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

+ BAIL APPLN. 619/2021 & CRL.M.A. 7163/2022

MANISH Petitioner

Through:

versus

STATE Respondent

Through: Mr. Ajay Vikram Singh, APP

Mr. Ajay Verma, Adv. (DSLISA)

Ms Harshita Mishra, Secretary, Litigation, DSLISA (on VC)

Ms. Neelam Narang, Ms. Yanmi Phazang, Advs.

WSI Birmati Yadav, PS Sarai Rohella

Ms. Prabhsahay Kaur, Mr. Bhuwan Ribhu, Ms. Rachna Tyagi,

Ms. Bindita Chaturvedi, Ms. Shilpa Dewan, Ms. Taruna

Panwar, Advs.

Ms. Aishwarya Rao, Mr. Mansi, Advs. for Complainant

46

+ BAIL APPLN. 2612/2021

AZAD BILLU @ BALLU Petitioner

Through:

versus

STATE NCT OF GOVT. OF DELHI Respondent

Through: Mr. Ajay Vikram Singh, APP

Ms Harshita Mishra, Secretary, Litigation, DSLISA (on VC)

Ms. Neelam Narang, Ms. Yanmi Phazang, Advs.

Ms. Aishwarya Rao, Mr. Mansi, Advs. for Complainant

47

+ BAIL APPLN. 3171/2021

UMESH Petitioner

Through:

versus

STATE (NCT OF DELHI) Respondent

Through: Mr. Ajay Vikram Singh, APP

Ms Harshita Mishra, Secretary, Litigation, DSLISA (on VC)

Ms. Aishwarya Rao, Mr. Mansi, Advs. for Complainant

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

12.12.2022

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1. Mr. Ajay Verma, Counsel for the DSLSA, submits that a status report has been filed on behalf of DSLSA in the interregnum. He submits that after the last date of hearing, meetings were held with all concerned stakeholders and attempt was made to formulate a mechanism for filing applications for compensation on behalf of victims in disposed of cases involving sexual offences. Mr. Verma submits that during the course of deliberations, a few probable issues that may crop up while dealing with disposed of cases were flagged by different stakeholders.
2. One issue that was likely to crop up was regarding the Concerned Judges/ Ahlmads/ Record Room Incharges may not permit fresh counsels to inspect the judicial records, since they were not representing the victims during the pendency of the case. It is quite probable that these newly engaged counsels may be denied the opportunity to scan the judicial records considering the privacy and confidentiality issues involved in cases pertaining to sexual offences. Mr. Verma as well as Ms. Harshita Mishra, Secretary (Litigation), DSLSA have solicited directions from this Court so that the concerned officials i.e. Judges/ Ahlmads/ Record Room in- charges permit the newly engaged counsels to inspect the judicial records of disposed of cases, so that they may make a report regarding the need to move compensation application or not. Ms. Mishra, Secretary (litigation), DSLSA further submits that BTFs (Brief Transmission Forms)/ entrustment letters/ authorization letters shall be issued in favour of the counsels for the specific purpose of inspecting records of disposed of cases. She has further apprised this Court that Ms. Prabhsahay Kaur, counsel for Bachpan Bachao Andolan (BBA) had graciously offered to

provide team of counsels for file inspection (in collaboration with Kailash Satyarthi Children's Foundation) as DSLSA found itself in a conundrum regarding payment of fees for inspection in disposed of cases to the empaneled lawyers of DSLSA. Ms. Mishra submits that entrustment letters/ authorization letters shall be issued in favour of one of the Lawyers from the team of lawyers provided by BBA for the limited remit of inspecting records of disposed of cases. She further submits that the entrustment letter shall contain all particulars of the counsels such as Enrolment Number, mobile number, email ID and address. She further submits that before the task of inspection is entrusted to these counsels, special sessions for sensitizing them and briefing them about the work to be done shall be conducted. They shall be specially sensitized about the need to maintain confidentiality of the matter and respect for privacy of the sexual assault survivor.

3. Ms. Mishra, Secretary (Litigation), DSLSA has further solicited directions of this Court for the Ld. Principal District and Sessions Judges to direct the concerned officials to ensure that the records of disposed of cases (POCSO cases/ Rape Cases/ other sexual offences) are made available for inspection at the earliest and in substantial numbers so that the team of counsels being engaged for file inspection can start inspecting the judicial records at the earliest and so that the compensation applications can be filed at the earliest in the deserving cases.
4. Ms. Mishra, Secretary (litigation), DSLSA and Ms. Prabhsahay Kaur, Counsel for BBA have further flagged another issue which might crop up while dealing with the question of moving applications in disposed

of cases i.e. the issue of limitation as per which compensation applications can only be moved within 3 years of the offence or conclusion of trial, as mentioned in Clause 16 of the Part II of the Delhi Victims' Compensation Scheme- 2018. They have expressed this apprehension that many Courts/ District Victim Compensation Committees (DVCCs) may not entertain applications for compensation in such cases where trial concluded more than 3 years back.

5. I have heard the submissions of the counsels and the Secretary (Litigation), DSLSA at length and considered the prayers made by them.
6. With a view to pre-empt the difficulties likely to be faced qua file inspection by the proposed team of lawyers of BBA, I deem it fit to direct the Ld. Principal District and Sessions Judges to direct the concerned Judges/ *Ahlmads* / Record Room In-charge to identify and trace out the files of the disposed of POCSO cases/ Rape cases/ other sexual offence cases expeditiously and to permit inspection by the Lawyers provided by BBA (in whose favour DSLSA issues entrustment/ authorization letter), so that the records can be inspected and appropriate applications for compensation can be filed at the earliest. Needless to say that these lawyers shall be sensitized with regard to maintaining the confidentiality and respect for privacy of the victim while inspecting records and making reports as proposed.
7. Regarding the apprehension of the Counsels and Secretary (Litigation), DSLSA qua Courts/ DVCCs rejecting to entertain applications for compensation on the ground that the same are barred by limitation, I am of the view that since no limitation for filing an application for

compensation is provided under Section 357(A) of the Cr.PC or Section 33 of the POCSO Act, such a provision under the Part-II of the Delhi Victims' Compensation Scheme (DVCS)-2018 cannot be used/ invoked in a hyper- technical manner to defeat the rights of the victim for whose assistance and support the entire Scheme has been formulated. Hence, to obviate the possibility of the victim's right to compensation being fettered or curtailed on the technical plea of limitation alone, I deem it fit to clarify that there will be no requirement to file a separate application for condonation of delay in seeking compensation. The limitation shall not come in the way of moving applications for compensation in disposed of cases. The concerned DVCC/ Special Court shall read Clause 16 of Part-II of DVCS- 2018 liberally and entertain applications for compensation and thereafter, decide the same on merits.

8. DSLSA in the meanwhile is directed to start moving applications on behalf of the victims in disposed of cases at the earliest and file a fresh report on the NDOH. Needless to say that the exercise of moving applications for compensation in pending cases shall continue as before and report regarding the same be also filed on the NDOH. BBA, RCC, Delhi Police and Directorate of Prosecution to provide all necessary assistance to DSLSA so that the latter can meaningfully and effectively perform the task of moving applications for compensation on behalf of the victims of sexual offences, in the cases registered between 2012-2017.

9. Re-notify on 10.02.2023.

JASMEET SINGH, J

DECEMBER 12, 2022 / (MS)

Click here to check corrigendum, if any