2026:AHC:124160

HIGH COURT OF JUDICATURE AT ALLAHABAD
Matters Under Article 227 No. 8129 of 2023

Baru Singh And Another .....Petitioners(s)

Versus

State of U.P. And 4 Others .....Respondents(s)

Counsel for Petitioners(s) : Parvat Singh, Guru Prasad Singh
Counsel for Respondent(s) : G.A.

Court No. - 37

AFR
Reserved on: 05.02.2026
Delivered on: 29.05.2026

HON'BLE VINOD DIWAKAR, J.

A law which a man cannot obey, nor act according to it, is void and no law: and it is impossible to obey contradictions, or act according to them- Vaughan, C.J., in Thomas v. Sorrell, 1677[1].

This judgment will open with the aforesaid aphorism, to reflect upon the troubling tendency of bureaucratic systems to render the law ineffective in practice, despite its clear mandate in statute.

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[1] Lon L. Fuller, The Morality of Law, Chapter II: "The Morality that Makes Law Possible" (revised ed., Yale University Press, 1969), wherein the author opens the chapter with the aforementioned dictum of Vaughan C.J.

1. Heard Shri Suresh Kumar Maurya, holding the brief of Shri Parvat Singh, learned counsel for the petitioners, Ms. Vijeta Singh, learned *Amicus Curiae,* learned A.G.A. for the State, and perused the material available on record.

2. The present petition has been filed with two-fold prayers: **(i)** seeking a direction to the learned Additional District Judge/Special Judge (POCSO Act), Meerut, to allow petitioner no.2 (hereinafter referred to as 'X') to terminate her unwanted pregnancy of approximately five months; or, in the alternative, and **(ii)** directing the Chief Medical Officer, Meerut, to terminate the said pregnancy. The victim 'X' is a minor girl of unsound mind, aged approximately 17 years, and a survivor of rape. She has been living under the guardianship of her maternal grandfather, who is arrayed as petitioner no.1. Her biological father abandoned the family approximately ten years prior to the present proceedings, and his whereabouts remain unknown. Her mother is also a woman of unsound mind.

3. On perusal of the record, it transpires that an FIR bearing Case Crime No.0080 of 2023, under sections 328, 376, 506 IPC read with Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 was registered on 11.06.2023 at P.S. Rohta, District Meerut against the accused- Lalu by the grandfather of the victim. When the symptoms of advance pregnancy were noticed, the victim disclosed to her grandfather about the unfortunate incident that had befallen her. The victim was taken to the police station on 11.06.2023 and thereafter produced on 12.06.2023 before the Medical Officer at the CHC Rohta, Meerut, for medical examination. The Medico Legal Examination Report of Sexual Violence was prepared, and a pregnancy of 22 weeks and 6 days was detected.

I- CHRONOLOGICAL SUMMARY OF ORDERS PASSED BY THIS COURT:

4. Before adverting to the larger institutional issues that emerged in the course of these proceedings, it is appropriate to briefly recapitulate

the orders passed by this Court so as to obtain a bird's-eye view of the entire matter. The following chronological summary is accordingly set out.

5. After registration of the FIR, the victim's grandfather approached the Chief Medical Officer (CMO), Meerut, on 05.07.2023 seeking termination of the unwanted pregnancy of his granddaughter. The CMO, Meerut, did not entertain the request. Finding no relief, the grandfather, on 19.07.2023, preferred an application before the Court of the learned Additional District Judge/Special Judge (POCSO Act), Meerut, seeking permission for termination of the pregnancy. The said application was returned with the endorsement that the applicant may approach the High Court for appropriate redressal. The writ petition was filed on 22.07.2023 and came to be listed before this Court on 04.08.2023. In the entire process, 54 days- that is, almost seven weeks- were consumed between the date of registration of the FIR and the date on which the applicant was compelled to approach this Court.

6. Vide order dated 04.08.2023, the Chief Medical Officer, Meerut, was directed to constitute a Medical Board under Section 3(2-D) of the Medical Termination of Pregnancy Act, 1971 (hereinafter 'the MTP Act'), with a direction that if the fetus could be aborted without danger to the life of the victim, a team of doctors under the guidance of the CMO shall carry out the abortion. It was also directed that the wishes of the grandfather, under whose guardianship the minor victim was residing, be obtained after due verification. Sensing the urgency, the CMO was directed to furnish a compliance report within one week and, in the event of non-compliance, to file a personal affidavit stating reasons therefor. The attention of the CMO was also invited to the directions issued by the Supreme Court in ***'X' v. Principal Secretary, Health and Family Welfare Department, Government of N.C.T. of Delhi and Others***[2].

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[2] **(2022) SCC OnLine SC 1321**

7. In compliance with the order dated 04.08.2023, the CMO filed a compliance report through the Chief Judicial Magistrate, Meerut, stating that the victim was admitted to the hospital on 05.08.2023 and was under treatment at Pyare Lal Sharma District Hospital, Meerut. A Medical Board was constituted, and on its advice, the doctors conducted delivery of the victim on 13.08.2023. The newborn baby was sent to the Medical College, Meerut, and the victim was handed over to the police on 15.08.2023.

8. However, on 22.08.2023, it was noticed upon perusal of the record that the CMO, Meerut, had not constituted the Medical Board in accordance with the provisions of the MTP Act, 1971, and the Medical Termination of Pregnancy Rules, 2003. The CMO was directed to file a personal affidavit responding to the observations made in the earlier orders and to apprise the Court as to whether the State Government has constituted a Medical Board in accordance with the requirements of Section 3(2-D) of the MTP Act, 1971, and Rules 3 and 3A of the MTP Rules, 2003.

9. The Senior Superintendent of Police, Meerut, was simultaneously directed to file an affidavit disclosing the number of cases, police station-wise, registered in District Meerut involving unwanted pregnancies detected in rape cases during the previous five years.

10. On 06.09.2023, three separate affidavits were filed by the CMO, Meerut; the SSP, Meerut; and the District Probation Officer, Meerut, respectively. Ms. Vijeta Singh, Advocate, who was present in Court, was appointed *Amicus Curiae* to assist the Court in suggesting measures for effectively administering the physical and mental requirements of victims and newborn children in such circumstances, as well as their rights and the applicable laws.

11. On perusal of the affidavit filed by the CMO, Meerut, it was observed that the second part of the directions contained in the order dated 22.08.2023 remained non-complied with. On 06.10.2023, it was recorded that the learned *Amicus Curiae* had submitted that the Child

Welfare Committee had forwarded its order dated 06.07.2023 to the District Magistrate, Meerut, for information; however, the District Magistrate has also not taken cognizance of the matter thereof. A conjoint reading of the affidavit dated 15.09.2023 filed by the District Probation Officer, Meerut, and the affidavit dated 12.09.2023 filed by the Chairman, Child Welfare Committee (CWC), Meerut, further revealed that neither the Support Person nor the Consultant appointed by the CWC on 15.06.2023 had taken any steps to discharge their duties, nor had the Chairman taken stock of the situation.

12. The Chairman, CWC, Meerut, was directed, vide order dated 06.09.2023, to file an affidavit setting out the guidelines, rules, or statutory provisions enabling the issuance of such caveats as were found in the order dated 06.07.2023. The entire case file relating to steps taken by the Support Person, Consultant, and Chairman of the CWC was further directed to be placed before the Court. It was also directed that information be furnished as to whether the CWC maintained a dedicated website and whether the Health Department possessed Technical and Procedural Guidelines for Safe Abortion Services in cases of voluntary, and emergent termination of pregnancy of rape victims in Uttar Pradesh.

13. The CMO, Meerut constituted a Medical Board on 07.09.2022 under Section 3(2-D) of the Medical Termination of Pregnancy Act, 1971, read with Rules 3 and 3A of the Medical Termination of Pregnancy Rules, comprising the CMO as Chairman, Additional CMO as Convener, a Gynaecologist from Community Health Centre, Mawana, a nominated member, and a representative from Ipas Development Foundation, Meerut, for a term of two years. However, upon perusal of the affidavit dated 13.09.2023, the Court found that the Board was largely ceremonial and ineffective in nature.

14. The affidavit filed by the S.S.P., Meerut, discloses that FIR No.0080 of 2023 was registered under Sections 328, 506, and 376 IPC read with Sections 3/4 of the POCSO Act, 2012 at P.S. Rohta on 11.06.2023. The victim was sent for medical examination at CHC Rohta

on 12.06.2023, where she was found to be pregnant for approximately 22 weeks and 6 days. The victim was produced before the Child Welfare Committee on 06.07.2023, and the Child Welfare Committee, on the same day, directed that the victim be placed under the supervision of her uncle, namely Sonu s/o Baru Singh. It was further directed that the victim be properly taken care of and not be subjected to abortion. On the same date, i.e., 06.07.2023, the A.C.J. (J.D.), Meerut, recorded the statement of the victim under Section 164 Cr.P.C., wherein *'she stated that she did not wish to keep the child'.*

(emphasis supplied)

II- APPREHENSIONS RAISED BY THE LEARNED AMICUS CURIAE:

15. One member of the Medical Board constituted by CMO, Meerut was posted at CHC Mawana, which is almost 20 km away from the District Headquarters, thereby she raised doubts about the effective functioning of the Board.

16. The credentials and professional profile of the resource person appointed by CMO, who was apparently shown to be associated with Ipas Development Foundation, had neither been displayed nor uploaded on the Ipas Development Foundation website.

17. Upon visiting the Ipas Development Foundation's website, it was observed that the NGO has its registered office in New Delhi and that no such activity is carried out in Uttar Pradesh, even though the website claims to have introduced the concept of Comprehensive Abortion Care (CAC) in India.

18. Across the State, Medical Boards are neither constituted at the district level nor, if constituted, they are functional.

19. The Sub Inspector, a Lady Constable posted at Police Station Rohta, District Meerut and Counselor, and Social Worker attached with the victim appeared to have not taken adequate steps in respect of the

plight of the victim, thereby compelling her to approach the Court for termination of the unwanted pregnancy after a delay of 54 days.

20. The Child Welfare Committee, Meerut, and the District Magistrate, Meerut has not taken cognizance of the petitioner's plight despite this Court's specific direction(s).

21. A conjoint reading of the affidavit dated 15.09.2023 filed by the D.P.O., Meerut, and the affidavit dated 12.09.2023 filed by the Chairman, CWC, Meerut, revealed that neither the Support Person nor the Consultant had taken any steps to discharge the duties for which they were appointed, nor had the Chairman taken stock of the situation.

