc.

The affidavit also talks about the steps which have been taken for cases arising out of Protection of Children from Sexual Offences (POCSO) Act, 2012. Courts are functional in all the 27 districts and details of special Courts so created has been brought on record as Annexure X/2.

The position reflected in the affidavit which we have taken note of does reflect that the State is conscious of its responsibility created under the legislation and they have also taken the inputs provided by the State Legal Services Authority.

However, the Court would like to remind the concerned authorities that the districts where the infrastructure is still not in place which is an accepted position, due priority has to be given as well as a mechanism for overall monitoring of the functioning and delivery of such infrastructures must also be galvanised and regular monitoring is required to be done by the superior authorities because merely creating infrastructure may not be adequate, the infrastructure must be one which also delivers and satisfies the object for which they have been put in place.

Let the matter be listed after 8 weeks when further progress so made and details would be brought to the notice of the Court, both by the petitioner as well as respondents concerned."

22. This was followed by another order on 09.04.2019, directing the State to file an affidavit as to the steps taken for creation of infrastructure for child care facilities in the remaining five districts of Gariyaband, Surajpur, Bemetara, Balod and Baloda Bazar, which shall also provide the details as to the video conference facility available in each of the POCSO Courts. Pursuant to the above orders, the 1st Respondent State filed an affidavit on 29.06.2019, pointing out the status as to the establishment of Child Care Homes in five Districts. The factum of granting sanction for opening of Child Care Homes in the Districts Gariyaband, Surajpur, Bemetara, Balod and Balodabazar has been mentioned, also pointing out that clearances from the Finance Department is also to be obtained. The information with regard to the availability of video conferencing in POCSO Courts was stated as awaited from the 2nd Respondent/High Court. Later, on 25.04.2019, the 1st Respondent State has filed an application to accept additional documents as to the status report of the video conferencing facilities in the POCSO Courts.

23. After hearing both the sides and after going through the entire materials on record, this Court is of the view that there is 'substantial compliance' with the directions issued by the Apex Court and also by this Court in the present writ petition. However, more enthusiasm and concerted efforts have to be taken to achieve the object in a more speedy and effective manner, from the part of the State by providing sufficient infrastructure, wherever there is a lapse or deficiency for dealing with the offences against women and children, in a time bound manner. So also, the Respondent State shall take adequate measures and effective steps to identify/appoint/deploy sufficient Women Police Officers to deal with the situation; particularly for taking Section 161 CrPC statements of rape victims and also to conduct the investigation within the time stipulated by the Apex Court. It shall be for the High Court to cause to effect necessary postings of the Judicial Officers/Lady Judicial Officers to the extent possible, to deal with the offences against women and children, and in particular, cases of rape and to have the same finalised within the shortest possible time.
24. With the above observation and direction, we close the writ petition, making it clear that, it will be open for the Petitioners to approach this Court by filing a fresh petition, if the circumstances so warrant in the due course. The efforts taken by the Petitioners in connection with the public cause and the support given by the lawyers on both the sides stand appreciated.
25. The writ petition stands disposed of accordingly.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE