

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (PIL) No. 4106 of 2015

Court On Its Own Motion

... **Petitioner**

-Versus-

The State of Jharkhand & Ors.

... **Respondents**

CORAM: - HON'BLE MR. JUSTICE VIRENDER SINGH, CHIEF JUSTICE

For the Petitioner :

For the Respondents :

01/Dated : 29th August, 2015 (Saturday)

Per Virender Singh, C.J.:

This Court, based on news item published in the 'Hindustan Times' dated 29th August, 2015 relating to sorrow and disheartening aftermath of a poor labourer father and a nine year old girl, who is victim of rape meted out by a cruel person, in Hathipada Village in the jurisdiction of East Singhbhum District takes suo moto cognizance.

As per the news paper, a local driver lured the victim girl with some chocolate before raping and abandoning her by a riverside with a ruptured intestine early in July. Profusely bleeding and unable to stand or walk, the victim girl crawled to her home about a kilometer away and narrated the ordeal to her parents. She was admitted to a local hospital where her condition worsened and she had to be rushed to nearby Jamshedpur for better treatment, but doctors there could not stop the bleeding and referred her to Ranchi hospital. She had to undergo a colectomy in Ranchi to remove her damaged intestine and now uses a colostomy bag. After the successful surgery, doctors managed to check the bleeding and discharged her; but her wounds have to be dressed regularly at home. Further it has been reported that, today, the father walks four km to the nearest health centre each time her dressing has to be changed because the Maoist-hit area has no public transport and he cannot afford even a bicycle.

List before DB 1 as first item on 01.09.2015 (Tuesday).

Deputy Commissioner, East Singhbhum is directed to submit a detailed

report to this Court on or before the next date, i.e., the 1st September, 2015 (Tuesday) by 10.30 a.m. positively incorporating all the steps taken by the administration to alleviate the suffering of the rape survivor of the occurrence of rape, regarding which news has been published in the front page of the English Daily Newspaper 'Hindustan Times' in its Ranchi Edition dated 29th August, 2015 and further steps, if any, contemplated by the District Administration in this respect.

The Member Secretary, Jharkhand State Legal Services Authority (JHALSA) is directed to keep in touch with the Chairman, District Legal Services Authority (DLSA), East Singhbhum to ensure that best medical assistance, care and protection are secured and given to the victim girl.

The State of Jharkhand through its Chief Secretary, without prejudice to any other rights or remedies of victim family in any other proceedings, is also directed to pay interim compensation to the tune of Rs.1,00,000/- (Rupees One Lakh) to the father of the victim girl immediately and report compliance of such payment to this Court on or before the next date, i.e., the 1st September, 2015 (Tuesday) by 10.30 a.m. positively.

Registry is directed to diarise this as a Public Interest Litigation today itself.

- (1) State of Jharkhand through its Chief Secretary;
 - (2) Principal Secretary, Department of Home, Government of Jharkhand, Ranchi;
 - (3) Principal Secretary, Department of Health, Medical Education & Family Welfare, Government of Jharkhand, Ranchi;
 - (4) Deputy Commissioner, East Singhbhum, Jamshedpur
- be impleaded as party respondents in this Public Interest Litigation.

Registry is directed to communicate a copy of this order to the respondents and the Member Secretary, Jharkhand State Legal Services Authority (JHALSA).

Sd/-
(Virender Singh, C.J.)

*True copy
L. Anil Kumar
Secretary
29.08.2015*

LAK

Letter No.838/DLSA/JAMSHEDPUR

From,

The Principal District & Sessions Judge,
Cum-Chairman, District Legal Services Authority,
Jamshedpur.

To,

The Member Secretary,
JHALSA, Ranchi

Sub: Compliance report of DLSA, Jamshedpur, in the matter relating to W.P. (PIL) No. 4105 of 2015.

Ref.:- W.P. (PIL) No. 4105 of 2015.

Dated, Jamshedpur, 31st day of August, 2015.

Sir,

Most humbly and respectfully, regarding the matter in reference, I have to submit that soon after receiving the order of the Hon'ble Court passed in W.P. (PIL) No. 4105 of 2015, the undersigned directed Secretary DLSA, Jamshedpur to meet with Deputy Commissioner alongwith the copy of the order of the Hon'ble Court dated 29.08.2015 and also directed the ACJM, Ghatsila and Secretary, SDLSC, Ghatsila to Visit the Home of the Victim to ensure the best medical assistance, care & protection to the victim girl with help of Local Administration in course of , ensuring the compliance of the directions of the Hon'ble Court and report.