III- DETAILS DIRECTED TO BE FURNISHED BY THE PRINCIPAL SECRETARY, MEDICAL HEALTH AND FAMILY WELFARE, UTTAR PRADESH: At the outset, a systematic denial of medical termination services to child rape victims has been observed.

22. The first set of directions was issued vide order dated 21.09.2023 and includes: **(i)** Whether the statutory requirements of Section 3(2-D) of the Medical Termination of Pregnancy Act, 1971 (as amended in 2021), read with Rules 3 and 3A of the Medical Termination of Pregnancy Rules, are complied with in all the districts of Uttar Pradesh, **(ii)** If yes, then the copies of notifications issued by each district constituting a Medical Board at the district level be furnished, **(iii)** Rules and Regulations framed, if any, ensuring that every child victim of sexual violence/aggression carrying an unwanted pregnancy was produced before the Board, **(iv)** A copy of notification, if any, issued by the department for comprehensive workshops or training programmes for up-gradation of skills be furnished, and **(v)** Rules, if any, fixing accountability on errant officers responsible for non-enforcement and non-implementation of guidelines issued from time to time by Constitutional Courts or statutory provisions be placed on record.

23. The second set of directions was issued vide order dated 09.11.2023 and includes: **(i)** Yearly district-wise details of unmarried rape victims, including their age, produced before the Medical Boards

constituted under the Medical Termination of Pregnancy Act, 1971 for medical assistance since 2013, and **(ii)** District-wise details of medical assistance provided to facilitate easy access to safe abortion and care in cases of unmarried rape victims.

IV- DETAILS DIRECTED TO BE FURNISHED BY THE PRINCIPAL SECRETARY, DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT:

24. The first set of directions was issued vide order dated 21.09.2023, and includes: **(i)** The scheme and statutory framework governing the appointment of the Chairman and Members of the Child Welfare Committee, along with the regulatory measures undertaken in that regard, **(ii)** Whether any checklist, guidelines, or code of conduct prescribing the "dos and don'ts" for the functioning of the Child Welfare Committee has been formulated, so as to ensure accountability in cases of non-application of mind or dereliction of duty by its Members, and **(iii)** Whether any training programmes or institutional mechanisms has been introduced for: **(a)** enhancement of emotional intelligence; **(b)** capacity building and sensitization programmes; **(c)** innovation and awareness generation activities; and **(d)** monitoring and evaluation at the State and District levels- along with copies of relevant guidelines, Rules, Regulations, Government Orders, or policy documents governing such programmes be placed on record.

25. The second set of directions was issued vide order dated 09.11.2023, and includes: **(i)** Total number of support persons engaged in each Child Welfare Committee, district-wise details in Uttar Pradesh, and the number of cases assigned to each support person during the last five years, year-wise, **(ii)** District-wise quantified data of the number of cases dealt with by each Child Welfare Committee during the last five years, **(iii)** Facilities and resources provided to the Child Welfare Committees for discharge of their duties in consonance with the objectives of the enactments under which they are constituted, **(iv)** Details of homes/shelters in Uttar Pradesh for children born to minor

rape victims, **(v)** The policy of the State Government regulating the care and protection of children born out of rape, including compensation, education, accommodation, and other incidental requirements necessary to ensure a dignified life, **(vi)** The legal status of children born out of rape in cases where both the biological mother and the offender have abandoned the child- namely, whether such a child would be treated as a victim or otherwise, **(vii)** The number of inspections/visits conducted by the Principal Secretary, Department of Women and Child Development, to children's homes for girls established for care, protection, treatment, education, training, development, and rehabilitation during the last five years.

V- DETAILS DIRECTED TO BE FURNISHED BY THE DIRECTOR GENERAL OF POLICE, UTTAR PRADESH:

26. Details of FIRs registered in all police stations across the districts during the last five years where pregnancies were detected in unmarried child rape victims.

27. Details of cases in which such victims were produced before the Medical Boards constituted under the Medical Termination of Pregnancy Act, 1971 by the police authorities.

VI- FACTS AND FINDINGS EMERGING FROM THE AFFIDAVIT OF THE PRINCIPAL SECRETARY, MEDICAL HEALTH AND FAMILY WELFARE, UTTAR PRADESH- Systematic Denial of Medical Termination Services to Child Rape Victims:

28. The Principal Secretary, Medical Health and Family Welfare, Uttar Pradesh, filed two affidavits. The affidavit dated 31.10.2023 stated that, in compliance with the provisions of Section 3(2-D) of the Medical Termination of Pregnancy Act, 1971 (as amended in 2021), read with Rules 3 and 3A of the Medical Termination of Pregnancy Rules, 2003 the State Government (Medical Education Department-I) issued a Notification dated 10.08.2022 constituting a permanent Medical Board under the Chairmanship of the Head of the Department of Obstetrics and Gynaecology, KGMU, Lucknow.

29. Besides the constitution of the aforesaid permanent Medical Board, the State Government, vide Notification dated 10.06.2004, also constituted a Medical Board in every district comprising three members headed by the Chief Medical Officer, in accordance with Section 4(b) of the Medical Termination of Pregnancy Act, 1971. District-Level Committees have also been constituted. Further, the Central Government, in exercise of powers conferred under Section 6 of the Medical Termination of Pregnancy Act, 1971, framed the Medical Termination of Pregnancy Rules, 2003. The amended Rules prescribe the powers and functions of the Medical Board as well as the eligibility criteria for termination of pregnancy. Under the amended framework, a woman is eligible for termination of pregnancy up to 24 weeks.

30. The affidavit further disclosed that, for ensuring safe and effective termination of pregnancies, a tripartite Memorandum of Understanding was executed on 01.04.2023 at Lucknow between the Director General, Family Welfare, Uttar Pradesh; the Mission Director, National Health Mission, Uttar Pradesh; and the Ipas Development Foundation. Under the said Memorandum, the Ipas Development Foundation is entrusted with strengthening the capacity building of the State and its resources to facilitate effective and easy access to safe abortion services in furtherance of the amended Medical Termination of Pregnancy Act, 1971. It was further stated that approximately 1,200 doctors had been trained by the Ipas Development Foundation up to the time of filing of the affidavit.

31. In so far as fixing accountability of erring officers responsible for non-implementation of guidelines issued from time to time by the Constitutional Courts, or the statutory provisions contained in the Medical Termination of Pregnancy Act, 1971 and the Rules framed thereunder, is concerned, the affidavit disclosed that the Director General, Family Welfare, Uttar Pradesh, issued a letter dated 17.02.2019 to all Chief Medical Officers of the State directing compliance with orders passed by the Courts. This Court, in *Snehlata Singh*[3], observed

[3] **Snehlata Singh v. State of Uttar Pradesh, in PIL No.14588 of 2009, vide order dated 09.03.2018**

that any laxity in implementing the provisions of the Medical Termination of Pregnancy Act, 1971 and the Rules framed thereunder shall be treated as the personal responsibility of the concerned Chief Medical Officer, who shall be liable for appropriate action along with the erring officials.

32. In response to the query raised by this Court as to whether the Health Department has technical and procedural guidelines for safe abortion services in cases of voluntary termination of pregnancy of rape victims in Uttar Pradesh, the affidavit states that the Mission Director, National Health Mission, Uttar Pradesh, vide Letter No. NHM/FP-CAC/104/2021-22/6475-3 dated 10.01.2022, issued and circulated detailed guidelines regarding safe abortion services to all State and District Level Officers. Under the said guidelines, the upper gestational limit for termination of pregnancy has been extended from 20 weeks to 24 weeks. Under special circumstances, termination beyond 24 weeks is permitted for: **(i)** survivors of rape, sexual assault, or incest; **(ii)** minors; **(iii)** change in marital status during pregnancy; **(iv)** women with physical disabilities; **(v)** mental illness, including intellectual disability; **(vi)** foetal abnormality posing substantial risk to life, or likelihood that the child, if born, would suffer from serious physical or mental abnormality; and **(vii)** humanitarian settings or disaster/emergency situations, as may be notified by the Government.

33. Women falling in special categories- including survivors of rape or sexual assault, disabled women, and other vulnerable groups- may seek termination beyond the standard limit, up to 24 weeks, as per the Medical Board's decision. A Medical Board constituted under Section 3(2-B) of the Act has been empowered to: **(i)** consider whether continuation of the pregnancy poses a grave risk to the woman's life, or whether the fetus is likely to suffer from serious abnormalities; **(ii)** decide on termination of pregnancies beyond 24 weeks; **(iii)** seek assistance of other specialists as required; and **(iv)** approve or reject applications for termination. The major functions of the Medical Board are to: **(i)** examine the pregnant woman and her reports referred under

Section 3(2)(b); **(ii)** provide its opinion in Form-F (Medical Board's Opinion Form) regarding approval or rejection within three days of receiving the application; and **(iii)** ensure that once the Medical Board advises termination, the procedure under Section 3(2)(b) is completed within five days of the application date, with all due precautions.

34. The affidavit dated 26.11.2023, containing district-wise details from 2013 to 2023 of unmarried rape victims produced before Medical Boards under the Medical Termination of Pregnancy Act, 1971, placed before this Court indicates a disturbing character that it demands the most urgent judicial attention. The data reveals that child rape victims of the most tender ages- an 11-year-old in Sultanpur in 2021; 12-year-old in Ayodhya, Barabanki, Gautam Budh Nagar, Bulandshahr, and Lucknow; and 13-year-old in Barabanki, Ghaziabad, Shahjahanpur, and Lucknow- were produced before Medical Boards for termination of pregnancies resulting from sexual assault.

35. The district-wise data further reveals that virtually every one of the 106 cases recorded across 11 years involves a victim under 18 years of age, confirming that these cases relate almost entirely to child sexual assault resulting in pregnancy under the POCSO Act, 2012- with ages ranging from 7 to 17 years recorded across districts including Lucknow, Gautam Budh Nagar, Bulandshahr, Gorakhpur, Kaushambi, Jalaun, Raebareli, Meerut, Varanasi, Pratapgarh, Ghaziabad, Hapur, Mahoba, Mainpuri, Moradabad, Chandauli, Etah, Jhansi, Agra, and Badaun.

36. This data, devastating as it is, almost certainly represents a severe under-count of the true scale of child rape and resultant pregnancies across the State. The surge of cases in 2023- with Lucknow recording 12 cases and Gautam Budh Nagar recording 13 cases in a single year- is demonstrably litigation-driven rather than reflective of any genuine institutional improvement, coinciding as it does with the bulk reconstitution of District-Level Committees in October 2023, triggered by the present proceedings. This indicates that child rape victims in earlier years, including those aged between 7 and 13, received no

Medical Board referral and no formal medical termination of pregnancy services, owing to the State's administrative machinery simply not functioning, and it began functioning, even minimally, only under the compulsion of judicial oversight.

37. For the entire State of Uttar Pradesh, with a population of approximately 24 crores, only 106 procedures were performed under the formal Medical Board framework over 11 years- fewer than 10 per year across 75 districts- a figure so starkly disproportionate to the documented scale of child sexual violence in the State. A systematic and sustained violation of the fundamental rights of child rape victims enshrined under Article 21 of the Constitution, Section 39 of the POCSO Act, Section 3(2)(b) of the Medical Termination of Pregnancy Act as amended in 2021, and the directions of the Supreme Court of India in *X v. Principal Secretary, Health and Family Welfare Department, NCT of Delhi (supra)* has been observed across the State.

VII- FACTS AND FINDINGS EMERGING FROM THE AFFIDAVIT OF THE PRINCIPAL SECRETARY, DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT, GOVERNMENT OF UTTAR PRADESH- Systematic Denial of Statutory Rights of Children in Need of Care and Protection:

38. The affidavit dated 02.11.2023 affirms that the appointment of the Chairperson and Members of the Child Welfare Committee is carried out in accordance with the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, framed by the Central Government, and the Uttar Pradesh Juvenile Justice (Care and Protection of Children) Rules, 2019, read with Sections 27(1) and 27(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015. Rule 15 prescribes the composition and qualifications of the Members of the Committee, while Rule 87 provides for the selection criteria and composition of the Selection Committee.

39. The affidavit further states that the State Government, vide Notification dated 16.11.2018, constituted a Selection Committee under

the Chairmanship of a Hon'ble Senior Judge (Retired) of the High Court of Judicature at Allahabad for the selection of Chairpersons and Members of the Child Welfare Committees for all 75 districts of Uttar Pradesh. The last selection by the said Committee was conducted on 23.07.2021. Insofar as regulatory measures are concerned, the mechanism is provided for under Sections 27(8) and 27(10) of the Juvenile Justice (Care and Protection of Children) Act, 2015. It is further averred that Sections 27 to 40 of the Act, read with Rules 16, 17, 18, 19, and 20 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, lay down the powers, functions, responsibilities, and other relevant aspects pertaining to the functioning of the Child Welfare Committee.

40. The compliance affidavit further states that the Department of Women and Child Development, Government of Uttar Pradesh, organizes various online and offline training programmes from time to time for sensitization and capacity building of the Chairpersons and Members of the Child Welfare Committees. It is stated that: **(i)** during October and November 2021, a training programme was organized in collaboration with the National Institute of Public Cooperation and Child Development (NIPCCD), Regional Centre, Lucknow, for the Chairpersons and Members of the Child Welfare Committees; **(ii)** during February, March, June, and July 2022, online training programmes were organized for sensitization and enhancement of emotional intelligence of the Chairpersons and Members of the Child Welfare Committees, with the assistance of NIPCCD, Lucknow, in collaboration with the National Institute of Mental Health and Neuro-Sciences (NIMHANS), Bangalore, and the Women and Child Security Organization (WCSO); and **(iii)** during February, March, April, and May 2023, offline training programmes were conducted in batches for the Chairpersons and Members of the Child Welfare Committees.

41. Being dissatisfied with the affidavit dated 02.11.2023, this Court, vide order dated 09.11.2023, directed the Principal Secretary, Department of Women and Child Development, Uttar Pradesh, to file a

comprehensive affidavit furnishing the details delineated in paragraph 5 of the aforesaid order. In compliance therewith, the affidavit dated 27.11.2023 explained that Support Persons are experienced and qualified individuals with substantial knowledge in the fields of child welfare, sociology, and psychology, and are appointed on a case-by-case basis. Support Persons are selected by a Committee comprising: **(i)** the District Magistrate; **(ii)** the Secretary, District Legal Services Authority, or his nominee; **(iii)** the District Probation Officer/District Child Protection Officer; **(iv)** the Chairperson/Members of the Child Welfare Committee; and **(v)** a representative from an NGO or Educational Institution.

42. On a critical examination of the data, it emerges that there has been an explosive rise in cases coming before Child Welfare Committees over the last five years (from 2018-19 to 2022-23) against a backdrop of chronically insufficient Support Persons, revealing a system in crisis. The five-year trend in the total number of cases presented before Child Welfare Committees across Uttar Pradesh reveals a deeply concerning trajectory that demands urgent judicial and administrative attention.

43. In the year 2018-19, a total of 14,857 cases were placed before CWCs across the State, which marginally declined to 14,760 in 2019-20, and further depressed the figure to 10,554 in 2020-21. However, this apparent decline must not be misread as an improvement in child welfare, it almost certainly reflects a collapse in case registration and reporting during the pandemic period, rather than any genuine reduction in child distress or need for protection. The true scale of the problem became starkly visible in the post-pandemic years: cases surged to 19,556 in 2021-22, representing an 85% single-year increase over 2020-21, and climbed further to 28,351 in 2022-23- the highest figure in the five-year period and a 91% increase over 2018-19.

44. This upward trajectory, far from reflecting improved reporting alone, signals a genuine and accelerating crisis in child welfare across the State. Read alongside the chronically insufficient number of Support Persons available during the same period, these figures paint a picture of

a child protection system that is structurally overwhelmed, under-resourced, and failing in its fundamental statutory duty to every child brought before a Child Welfare Committee in Uttar Pradesh.

45. The Juvenile Justice (Care and Protection of Children) Act, 2015, and the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, mandate that every child brought before a Child Welfare Committee is entitled to: **(i)** a Support Person to assist and guide them through the proceedings; **(ii)** prompt, child-friendly, and dignified handling of their case; and **(iii)** disposal of the case within four months, in terms of Section 37 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

46. Section 39 of the Protection of Children from Sexual Offences Act, 2012, further mandates that there shall be a dedicated Support Person for every child victim of a sexual offence. The Supreme Court of India, in ***Nipun Saxena v. Union of India***[4], has strongly emphasized the State's duty to appoint adequate number of Support Persons.

47. The most alarming finding emerging from the data is the catastrophic mismatch between the number of cases brought before Child Welfare Committees and the number of Support Persons available across the State. In 2018-19, each Support Person was nominally responsible for 275 cases. Even in 2022-23, which represents a comparatively improved year, each Support Person bore responsibility for over 52 cases- rendering genuine, individualized, child-friendly support a complete legal fiction. The total number of cases presented before Child Welfare Committees increased by 91% between 2018-19 and 2022-23, rising from 14,857 to 28,351, while Support Persons increased only ten-fold from a negligible base of 54- a figure still wholly inadequate for a State of Uttar Pradesh's size and population.

48. A cross-analysis of cases against Support Persons for the year 2022-23 in the most critical districts reveals even a graver picture. Gorakhpur is the single most alarming district, with 1,142 CWC cases

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[4] **(2019) 2 SCC 703**

and only 2 Support Persons, meaning each Support Person is nominally responsible for 571 children simultaneously- a situation that amounts not merely to inadequacy but to a complete absence of support in practical terms. Lucknow, the State capital and administrative headquarters, recorded 1,632 cases with only 3 Support Persons, yielding 544 cases per Support Person, demonstrating that even the best-administered district in the State has failed to implement the statutory mandate. Other districts present an equally grim picture: Prayagraj recorded 863 cases with only 2 Support Persons (432 cases per SP); Kannauj recorded 610 cases with only 2 Support Persons (305 cases per SP); Varanasi recorded 913 cases with only 3 Support Persons (304 cases per SP); Gautam Budh Nagar recorded 944 cases with 3 Support Persons (315 cases per SP); and Lakhimpur Kheri recorded 619 cases with only 2 Support Persons (310 cases per SP). Most critically, Auraiya district recorded 324 active cases with zero Support Persons- leaving every child before the CWC entirely without statutory support.

49. The data further reveals that several districts reported zero cases before the Child Welfare Committee for one or more consecutive years, despite being substantially populated districts- a pattern that is highly misrepresented and demands explanation. Mathura, Hathras, and Azamgarh each recorded zero cases for three consecutive years from 2018-19 to 2020-21; Azamgarh then recorded 500 cases in 2022-23, and Auraiya, similarly dormant for three years, recorded 324 cases in the same year. Gonda recorded zero cases in 2018-19, followed by a sudden appearance of cases thereafter, while Bahraich recorded zero cases for 2018-19 and 2019-20, followed by 210 cases in 2020-21. Zero cases in a district is not evidence of the absence of child welfare issues. It is evidence of non-registration of cases, administrative failure, or deliberate suppression of data. The sudden and dramatic jumps in several districts strongly suggest prior under-reporting rather than any genuine absence of cases. Badaun district additionally shows "NA" for both 2021-22 and 2022-23, meaning no data was submitted for two

consecutive years. Again a failure that is itself a matter of serious concern.

50. The situation becomes even more alarming when the cases actually assigned to Support Persons are examined against the total CWC caseload in individual districts. In Gorakhpur, out of 1,142 CWC cases in 2022-23, only 75 were assigned to Support Persons, leaving 1,067 children unserved. In Lucknow, out of 1,632 cases, only 51 were assigned, leaving 1,581 unserved. In Prayagraj, out of 863 cases, only 11 were assigned, leaving 852 unserved. In Chandauli, all 956 cases proceeded without any Support Person assignment whatsoever. In Varanasi, all 913 cases similarly proceeded without any Support Person. In Auraiya, despite there being no Support Person at all, 48 cases were nominally recorded as assigned- a figure that is itself inexplicable and raises further data integrity concerns. This cross-analysis establishes that in virtually every district, the actual number of cases assigned to Support Persons is a negligible fraction of the total CWC caseload, meaning thereby the overwhelming majority of children appearing before Child Welfare Committees are proceeding without any Support Person at all.