As per report of the Secretary, DLSA, Jamshepdur and that of ACJM, Ghatsila, who has visited the house of victim situated at village, Bhaluapatra, Tola –Hathipara, P.S. – Dumariya, District-East Singhbhum alongwith Secretary, SDLSC, Ghatsila, following facts came to the knowledge of the undersigned through which it transpired that the District Administration ensured the compliance of the Directions of the Hon'ble Court in the manner as below :-

1. That on very date of 29th of August, 2015, the District Administration has sanctioned Rs. 10,000/- towards the medical expenses for the Victims' treatment and Rs. 5,000/- has been handed over to the father of the Victim at his home.
2. One M.B.B.S. doctor from the P.H.C. Dumariya has been deputed to visit to the victim's home regularly and provide her with all necessary Medical Aid. The Sevika and Sahayika of local Anganbari of the village has also been directed to provide proper nursing to the victim girl regularly at her home.
3. The family of the victim has been also provided with two Sarees, Dhoti & blanket. The father of victim has been given a new bicycle to move.
4. The parents of the victim are insured under Prime Minister Suraksha Bima Yojna.
5. The District Administration has further taken initiative to settle some land in the name of the father/mother of the victim so that for construction of a house benefit under Indira Awas Yojna may be ensured to the parents of the victim.

6. In the very evening of 29.08.2015 at about 4:30 P.M. a cheque bearing No. 022826 worth Rs. 1,00,000/- (Rupees One Lac) was given to the father of the victim on behalf of the District Administration through the B.D.O., Dumariya and for encashment of the said amount, a **bank account** was opened in the name of the **father of the victim** having **account No. 451410100000800**, in the Bank of India, Dumariya Branch and the said amount is credited in the aforesaid account today i.e on 31-08-2015.

7. That on very late evening of 29-08-2015, Under the direction of higher Government Authorities, **the victim girl alongwith her parents** were sent to Ranchi for admitting the victim girl in "**Medanta Abdul Razzaque Memorial Hospital**" Irba, P.S. Ormanjhi, Ranchi for her better medical care, treatment and attention, where she has been put in a separate room bearing No. 316 and two lady constables of P.S. Ormanjhi is reported to be deputed there.

As per direction of the Hon'ble Court the District Legal Services Authority, Jamshepdr alongwith SDLSC, Ghatsila is actively involved to ensure the strict compliance by being in constant touch with the local administration and the concerned Police Officials.

It is, therefore, requested to your goodself to kindly place the matter before the Hon'ble Executive Chairman, JHALSA, Ranchi for his Lordship's kind perusal and needful.

Faithfully yours,

The Principal District & Sessions Judge,
Cum-Chairman, District Legal Services Authority,
Jamshedpur.

Memo No./839/Dated 31/08/2015

Copy forwarded to:

The Registrar General, Hon'ble Jharkhand, High Court, Ranchi for kind information and needful.

The Principal District & Sessions Judge,
Cum-Chairman, District Legal Services Authority,
Jamshedpur.

* Soon after receiving the order of the Hon'ble Court passed in W.P. (PIL) No. 4105 of 2015, undersigned has directed Secretary DLSA, Jamshedpur to meet with Deputy Commissioner alongwith the copy of the order of the Hon'ble Court dated 29.08.2015 and also directed the ACJM, Ghatsila to Visit the Home of the Victim to ensure the best medical assistance, care & protection of the victim girl with help of Local Administration and report.

* As per report of the Secretary, DLSA, Jamshepdur and that of ACJM, Ghatsila, who has visited the house of victim situated at village, Bhaluapatra, Tola –Hathipara, P.S. –Dumariya, District-East Singhbhum alongwith Secretary, SDLSC, Ghatsila, it come under the knowledge of the undersigned that the District Administration has issued the following directions in course of ensuring compliance of the Direction of the Hon'ble Court, on 29th of August, 2015 as :-

1. District Administration has sanctioned Rs. 10,000/- towards the medical expenses for the Victims' treatment and Rs. 5,000/- has been handed over to the father of the Victim at his home.

2. One M.B.B.S. doctor from the P.H.C. Dumariya has been deputed to visit daily to the victim girl at her home and provide her with all necessary medical aid and the Sebika and Sahayika of local Anganbari of the village has been directed to provide proper nursing to the victim girl regularly at her home.

3. The family of the victim has been also provided with Sari, Dhoti & blanket alongwith a new bicycle.

4. The District Administration has further taken initiative to cover the parents of the victim under an insurance policy and also started the process of allotment of an Indira Awas under the Indira Awas yojana.

5. In the very evening of 29.08.2015 at about 4:30 P.M. a cheque bearing No. 022826 worth Rs. 1,00,000/- (Rupees One Lac) was given to the father of the victim on behalf of the District Administration through the B.D.O., Dumariya and for encashment of the said amount, a bank account was opened in the name of the father of the victim having account No. 451410100000800, in the Bank of India, Dumariya Branch. Thereafter, under the direction of higher Government Authorities the victim girl alongwith her parents were sent to Ranchi for admitting the victim girl in "Medanta Abdul Razzaque Memorial Hospital" Irba, P.S. Ormanjhi, Ranchi for her better medical care, treatment and attention, where she has been put in a separate room bearing No. 316 and two lady constables of P.S. Ormanjhi is reported to be deputed there.