51. On a consolidated examination of the data, it emerges that the State authorities have failed to function in accordance with the applicable legal provisions. The mandate of Section 39 of the POCSO Act, 2012, requiring the State to provide a Support Person to every child victim, remains systematically unfulfilled. Rule 4 of the POCSO Rules, 2020, requiring immediate arrangement of a Support Person upon registration of a case, is structurally impossible to comply with given the present numbers. Section 27(10) of the Juvenile Justice (Care and Protection of Children) Act, 2015, which requires the Child Welfare Committee to ensure the best interests of the child is protected.

52. Section 37 of the Juvenile Justice Act, which mandates disposal of cases within four months, is rendered difficult to comply with owing to the inadequate support infrastructure. The directions of the Supreme

Court of India in *Nipun Saxena (supra)*, on child-friendly procedures and Support Person appointment, are being violated at scale across the State.

53. As per the guidelines of the Mission Vatsalya Scheme dated 05.07.2022, formulated by the Government of India, each Member of the Child Welfare Committee is paid Rs.2,000/- per sitting, subject to a maximum of 20 sittings for which bills may be raised. Each Child Welfare Committee has been provided with an Assistant-cum-Data Entry Operator, while other requirements are to be fulfilled by the Protection Officer of the District Child Protection Unit. The Child Welfare Committees have also been provided with office space equipped with furniture, computers, printers, internet facilities, and other necessary logistic support as and when required. There are 23 Child Care Institutions maintained by the State Government and 87 institutions operated by Non-Governmental Organizations. Besides Government Child Homes (Shishu) and separate Government Homes for girls and boys, five Government Specialized Adoption Agencies are functioning in the State. The Child Care Institutions are categorized according to age groups, namely: **(i)** children between 0 to 5 years of age; **(ii)** children between 6 to 10 years of age; and **(iii)** girls and boys between 10 to 18 years of age.

54. The affidavit clarifies that children, including newborn babies, who are either surrendered or abandoned by rape victims or their families, are provided shelter in Child Care Institutions upon intervention by the Child Welfare Committee. Such children are provided with all necessities, protection, and an environment conducive to their holistic development, including free education, medical facilities, food, and skill development programmes. The affidavit further clarifies that children born to rape victims, or children abandoned or surrendered by such victims, are treated as "children in need of care and protection" in accordance with Section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

55. The affidavit further states that Child Care Institutions are regularly inspected and visited by various authorities and committees. In addition to the Juvenile Justice Committee of the Allahabad High Court, comprising Hon'ble Judges, and committees constituted by the District Judge, the following inspection mechanisms are in place: **(i)** the State Inspection Committee conducts surprise inspections; **(ii)** committees nominated by the Commissioner conduct annual inspections; **(iii)** committees nominated by the District Magistrate conduct monthly inspections; **(iv)** the District Level Inspection Committee conducts inspections once every three months; **(v)** the District Probation Officer conducts inspections fortnightly; **(vi)** the Child Welfare Committee conducts inspections twice a month; and **(vii)** the Superintendent of the Child Care Institution conducts inspections twice daily. A point-wise agenda containing 12 parameters has been formulated for the aforesaid inspections.

56. The inspection agenda prescribed by the State for Child Care Institutions purports to cover 12 inspection points. A critical examination of this agenda, however, reveals that it is fundamentally inadequate, structurally deficient, and fails to comply with the mandatory requirements of the Juvenile Justice (Care and Protection of Children) Act, 2015, the JJ Model Rules, 2016, the POCSO Act, 2012, and the NCPCR Guidelines on Child Care Institutions. The deficiencies in each point may be briefly noted as follows.

56.1 A building inspection should check more than just ownership or rental status. It must also verify structural safety, fire certificates, minimum space requirements for children, and whether rented premises offer security of tenure. NGO registration checks must confirm whether the registration is current and whether every child is held under a valid legal order. Without this, cases of illegal detention or trafficking can go undetected.

56.2 Identifying overcrowding is important, but relying solely on Aadhaar cards to count children is problematic. Many trafficked or

remote-area children do not have Aadhaar. Dormitories must also be checked for proper separation by age, gender, and case type. Food quality checks must go beyond surface observation. They must verify nutritionist-approved menus, individual dietary needs, and whether children can raise food-related complaints.

56.3 Security checks must do more than note the presence of guards. They must confirm whether female guards are posted in girls' homes, whether staff have passed background and police verification, and whether night-time and emergency protocols exist. CCTV coverage must be carefully regulated. Cameras must be strictly prohibited in girls bathrooms, sleeping areas, and changing rooms. Clear rules on who monitors footage and how long it is retained are essential.

56.4 Individual Care Plans must not merely exist on paper. They must be prepared within fifteen days, involve the child in the process, and show evidence of actual implementation. School enrollment checks must verify age-appropriate placement, access for children with disabilities, and availability of bridge courses for those with interrupted education.

56.5 Skill training must lead to recognized certification and align with each child's reintegration plan. Staff checks must go beyond counting numbers. Qualifications, background verification, prescribed staff-to-child ratios, and mandatory training under the POCSO and JJ Acts must all be verified. Female-only staff must be confirmed in girls' homes.

56.6 Children held in observation homes for petty offences must not be overlooked. Each case must be reviewed for bail eligibility, legal aid, and compliance with maximum detention periods. They must also be kept separate from children accused of serious offences.

56.7 Children who have spent six months or more in institutional care represent the gravest failure of the child protection system. Their situation demands far more than a brief report. Specific barriers to restoration must be identified. Family counseling efforts must be verified. Foster care, adoption, and the role of the Sponsorship and Foster Care Approval Committee must all be actively considered.

57. Beyond the deficiencies within individual points, several critical inspection areas are entirely absent from the agenda. The agenda contains no provision for medical health check-ups or healthcare access for resident children, despite Rule 29(3) of the JJ Model Rules mandating the same. Mental health assessment and counseling services, required under Section 53 of the JJ Act and NCPCR Guidelines, are entirely unaddressed. There is no requirement to verify the existence of a child-accessible grievance mechanism against staff, mandated under Rule 73, nor any reference to Children's Committees through which children participate in institutional management under Rule 40.

58. The agenda contains no requirement to examine records of incidents of abuse, punishment, or staff misconduct- a critical gap given that Section 75 of the JJ Act criminalizes cruelty to children in institutional care and Section 82 prohibits corporal punishment. The status of family reconciliation efforts for surrendered children under Section 35, pending adoption or foster care cases for long-stay children under Chapter VIII, and compliance with the prohibition on solitary confinement under Rule 76, are all absent. Finally, there is no suicide or self-harm prevention protocol verification, despite specific NCPCR Safety Guidelines on the subject.

59. The affidavit also sets out certain deficiencies noticed and suggestions made during inspections, which do not require detailed examination by this Court at this stage. However, the details relating to inspections conducted by the Principal Secretary, Department of Women and Child Development, Uttar Pradesh, of Child Care Institutions during the past five years disclose a return of "NIL"- that is, the Principal Secretary conducted no inspections whatsoever during this period.

60. Inspection records for Girls' Child Care Homes across Uttar Pradesh over five years reveal a near-total failure of senior-level oversight. The Principal Secretary of the Department of Women and Child Development is the highest officer legally responsible for inspecting Girls' Homes. Over five years, this officer conducted fewer

than ten inspections across the entire State. Uttar Pradesh has 75 districts and thousands of girl children in institutional care. This level of oversight is not merely inadequate. It amounts to a near-complete abandonment of the legal duty imposed under Section 54 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Rule 64 of the JJ Model Rules, 2016.

61. The majority of districts recorded zero inspections over the entire five-year period. This includes some of the most populous, urbanized, and administratively important districts in the State. Districts with operational Girls' Homes that were never inspected even once include Azamgarh, Ballia, Prayagraj, Kaushambi, Pratapgarh, Meerut, Saharanpur, Shamli, Bijnor, Amroha, Sambhal, Gorakhpur, Deoria, Maharajganj, Basti, Sant Kabir Nagar, Jhansi, Lalitpur, Sonbhadra, Chitrakoot, Hamirpur, Mahoba, Banda, Shahjahanpur, Lakhimpur Kheri, Bahraich, and Shravasti.

62. Barabanki recorded only one inspection in five years. Kanpur recorded only three. Lucknow, the State capital and the best-performing district, recorded just six inspections over five years. This averages to barely one visit per year.

63. These figures establish beyond doubt that the legal mandate of regular and rigorous senior-level inspection has been reduced to nothing across virtually the entire State. Such inspections are the single most critical safeguard against abuse, exploitation, and trafficking of girl children in institutional care. This failure is in direct violation of the JJ Act, 2015, the JJ Model Rules, 2016, and the NCPCR Guidelines on Child Care Institutions. It also disregards the repeated directions of the Supreme Court of India issued after the Muzaffarpur shelter home tragedy. In that case, the absence of exactly this kind of senior oversight allowed years of systematic sexual abuse of girl children to go undetected and unpunished.

VIII- FACTS AND FINDINGS EMERGING FROM THE AFFIDAVIT FILED BY THE DIRECTOR GENERAL OF POLICE, UTTAR PRADESH:

64. In response to the information sought from the office of the Director General of Police regarding the number of cases in which pregnancies were detected in unmarried child rape victims during the last five years, the affidavit reveals that 525 such cases were reported across the State of Uttar Pradesh. The zone-wise distribution of these cases discloses a pattern of institutional failure that extends across both rural and urban areas of the State.

65. The Lucknow Zone recorded the highest concentration of cases in the State, with 115 cases accounting for 21.9% of the State total. Within this zone, Sitapur and Unnao each recorded 20 cases, Raebareli 15, Hardoi 14, and Lakhimpur Kheri 10, with Lucknow Urban contributing a further 17 cases and the Ayodhya sub-zone adding 36. It categorically dispels any notion that this is a problem of rural neglect alone and demonstrates institutional failure at the very heart of the State's administrative apparatus. Unnao's 20 cases are especially alarming, given its documented history as a persistent flashpoint for crimes against women and children.

66. The Prayagraj Zone recorded 96 cases, constituting 18.3% of the State total, with Pratapgarh alone accounting for 29 cases- the highest figure for any single district in the entire State. Pratapgarh simultaneously reported 385 CWC cases in 2022-23 with only 6 Support Persons, exemplifying the combination of high vulnerability and critically low support infrastructure. Fatehpur contributed 26 cases, Chitrakoot 16, and Kaushambi 10. Chitrakoot's 16 cases from a small, economically backward, and tribal-dominated district signal the disproportionate vulnerability of marginalized populations.

67. Urban Commissionary areas across the State collectively accounted for 106 cases- fully one in five of all cases statewide- establishing beyond argument that this crisis is as much an urban as a

rural phenomenon. Cases were reported across all seven major Urban Commissionary areas, including Prayagraj with 22 cases, Lucknow and Ghaziabad each with 17, Varanasi with 15, Gautam Budh Nagar with 13, Agra with 12, and Kanpur Nagar with 10.

68. The remaining zones contributed as follows: the Bareilly Zone recorded 52 cases (9.9%), with Sambhal contributing 16 and Shahjahanpur 12; the Kanpur Zone recorded 37 cases (7.0%), with Kanpur Dehat contributing 13 and Etawah 6; the Agra Zone recorded 34 cases (6.5%), with Aligarh contributing 11 and Mathura and Firozabad 8 each; the Meerut Zone recorded 31 cases (5.9%), with Meerut contributing 8 and Hapur 5; the Gorakhpur Zone also recorded 31 cases (5.9%), with Bahraich contributing 15 and Gonda 6; and the Varanasi Zone recorded 23 cases (4.4%), with Ghazipur contributing 9 and Chandauli 7.

69. The most alarming finding in the entire dataset is not where cases are high- it is where they are inexplicably zero. Gorakhpur city, the largest city in eastern Uttar Pradesh, recorded zero cases despite having the highest CWC caseload in the entire State, namely 1,142 cases in 2022-23, with only 2 Support Persons. Similarly, Mau, Ballia, Sonbhadra, and Bhadohi each recorded zero cases despite significant CWC caseloads. The only credible explanations- each deeply troubling- are failure of access to justice, fear and suppression of victims and their families, or systematic non-registration of cases by local authorities.

70. The gap between institutional Child Welfare Committee caseloads and the number of cases registered across key districts reveals an acute and systemic failure of access to justice that strikes at the very foundations of the child protection framework. Gorakhpur, which recorded the highest CWC caseload in the entire State at 1,142 cases in 2022-23, reflects zero registered cases of pregnancy in unmarried child rape victims. Lucknow, with 1,632 CWC cases, accounts for only 17 such registered cases. Chandauli, with 956 CWC cases, is represented by a mere 7; Bulandshahr, with 732 cases, by only 3; while Maharajganj,

Mau, Sonbhadra, and Ballia- with CWC caseloads of 580, 245, 271, and 334 respectively- contribute absolutely zero cases despite their substantial and documented child welfare burdens. This cross-analysis establishes that the 525 cases placed before this Court represent only the most visible portion of a vastly larger crisis of child rape, institutional failure, and unremedied suffering. The true number of unmarried child rape victims who became pregnant and received no meaningful institutional support, medical care, or legal redress is immeasurably greater than the number registered with the police. What this data reveals is a deeply troubling inverse relationship between vulnerability and legal access- the districts bearing the most acute child welfare crises, the most overwhelmed Child Welfare Committees, and the most inadequate support infrastructure are precisely those where victims and their families are least able to approach the courts, least informed of their rights, and most susceptible to fear, suppression, and administrative indifference. This structural inequity demands the most urgent and far-reaching systemic intervention by this Court.

IX- FACTS AND FINDINGS EMERGING FROM THE AFFIDAVIT FILED BY THE CHAIRMAN, NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS:

71. While hearing the issues raised in the present petition and having come across several connected and incidental concerns, this Court requested the Member Secretary, National Commission for Protection of Child Rights, to furnish the Commission's comments, suggestions, and observations, with the objective of seeking its insight for arriving at a logical conclusion. The affidavit filed by the Chairman, NCPCR, sets forth the Commission's stand and sheds light on the issues involved from a multidimensional perspective.

72. The affidavit records that the NCPCR is a statutory body constituted under Section 3 of the Commissions for Protection of Child Rights Act, 2005, and is entrusted with monitoring the proper and effective implementation of the Protection of Children from Sexual

Offences Act, 2012, the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Right of Children to Free and Compulsory Education Act, 2009. It is further mandated under Section 13(1)(j) of the Commissions for Protection of Child Rights Act, 2005, to take *suo motu* cognizance of matters relating to deprivation and violation of child rights. The Commission is committed to ensuring child welfare, strengthening institutional mechanisms, promoting decentralization at the community level, and fostering greater social concern towards child rights.

73. The affidavit further records that the NCPCR has formulated training modules for Child Welfare Committees and has advised the Government of Uttar Pradesh to conduct organized training programmes, orientation courses, and capacity building programmes for the Chairpersons and Members of Child Welfare Committees. The affidavit clarifies that the role of Support Persons, as envisaged under the POCSO Rules, 2020, is crucial in ensuring the protection and care of child victims. The Hon'ble Supreme Court, vide order dated 18.08.2023, passed in ***Bachpan Bachao Andolan v. Union of India***[5], directed the NCPCR to formulate Model Guidelines with respect to Support Persons in consultation with the State Governments and Union Territories, and further directed the States and Union Territories to frame Rules based upon such Model Guidelines. It is stated that after consultative meetings and deliberations with various stakeholders, including Non-Governmental Organizations, the NCPCR was under process for finalization of the Model Guidelines at the time of filing of the said affidavit.

74. In discharge of its monitoring and implementation role under the POCSO Act, 2012, the NCPCR has developed a dedicated portal for real-time tracking of cases involving child sexual abuse victims, along with monitoring of the release of compensation and rehabilitation measures for their care and protection. The portal operates in five stages: collection of details of the child; preparation of a Social Investigation

[5] (2023) 9 SCC 133

Report containing details regarding the requirement of a Support Person, translator, and other individual needs of the child; formulation of a rehabilitation plan linked with compensation and welfare schemes; and culminating in the preparation of a comprehensive report, which is thereafter transmitted to the District Legal Services Authority for further action.

75. The affidavit further discloses that, on the POCSO Tracking Portal maintained by the NCPCR, only 129 cases from the State of Uttar Pradesh had been uploaded till the date of filing. During an inter-departmental review meeting held on 15.12.2023, the State of Uttar Pradesh informed the NCPCR that 227 Support Persons had been appointed, of whom 190 belonged to Government Departments and the remaining 37 to Non-Governmental Organizations. It is pertinent to note that this figure of 227 is significantly lower than the figure of 538 Support Persons stated in the affidavit filed by the Principal Secretary, Department of Women and Child Development- a discrepancy that itself raises serious questions regarding the reliability of the data placed before this Court.

76. The affidavit filed on behalf of the NCPCR contains several substantive suggestions. First, a child victim must mandatorily be produced before the Child Welfare Committee at the earliest opportunity and without any delay. If the Child Welfare Committee arrives at a subjective satisfaction that the child should be removed from the family or shared household, the child should be immediately placed in a shelter home, keeping in mind her best interests.

77. Second, where a child is a victim of an offence under the POCSO Act and is found to be pregnant, the provisions of Rule 6 of the POCSO Rules, 2020 shall be invoked, and the child shall be produced before a medical practitioner for counseling of the child, her parents or guardians, or the Support Person, regarding the various lawful options available under the Medical Termination of Pregnancy Act, 1971 and the Juvenile

Justice (Care and Protection of Children) Act, 2015, as amended from time to time.

78. Third, Section 19(6) of the POCSO Act mandates that the local police or the Special Juvenile Police Unit shall produce the child before the Child Welfare Committee within 24 hours of recording the report, and the Child Welfare Committee shall take immediate steps to safeguard and protect the rights of the child.

79. Fourth, in cases where the pregnancy cannot be terminated for medical or other reasons, the child victim and her family should be counselled to enable the child to carry the pregnancy in her best interest and to secure proper healthcare. The victim and her family should also be informed about welfare and rehabilitation schemes framed by the Government, as well as the adoption policy relating to the newborn child, particularly in cases where the victim is a minor and is not mentally, physically, or financially capable of caring for the child. In cases where the minor mother agrees to surrender the newborn child for adoption, she may also be apprised of the provisions of Section 7(8) of the Adoption Regulations, 2022.

80. Fifth, the Social Investigation Report and Individual Care Plan of the victim should be prepared strictly having regard to her social, psychological, and behavioural profile, along with her specific needs and requirements, and should comprehensively address all aspects related to her growth, dignity, and legal rights.

81. Sixth, a comprehensive report relating to compliance with the provisions of Section 45 of the Juvenile Justice (Care and Protection of Children) Act, 2015, benefits available under the Mission Vatsalya Scheme, other State-sponsored schemes, initiation of the process for declaring the child legally free for adoption, and the Social Investigation Report and Individual Care Plan of the victim, should be forwarded to the Special Judge, POCSO Court, with a copy to the District Magistrate for periodic supervision, ensuring effective compliance in the best interest of the victim and the newborn child, particularly in cases where

a minor victim under the POCSO Act conceives an unwanted pregnancy and gives birth to a child as a consequence of the offence committed upon her.

X- SUBMISSIONS OF THE LEARNED AMICUS CURIAE:

82. Ms. Vijeta Singh, learned *Amicus Curiae*, submitted that the victim was a minor at the time of the unfortunate incident, that both the victim and her mother were of unsound mind, and that the biological father of the victim had abandoned the family nearly ten years prior to the incident. The victim, her mother, and younger brother were being looked after by the victim's grandfather, who approached this Court seeking directions for termination of the victim's pregnancy. It was further submitted that after the FIR was registered on 11.06.2023, the victim was produced for medical examination at the Community Health Centre, Rohta, on 12.06.2023, and her statements under Sections 161 and 164 Cr.P.C. were recorded by the Additional Civil Judge (Junior Division) on 06.07.2023.

83. It was further submitted that the petitioner had submitted a request before the Chief Medical Officer, Meerut, on 05.07.2023 seeking termination of the pregnancy, but the same was not entertained. Thereafter, the petitioner filed an application before the Additional District and Special Judge (POCSO) on 19.07.2023, seeking a direction to the Chief Medical Officer, Meerut, to terminate the pregnancy. The Reader of the Court returned the said application with an endorsement directing the petitioner to approach this Court for appropriate directions. It was under these circumstances that the petitioner approached this Court.