As per direction of the Hon'ble Court the District Legal Services Authority, Jamshepdur alongwith SDLSC, Ghatsila is intensively involved to ensure the strict compliance in the by being in constant touch with the local administration and the concerned Police Officials.

It is, therefore, requested that your goodself kindly be pleased to place the matter before the Hon'ble Executive Chairman, JHALSA, Ranchi for his lordship's kind perusal and needful.

Sincerely yours,

Principal District & Sessions Judge-Chairman,
District Legal Services Authority,
Jamshedpur.

IN THE HIGH COURT OF JHARKHAND AT RANCHI.

W.P.(PIL) No. 4105 of 2015

Court On Its Own Motion	...	Petitioner
	-Versus-	
The State of Jharkhand & Ors.	...	Respondents

**CORAM: - HON'BLE MR. JUSTICE VIRENDER SINGH, CHIEF JUSTICE
HON'BLE MR. JUSTICE P.P. BHATT.**

...

For the Petitioner	:	
For the Respondents	:	Mr. Binod Poddar, Advocate General; Mr. Jai Prakash, Addl. A.G. & Mr. Yogesh Modi, JC to Addl. A.G.

Order No.03/Dated: 1st September, 2015

Per Virender Singh, C.J.

Cognizance of the instant matter was taken on news item published in 'Hindustan Times' dated 29th August, 2015 relating to sorrow and disheartening aftermath of a poor labourer father and a nine year old girl (name not being disclosed), who is victim of rape meted out by a cruel person (driver by profession), in Hathipada Village in the jurisdiction of East Singhbhum District. The Court directed State of Jharkhand through its Chief Secretary to pay an interim compensation to the tune of Rupees one lakh to the father of the victim girl. Registry was directed to treat the instant matter as public interest litigation. It has been diarized accordingly.

2. Mr. Binod Poddar, learned Advocate General at the very outset states that interim compensation of Rupees one lakh as awarded by the Court vide order dated 29th August, 2015 was disbursed to the father of the victim on 29th August, 2015 itself. We appreciate the prompt action on the part of the State.

3. In terms of the direction given to the Deputy Commissioner, East Singhbhum (Jamshedpur), a detailed report has been filed by him wherein it is stated that on 3rd July, 2015 the rape victim, who is daughter of one Guddu Lohar, resident of Bhalukpatara (PS Dumaria) lodged a complaint of rape

with the police by an unknown person, on the basis of which, Case No. 17/15 dated 3rd July, 2015 was registered at Dumaria police station under Sections 366-A and 376 of Indian Penal Code and Sections 3 /4 of the POCSO Act. Report further reveals that victim was brought to Community Health Centre, Dumaria on the same day i.e. 3rd July, 2015 by the local police officials, where she was examined and treated. She was subsequently referred to Sadar Hospital, Jamshedpur. She was clinically investigated and medically treated at MGM Hospital, Jamshedpur. On request of MGM Hospital, she was thereafter examined by one Dr. H.I. Pandey (Paediatric Surgeon) and Dr. Manas Kaviraj, both specialists from Tata Main Hospital, Jamshedpur and with their consultations, she was referred to RIMS for further management of surgical intervention. Report further reveals that she was discharged from the hospital on 30th July, 2015 with an advice of surgery, as such, she was admitted in RIMS on 30th July, 2015 where she was operated and discharged on 19th August, 2015 with the following advice:

“Hence the patient was managed and treated as per standard management protocol and she was discharged after parents/ attendants were trained to look after the colostomy at home. Parents were also advised to contact Civil Surgeon, Jamshedpur (Dr. S.K. Jha) in case of any emergency and help after discussion with him. They were further advised to come for follow up at our OPD after 1 month on either Monday or Thursday with complete blood count and urine report”

4. Report further reveals that the rape victim was attended at Community Health Centre, Dumaria by the concerned Doctor on 21st August, 2015, 24th August, 2015 and 29th August, 2015. She was even attended at her home by the health officials of Community Health Centre, Dumaria.

5. It is when the father of the rape victim was carrying his daughter for daily treatment for which he had to cover 4 Kms. distance and was having no conveyance, not even a cycle for that purpose, 'Hindustan Times' picked up the matter and published it in its daily news, serious note of which was taken by the Court on 29th August, 2015.