84. It was further submitted that the Chief Medical Officer, Meerut, acted negligently in discharging the duties and responsibilities entrusted to him under the Medical Termination of Pregnancy Act, 1971, read with the relevant provisions of the POCSO Act, 2012, and the Rules framed thereunder. No Medical Board existed in compliance with the statutory requirement under Section 3(2-D) of the Medical Termination of

Pregnancy Act, 1971, and the State Government Notification dated 10.06.2004, issued for the constitution of Medical Boards in accordance with Section 4(b) of the said Act, had not been complied with by the Chief Medical Officer, Meerut.

85. It was also submitted that the Chairperson and Members of the Child Welfare Committee, Meerut, acted negligently and insensitively in the discharge of their duties and responsibilities under the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Rules framed thereunder. The Support Person attached to the victim was unprofessional and unqualified and therefore failed to understand the victim's needs and requirements during the crucial period. The entire administrative machinery- including the constitution and functioning of the Child Welfare Committee, the appointment of Support Persons, the office of the Chief Medical Officer, and the judicial officer who recorded the statement of the victim- acted in a highly irresponsible and insensitive manner, resulting in a delay of 54 days before the matter was brought before this Court.

86. The learned Amicus Curiae further submitted that the "Guidelines and Protocols: Medico-Legal Care for Survivors/Victims of Sexual Violence" issued by the Ministry of Health and Family Welfare, Government of India, had not been implemented in their true spirit by the concerned authorities, and that the Chief Medical Officer, Meerut, had not followed the circular dated 10.01.2022 issued by the National Health Mission. It was further pointed out that after the year 2003, the Medical Board at Lucknow had been reconstituted 12 times, whereas in other districts Medical Boards had been reconstituted only once or twice- in complete disregard of the mandate of the Medical Termination of Pregnancy Act, 1971.

87. The scale and magnitude of non-compliance with the provisions of the Medical Termination of Pregnancy Act, 1971, and the related provisions of the POCSO Act, 2012, and the Juvenile Justice (Care and Protection of Children) Act, 2015, are demonstrated by data indicating

that between 1st June 2016 and 3rd February 2018, out of 74 rape survivors, 23 were denied permission for termination of pregnancy by the Medical Board. Of these 23 victims, 13 were compelled to approach the Courts through human rights lawyers, even though their pregnancies were below 20 weeks.

88. It was further submitted that one of the major difficulties faced by rape victims in India is the delay in detection and reporting of pregnancy, as a result of which victims reach an advanced stage of pregnancy and are consequently subjected to severe mental agony and physical trauma. The reasons for such delay include lack of awareness, delay in reporting the offence, and inconsistent implementation of the provisions of the Medical Termination of Pregnancy Act, 1971, and the Juvenile Justice (Care and Protection of Children) Act, 2015. In many cases, the victim either does not understand or remains unaware of the pregnancy until it reaches an advanced stage. The Chief Medical Officer, the police authorities, the Chairperson and Members of the Child Welfare Committee, and the concerned judicial officers fail to discharge their duty of educating and counseling the victim of sexual assault at the earliest stage.

89. It was further contended that there exists no effective accountability mechanism to assign responsibility to Chief Medical Officers, Chairpersons and Members of the Child Welfare Committees, and other stakeholders for dereliction of duty. The need for judicial intervention by the Supreme Court in *Bachpan Bachao Andolan (supra)* to enforce the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, and the POCSO Act, 2012, itself reflects the callousness of the executive machinery and its inadequate commitment to implementing the statutory provisions. It was also submitted that welfare and rehabilitation schemes for rape victims- such as the Nirbhaya Fund, One Stop Centres established by the Ministry of Women and Child Development, the Uttar Pradesh Rani Laxmi Bai Mahila Samman Kosh Scheme, the Mission Vatsalya Scheme, 2021, and the NALSA Compensation Scheme for Women Victims/Survivors of Sexual

Assault and Other Crimes, 2018- lack effective rule-bound implementation mechanisms and fail to provide accountability against erring officers.

XI- SUGGESTIONS OF THE LEARNED AMICUS CURIAE:

90. The learned *Amicus Curiae* suggested that an additional clause be incorporated in the Medico-Legal Examination Report relating to sexual violence, recording that the victim and her guardian have been informed, counselled, and apprised of the status of the pregnancy, where the victim is found to be pregnant, and have also been informed of the provisions of the Medical Termination of Pregnancy Act, 1971, read with the relevant provisions of the POCSO Act, 2012.

91. It is further suggested that the Support Person, Chairperson, and Members of the Child Welfare Committee should make a separate endorsement in the Social Investigation Report and the Individual Care Plan of the victim regarding counseling and dissemination of information concerning the provisions of the Medical Termination of Pregnancy Act, 1971, the POCSO Act, 2012, Government compensation schemes, welfare schemes, and rehabilitation measures available to the victim. The Child Welfare Committee should, in consultation with the Medical Board constituted under the Medical Termination of Pregnancy Act, 1971, immediately decide on termination of pregnancy in cases involving minor rape victims.

92. It is further submitted that there exists a stark conflict between the protectionist approach of the Medical Termination of Pregnancy Act, 1971, and the autonomy-based approach evolved through constitutional jurisprudence. The presumption that a guardian always acts in the best interest of the minor may not hold true in cases of sexual assault. Accordingly, it is suggested that a collective and conscious decision be taken by the Chief Medical Officer, the Chairperson and Members of the Child Welfare Committee, the Support Person, and the Counselor, guided solely by the best interests of the child, particularly in cases

where the opinion of the minor pregnant victim differs from that of her guardian.

93. It is further suggested that a proper mechanism be established to ensure mandatory coordination between the police authorities, the Chief Medical Officer, and the Child Welfare Committee, so that each authority functions as part of a unified mechanism for the immediate exchange of information, the prompt transmission of medical and legal reports, and strict adherence to the time-bound procedures prescribed under the Medical Termination of Pregnancy Act, 1971, the POCSO Act, 2012, and the Juvenile Justice (Care and Protection of Children) Act, 2015. In furtherance of this objective, a Special Coordination Committee should be constituted in every district, comprising one representative from the police department, one doctor from the office of the Chief Medical Officer, one Member of the Child Welfare Committee, and one Judicial Officer, for supervision and day-to-day monitoring of such cases.

94. A dedicated Digital Case Tracking System should be created to monitor cases involving pregnancies of minor sexual assault victims in real time. It should track every stage, from FIR registration and medical examination to Medical Board constitution, submission of reports, CWC referral, and court disposal of termination applications. Officers who cause delay or fail in their duty, whether the Investigating Officer, Chief Medical Officer, or Child Welfare Committee, must face strict consequences. These should include civil and criminal prosecution, compensatory costs, and departmental action.

95. The Amicus Curiae raised an important question about the legal status of a child born as a result of sexual assault. Currently, it is unclear whether such a child qualifies as a "victim" under Section 2(wa) of the Code of Criminal Procedure, 1973, or under the POCSO Act, 2012. This gap in the law has serious consequences for the rights and protection of such children. It is therefore suggested that a separate clause be added to Section 2 of the POCSO Act, 2012, and to the relevant provisions of the

Bharatiya Nagarik Suraksha Sanhita, 2023, clearly defining the legal status of children born as a result of offences under the POCSO Act.

XII- CASES RELIED UPON BY THE LEARNED AMICUS CURIAE:

96. The learned *Amicus Curiae* has placed reliance upon the following decisions in support of the submissions advanced before this Court.

96.1 The learned *Amicus Curiae* has placed reliance upon ***Suchita Srivastava & Anr. v. Chandigarh Administration***[6] to contend that the consent of the woman is paramount in matters relating to medical termination of pregnancy, subject to limited exceptions concerning mentally ill women. It is further submitted that where divergent medical opinions exist regarding termination of pregnancy, greater weight must be accorded to the opinion of the medical practitioner. Reliance has also been placed on the proposition that denial of termination causes severe mental anguish, trauma and irreparable harm to the victim[7]. It is further argued that where the pregnancy exceeds the statutory gestational limit of 20 weeks, a Multi-Disciplinary Medical Board must be constituted to mitigate the associated risks[8]. The learned Amicus Curiae also submits that termination of pregnancy may be permitted even beyond 24 weeks in cases involving fetal abnormalities or grave risk to the life and health of the mother[9]. It is emphasized that reproductive choice is a matter of personal autonomy and that even where the guardian or the State prefers a different course of action, the wishes of the minor, if capable of forming an opinion, must receive primary consideration[10]. It is lastly submitted that the Medical Board must be constituted immediately upon the matter being reported either to the police authorities or a doctor, and that the report of the Medical Board should be furnished within 24 hours, as compelling the victim to approach the Court merely for obtaining a

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6 **(2009) 9 SCC 1**
7 **D. Rajeswari v. State of Tamil Nadu and others, (1996) SCC OnLine Mad 850**
8 **Jyotsna Singwani v. Union of India and others, (2020) SCC OnLine Del 561**
9 **Mahima Yadav v. Government of NCT of Delhi and Others, (2021) SCC OnLine Del 2828**
10 **X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and Another, (2023) 9 SCC 433**

medical opinion amounts to procedural failure on the part of the State authorities[11]

XIII- RIGHTS OF CHILDREN BORN OUT OF SEXUAL ASSAULT- AN INTERNATIONAL COMPARATIVE ANALYSIS:

97. The learned Amicus Curiae has placed before this Court a comparative analysis of the legislative frameworks adopted by several jurisdictions in addressing the rights of children born as a consequence of sexual assault.

98. In the **United Kingdom**, landmark legislation has recently been enacted explicitly recognizing the rights of such children. Section 2(b) of the *Victims and Prisoners Act, 2024*, defines "victim" to include a child born directly as a result of criminal conduct. Such children are entitled to support from criminal justice agencies and are eligible for compensation under the Criminal Injuries Compensation Scheme. The legislation further restricts the rapist-father from exercising parental responsibilities or visitation rights, thereby ensuring that neither the survivor-mother nor the child is compelled to maintain any connection with the perpetrator.

99. In **South Africa**, the issue is addressed through the framework of parental rights and succession under the *Children's Act 38 of 2005*, under which the child born of such an assault is entitled to claim maintenance from the rapist-father.

100. In the **United States of America**, a decentralized approach is followed through State-specific statutes supported by federal grants. *The Victims of Crime Act, 1984*, the California Victim Compensation Board, and the Texas Crime Victims Compensation Act recognize *"derivative victims"*- including children of direct victims- and permit them to claim compensation for counseling and support. *The Rape Survivor Child Custody Act* encourages States to permit women to seek termination of the parental rights of rapists. Most States in the United States now have *Termination of Parental Rights* statutes in cases involving conception

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[11] **Minor S (Thr. Father B) v. State and Another, (2025) SCC OnLine Del 2506**

through sexual assault, thereby preventing the rapist from seeking custody or visitation rights.

101. In **New Zealand**, a "no-fault" model is followed under the *Accident Compensation Act, 2001*, which categorizes pregnancy resulting from rape as "personal injury." The legislation entitles the victim-mother to broad compensation covering costs associated with the pregnancy and resulting mental injury. Although the child is not treated as a direct claimant for the rape injury itself, the State provides comprehensive support to the family unit.

XIV- FINDINGS OF THE COURT:

102. To take a conscious decision regarding termination of pregnancy, it must be borne in mind that a fetus ordinarily cannot be aborted once the pregnancy exceeds 24 weeks. Time, therefore, is of the essence of the entire jurisprudence governing termination of pregnancy. The significance of time becomes even more critical because the Medical Board's opinion serves as the foundational basis for deciding whether termination is medically and legally permissible. In this case, the time consumed in taking a decision regarding termination of the victim's pregnancy is therefore a critical factor and must have been carefully examined and adjudicated timely.

103. The FIR was lodged on 11.06.2023 by the grandfather of the victim, alleging that his 17-year-old granddaughter, who was mentally challenged, had remained disturbed and under stress for a considerable period, and upon being taken into confidence, disclosed that one Lalu had repeatedly subjected her to sexual assault after intoxicating her, as a consequence of which she had become pregnant. After the FIR was registered, the victim was produced before the Community Health Centre, Rohta, on 12.06.2023, where the Medical Officer prepared a Medico-Legal Examination Report recording a provisional medical opinion that the patient was approximately five to six months pregnant and advising an ultrasonography for fetal well-being. On the same date, a radiological examination conducted at the District Women's Hospital,

Meerut, confirmed that the victim was carrying a pregnancy of 22 weeks and 6 days.

104. The victim's statements under Sections 161 and 164 Cr.P.C. were recorded on 06.07.2023, wherein she categorically stated that she did not wish to continue with the pregnancy. On the same day, she was produced before the Child Welfare Committee, Meerut, which handed over her custody to her uncle with a direction that the pregnancy should not be terminated and that regular follow-up medical check-ups be continued. During this period, the victim had also approached the Chief Medical Officer, Meerut, on 05.07.2023, seeking termination of the pregnancy.

105. During the aforesaid period, none of the concerned authorities- namely, the Chief Medical Officer, the police authorities, the concerned Judicial Officer, or the Child Welfare Committee- paid due heed to the victim's request. Left with no efficacious remedy, the victim approached the Special Judge (POCSO), Meerut, who also advised her to approach this Court for appropriate directions. The writ petition was filed on 22.07.2023 and listed before this Court on 04.08.2023. Thus, from the date of registration of the FIR till 04.08.2023, a total of 54 days elapsed, during which the pregnancy advanced further and the risks associated with termination increased manifold.

106. In matters of such nature, every single day is crucial to the mental and physical well-being of the victim. Every authority through which the victim passed was headed by educated, professionally qualified persons holding responsible public offices, yet none discharged their statutory duties with the minimum degree of sensitivity, responsibility, or sincerity expected of them. It was only after this Court intervened that consequential steps were initiated, the Medical Board was constituted, and the victim was admitted to the hospital. On 12.08.2023, a baby girl was delivered through surgical intervention, and thereafter the newborn child was shifted to the Government Child Centre, Rampur, as the victim expressed her inability to raise the child in a healthy and secure environment.

107. The Medical Termination of Pregnancy Act, 1971 was enacted on 10 August 1971. It allows registered medical practitioners to terminate certain pregnancies under specified conditions. The Act was necessary because the Indian Penal Code, drafted nearly a century earlier, treated abortion as a criminal offence. Both the woman and the person performing the abortion could be punished. The only exception was where termination was necessary to save the mother's life.

108. Section 3(2-D) of the Act requires every State Government or Union Territory to constitute a Medical Board by official notification. This Board must include a gynaecologist, a paediatrician, a radiologist or sonologist, and such other members as may be notified. Section 3(2-B) of the Act further requires a Medical Board to be constituted in every district. This district-level Board is specifically meant to consider cases where termination is sought beyond 24 weeks of pregnancy.

109. The District Level Committee constituted under Section 4(b) of the Act is required to give its opinion within three days of receiving a reference. The termination procedure must then be completed within five days of that opinion. These strict timelines assume that a fully functional, properly constituted, and regularly updated committee exists in every district of the State.

110. The record furnished by the Joint Director, Directorate of Family Welfare, Lucknow, Uttar Pradesh, dated 08.11.2024, discloses a disturbing picture of administrative apathy and prolonged disregard for Parliament's mandate. The Medical Termination of Pregnancy Act came into force in 1971, yet the overwhelming majority of districts in Uttar Pradesh constituted their Medical Boards only in 2012-13- more than four decades after the Act. Only four districts constituted their Committees before 2010: Lucknow in 2003, that is, 32 years after the Act came into force; Mathura in 2004; Rampur in 2006; and Varanasi in 2011. Every other district allowed the statutory mandate to lie dormant for between 32 and 52 years.

111. The most egregious failures are those of Jhansi, Gonda, and Prayagraj, each of which constituted its Medical Board and District Level Committee only in 2023- a full 52 years after the Act came into force- meaning that for over five decades, every woman in these districts who required Committee approval for termination beyond standard gestational limits was effectively denied her statutory right and left with no option but to continue an unwanted or dangerous pregnancy, seek an unsafe illegal abortion, or undertake the burden and cost of traveling to a distant district.

112. Kaushambi, created as an independent district in 1997, constituted its Medical Baord only in 2018, meaning that for 21 years of its existence as a separate administrative unit, women in Kaushambi had no local Committee and were compelled to travel to Prayagraj- a serious and disproportionate barrier for poor and rural women. This represents a fundamental and prolonged violation of women's reproductive rights under Article 21 of the Constitution of India.

113. The record further reveals that Medical Boards were constituted 12 times in Lucknow; 4 times in Bareilly; 3 times each in Bulandshahr, Chandauli, Hapur, Mahoba, and Meerut; 2 times each in Amroha, Banda, Etawah, Firozabad, Jaunpur, Kanpur Dehat, Mathura, Moradabad, Raebareli, Rampur, Sitapur, and Unnao; whereas in the remaining 53 districts, the Medical Board was constituted only once till the year 2023.

114. Even where Medical Board were constituted, the data reveals that the vast majority have been reconstituted only once in their entire existence, rendering them almost certainly non-functional in practice. Medical Board members appointed a decade ago would have retired, been transferred, or in some cases deceased; a Medical Board that exists only on paper but cannot be convened within the mandatory three-day statutory deadline does not merely fall short of adequacy- it actively denies women their statutory rights while providing the State a paper shield against accountability.

115. One of the most revealing patterns in the data is the bulk reconstitution of over 40 District Level Committees in a single week around 18-19 October 2023, immediately preceding the filing of data before this Court in November 2023. This extraordinary convergence of administrative activity raises serious and unavoidable questions as to whether these reconstitutions were genuine exercises in compliance or paper formalities executed defensively in anticipation of judicial scrutiny, and whether the women who needed Committee approval in the months and years preceding October 2023 were served by any functional committee at all.

116. The mass reconstitution pattern strongly suggests that compliance with the Act was litigation-driven rather than institutionally internalized. Two districts- Hamirpur and Sultanpur- submitted no information whatsoever regarding Board constitution, reconstitution, or current status, raising the serious possibility that no Medical Board has ever been constituted in these districts. Additionally, three districts- Azamgarh, Ballia, and Maharajganj- have document integrity issues, with entries marked "not clear" or "without sign," rendering the data legally unreliable and raising questions about the authenticity of the affidavit material filed before this Court.

117. The affidavit filed by the Chairman of the Child Welfare Committee, Meerut, a former member of the district judiciary of Uttar Pradesh, reveals an equally disturbing state of affairs. Despite categorical averments in the FIR and in the statements recorded under Sections 161 and 164 Cr.P.C. that the victim was mentally challenged and unwilling to continue with the pregnancy, the Chairman sought to justify the Committee's inaction on the ground that neither the doctor, nor the Magistrate, nor the Investigating Officer had formally described the victim as mentally disabled.

118. The Committee had the benefit of all relevant records before passing its order dated 06.07.2023, including the FIR, statements under Sections 161 and 164 Cr.P.C., the Medical Examination Report, and the

Ossification Test Report, yet no effective or meaningful step appears to have been taken in the victim's best interest. The Chairman further sought to shift responsibility onto the police authorities, the Chief Medical Officer, and the Magistrate, without appreciating that he himself occupied a position of statutory responsibility alongside other members with expertise in their respective fields. Such an approach, particularly from a former judicial officer appointed as Chairman by a Committee headed by a former Judge of the High Court, is wholly unsatisfactory. The record further reveals that the Committee failed to enquire as to why the victim was produced before it nearly 25 days after registration of the FIR, despite the fact that she was carrying an advanced and unwanted pregnancy resulting from a sexual offence.

119. The data pertaining to Support Persons appointed under the POCSO Act, 2012, and the Juvenile Justice (Care and Protection of Children) Act, 2015, across Uttar Pradesh over the last five years reveals a picture of gross inadequacy and wide district-wise disparity. Under Section 39 of the POCSO Act, 2012, the State Government is required to make arrangements for providing Support Persons to child victims to assist them through the process of investigation and trial.

120. Under the Juvenile Justice (Care and Protection of Children) Act, 2015, Support Persons are similarly mandated to assist children in need of care and protection appearing before Child Welfare Committees. Despite a nominal rise in numbers- from 54 Support Persons in 2018-19 to 538 in 2022-23- the position remains wholly inadequate. In 2022-23, 538 Support Persons were available across 75 districts, averaging barely seven per district, against a total of 2,740 assigned cases, yielding an average of over five cases per Support Person simultaneously. In 2018-19, each of the then-existing 54 Support Persons bore an average burden of over 275 cases. In 2018-19 and 2019-20, more than 20 districts had zero Support Persons, representing a complete failure of the statutory mandate for at least two full years across a majority of districts.