6. Court has been infomed that after the State has deposited Rupees one

lakh as interim compensation in the account of the father of the rape victim, certain other contributions have also started pouring in. Report of the Deputy Commissioner reveals that father of the victim has now been registered as a worker by the civil administration under MNREGA and provided job card also bearing No. JH-10-006-005-002/148. Not only that district administration has provided one bi-cycle, one blanket and pair of *dhoti-sari* to the father of the victim. He has also been registered under Pradhanmantri Suraksha Bima Yojna by District administration. Bank account has also been opened in the name of rape-victim. Civil administration has also started the process of settlement of land in favour of father of the rape-victim, which according to the report, is likely to be complete by 15th September, 2015. Not only that financial assistance for construction of the house under Indira Awas Yojna will also be provided to mother of the rape-victim and all required formalities in this regard are likely to be complete by 30th September, 2015.

7. Mr. Jai Prakash, learned Addl. Advocate General, after getting information from the concerned official of the District Land Acquisition Department, who is present in the Court, states that at present the rape-victim is getting treatment from a private hospital known as Medanta at Ranchi. All the expenditure at present is being borne by the said hospital only as till date no demand has been made for meeting the expenditure to be incurred on the treatment from the State. Mr. Jai Prakash states that the Deputy Commissioner, Ranchi in any case will be instructed to visit the hospital today itself to know about the latest medical condition of the victim. He states that the follow-up medical treatment will also be looked after as per the instructions of the attending Doctor of Medanta after she is discharged from the said hospital.

8. The next important aspect is the investigation of the criminal case registered on the statement of the rape-victim only. Dy.S.P., East Singhbhum (Jamshepur) has tendered his report which includes Xerox copy of the initial report lodged by the rape-victim and is the basis of the registration of First Information Report in police station Dumaria. We have perused the same.

Accused is not named in the FIR. The alleged act has been committed by an unknown person. Some physiognomic description however has been given in First Information Report. In vernacular, it reads,

“Vyakti Jo Mere Baap Ki Lambai Ka Tha, Jiske Sir Me Samne Baal Nahi Tha, Pichhe Tha”.

9. Mr. Jai Prakash, learned Addl. Advocate General, states that one Surendra Sardar @ Hablu Sardar, resident of Bhalukpatara, PS Dumaria, District- East Singhbhum (Jamshedpur) is booked in this case. He was formally arrested by the police on 16th July, 2015 and is stated to be in judicial custody. He states that till date no Test Identification Parade has been conducted in this case as the rape-victim is hospitalized and the moment she is discharged from the hospital, police will get Test Identification Parade conducted without any delay.

10. Mr. Jai Prakash further submits that perusal of the statements of other witnesses recorded during investigation reveals that it is not a case of previous enmity at all and during investigation, it has also surfaced that earlier also aforesaid accused made an attempt to commit the similar act but no report was lodged in this regard. He states that it has also come in the evidence that the accused is not mentally that sound. However, all these aspects have to be investigated deeply.

11. Keeping in view the totality of facts and circumstances of the present case, we direct that henceforth the investigation of the present case shall be conducted by a police officer not below the rank of Dy.S.P. In any case, latest report vis-a-vis investigation will be submitted before the Court on or before the next date of hearing.

12. Another important aspect is rehabilitation of the rape victim. Efforts are required to be made for bringing the rape-victim from the trauma she has suffered. Child Psychologist, perhaps, would be in a better position to render proper care/help in this regard. We are not aware as to whether the Doctors of Medanta where the rape-victim is presently getting the treatment are taking care of this aspect or not. Deputy Commissioner, Ranchi is directed to

look into this aspect also during his visit to Medanta Hospital. Member-Secretary, Jharkhand State Legal Services Authority will also accompany Deputy Commissioner, Ranchi for this purpose.

13. Since the father of the victim is getting financial assistance from different quarters, the proper utilization of the same is another matter, which requires attention. It would be appropriate that if the amount which is being deposited in the account of rape-victim by District administration is deposited as FDR initially for one year at least. ***Ordered accordingly.***

14. We make it clear that all the financial assistance for follow-up treatment of the rape-victim shall be borne by the State only after the rape-victim is discharged from Medanta Hospital, Ranchi.

15. We also request the Executive Chairperson of the Jharkhand State Legal Services Authority to intervene and explore the possibility of rendering all possible financial assistance or any other kind of legal aids/services to the rape victim and her family.

16. We defer consideration of the instant petition for two weeks only enabling the concerned authorities to apprise the Court of the latest status.

17. List again on 18th September, 2015 on top of the list as case No.1.

18. Copy of the order shall be provided to Mr. Yogesh Modi, learned assisting counsel to Mr. Jai Prakash, learned Additional Advocate General, appearing for the State, under seal and signature of the Court Master during course of the day.

(Virender Singh, C.J.)

(P.P. Bhatt, J.)