121. The district-wise data for 2022-23 reveals extreme case overload in several districts. Firozabad recorded only 2 Support Persons for 213 assigned cases, yielding over 106 cases per Support Person, the most egregious instance in the State. Meerut recorded 4 Support Persons for 392 cases, yielding 98 cases per Support Person. Gautam Budh Nagar recorded 3 Support Persons for 273 cases, and Etawah recorded 2 Support Persons for 152 cases. At the other extreme, Auraiya district had 48 cases with zero Support Persons, meaning every child victim in the district received no statutory support whatsoever. Similarly, Rampur and Hamirpur recorded zero Support Persons with no cases registered- raising the question of whether the absence of Support Persons itself contributed to the absence of case registration.

122. A severe and irrational district-wise disparity is also evident: Saharanpur recorded 252 Support Persons for 252 cases, and Muzaffarnagar recorded 68 Support Persons for 68 cases, both anomalously equal figures that suggest possible data entry error or administrative irregularity- while neighbouring Meerut had only 4 Support Persons for 392 cases. Districts such as Jalaun, Ambedkar Nagar, and Deoria each recorded 2 Support Persons against zero registered cases, suggesting either systematic non-registration of cases or complete administrative failure in those districts.

123. Upon consideration of the documents and affidavits furnished by the Chief Medical Officer, the Child Welfare Committee, the District Probation Officer, the Principal Secretary, Department of Women and Child Development, and the Principal Secretary, Medical Health and Family Welfare, this Court is constrained to observe that the entire system appears to function more on paper than in actual implementation. Government departments possess notifications, schemes, programmes, and statutory frameworks, yet the practical implementation of such measures- particularly in matters relating to unwanted pregnancies arising from sexual offences and child care mechanisms- remains grossly inadequate.

124. The affidavit filed by the Chairman, NCPCR, has highlighted that under Section 19(6) of the POCSO Act, 2012, the local police or the Special Juvenile Police Unit is under a statutory obligation to report every case of sexual offence against a child to the Child Welfare Committee within 24 hours of receiving information, whereafter the Child Welfare Committee is required to take immediate measures to safeguard the child and pass appropriate orders in the child's best interest. The POCSO Tracking Portal maintained by the NCPCR further reveals that only 129 cases have been registered from the State of Uttar Pradesh, thereby raising serious concerns about reporting mechanisms, institutional coordination, and implementation capacity at the State level.

125. While enacting the Medical Termination of Pregnancy Act, 1971, Parliament consciously granted statutory protection to registered medical practitioners for acts done in good faith under the Act. Despite such protection, the record reflects persistent reluctance and non-compliance on the part of the authorities entrusted with implementing the Act, particularly at the district level. The Principal Secretary, Medical Health and Family Welfare, has stated in the affidavit filed before this Court that approximately 1,200 doctors have been trained by the Ipas Development Foundation under the tripartite Memorandum of Understanding. However, when admittedly no Medical Board existed till 2013 and, thereafter, in the majority of districts the Boards were constituted only once over a prolonged period, the authenticity and reliability of the statistical data furnished regarding district-wise details of unmarried rape victims produced before Medical Boards since 2013 becomes doubtful.

126. The present matter is, unfortunately, not an isolated instance. This Court regularly encounters cases where the intervention of the High Court or the Supreme Court becomes necessary in matters relating to termination of pregnancy arising out of sexual assault. By the time such matters reach the constitutional courts, the pregnancy has often advanced to a critical stage, making it increasingly difficult for medical experts to take a considered decision regarding termination after assessing the health risks to both the victim and the fetus.

127. The Supreme Court has delivered a series of judgments on the subject, and the High Courts have repeatedly issued directions for the timely constitution of Medical Boards and for taking necessary steps in the best interests of victims. Despite such judicial pronouncements, the material on record demonstrates a persistent failure on the part of the State machinery to effectively implement the provisions enacted by Parliament, the directions issued by constitutional courts, and the notifications issued by the State Government from time to time. The plight of child victims in such cases reflects deep institutional insensitivity. This Court records these findings with considerable anguish, but the facts brought on record leave no option except to place them on the judicial record and issue necessary directions, in the hope that the institutional authorities may discharge their statutory duties with greater responsibility, sensitivity, and accountability in the future.

128. Questions relating to reproductive rights, bodily autonomy, and abortion jurisprudence have consistently engaged constitutional courts across jurisdictions, lying at the intersection of constitutional guarantees, ethical considerations, societal values, and medical jurisprudence. While extensive judicial discourse exists concerning the reproductive rights of women, the independent legal status and rights of a child born as a consequence of sexual assault have not yet received comprehensive legislative recognition in India.

129. Section 2(1)(y) of the Bharatiya Nagarik Suraksha Sanhita, 2023, defines a "victim" as a person who has suffered any loss or injury caused by reason of the act or omission of the accused person, and includes the guardian or legal heirs of such victim. However, the said definition may not adequately address the independent legal status of a child born as a consequence of sexual assault. Such a child cannot merely be treated as an extension of the victim-mother for the purpose of legal remedies, as both constitute distinct individuals possessing separate legal identities and interests. Comparative jurisprudence from the United Kingdom, New Zealand, and the United States reflects an evolving recognition of the rights of such children.

130. A Division Bench of this Court in ***"A" through her Father "F" v. State of U.P. and Others***[12], while dealing with similar issues, requested the State Government to undertake a socio-psychological study concerning the incidence of rape, children born out of rape, abandoned children, the trauma suffered by victims, rehabilitation measures, and related ancillary issues. More than a decade has elapsed since those observations, yet no material has been placed before this Court to indicate that any such comprehensive study has been conducted either by the Principal Secretary, Medical Health and Family Welfare, Uttar Pradesh, or by the Principal Secretary, Department of Women and Child Development, Government of Uttar Pradesh. Conducting empirical research and collecting reliable data in matters of such grave social significance would assist the State in framing informed and effective policies and institutional responses.

131. The Constitution of India vests the High Courts with extensive constitutional powers to ensure the effective administration of justice and preservation of the rule of law. Among these powers, Articles 226 and 227 occupy a central position in maintaining constitutional governance, judicial discipline, and institutional accountability.

132. In appropriate circumstances, a constitutional court may invoke Article 227 through its writ jurisdiction under Article 226, to issue guidelines or directions to the State Government where a legal, procedural, or administrative vacuum threatens the proper administration of justice. When Articles 226 and 227 are read harmoniously, the High Court possesses sufficient constitutional authority to issue interim, supplemental, or gap-filling guidelines in situations where statutory silence or executive inaction impedes the administration of justice. Such directions may legitimately be issued where there exists a statutory vacuum affecting judicial administration, or where executive action is required for implementation of judicial mandates. Initially, this Court had contemplated issuing recommendations to the State authorities. However, upon considering the observations made by the Division

[12] **2015 SCC OnLine All 4735**

Bench in *"A" through her Father "F" v. State of U.P. and Others (supra)* and having regard to the facts brought on record in the present matter, this Court deems it appropriate to issue structured directions coupled with recommendations.

XV- GENERAL DIRECTIONS TO THE FIELD OFFICERS:

133. In all cases where a victim of rape or sexual assault is found to be pregnant, the victim shall, without loss of even a single day, be produced before the concerned Chief Medical Officer along with the report prepared under Section 27 of the POCSO Act, 2012, statements recorded under Sections 180 and 184 of the Bharatiya Nagarik Suraksha Sanhita, 2023, a copy of the FIR, the Medico-Legal Examination Report of Sexual Violence, and such other relevant documents as may be necessary to assess the physical and mental condition of the victim and to enable an informed decision regarding termination of pregnancy.

133.1 In cases where the victim is a minor and unmarried, the concerned Station House Officer shall immediately inform the Senior Superintendent of Police or the Commissioner of Police, as the case may be, who shall ensure that the victim is produced before all concerned authorities in accordance with the requirements of the Medical Termination of Pregnancy Act, 1971, and the POCSO Act, 2012. The concerned Station House Officer shall also record in the General Diary maintained at the police station all steps taken by the police authorities in this regard.

134. If the Chief Medical Officer, or the Chairman of the Child Welfare Committee, fails to attend to the victim or to take the necessary action, such refusal or omission shall also be recorded in the General Diary maintained at the concerned police station. The concerned Station House Officer shall, upon making such an entry, immediately transmit a copy thereof to the Senior Superintendent of Police and the District Magistrate, who shall take immediate corrective action and record the same in writing within 24 hours of receipt of such information.

135. The concerned Station House Officer shall record in the General Diary the departure and arrival entries of the police personnel deputed to escort the victim for production before the Chief Medical Officer, the Child Welfare Committee, and the jurisdictional Magistrate. The Circle Officer concerned shall countersign such entries on the same day, and the entries shall further be reviewed and countersigned fortnightly by the concerned Senior Superintendent of Police. The Senior Superintendent of Police shall submit a monthly compliance report to the Director General of Police, Uttar Pradesh, consolidating the entries so made across all police stations in the district, for the purpose of centralized monitoring of compliance with these directions.

136. The Chief Medical Officer shall record, on the medical report itself, a certification that the Medical Board has duly counselled the victim and her parent(s) or guardian(s) regarding the provisions of the Medical Termination of Pregnancy Act, 1971, and the medical, legal, and psychological implications arising therefrom. If the victim is of tender age, counselling sessions shall be repeated as may be necessary to ensure meaningful comprehension. The Medical Board shall also record, in Form F, the specific reasons for approval or rejection of an application for termination of pregnancy, in sufficient detail to enable judicial review, and a copy of Form F shall be forwarded to the Secretary, District Legal Services Authority, on the same day as it is prepared.

137. The Chairman of the Child Welfare Committee shall specifically record, in every order or report prepared under Sections 30, 31, 36, 37, 39, and 40 of the Juvenile Justice (Care and Protection of Children) Act, 2015, that the relevant provisions of the Medical Termination of Pregnancy Act, 1971, the POCSO Act, 2012, and the Juvenile Justice (Care and Protection of Children) Act, 2015, relating to termination of pregnancy, rehabilitation measures, compensation schemes, and their consequences, have been duly explained to the victim and her guardian(s) in simple and comprehensible language. The Child Welfare Committee shall further record whether the victim has been informed of

her right to approach the District Legal Services Authority for free legal aid and representation, and whether such aid has been arranged.

138. The Support Person appointed in such cases shall maintain regular contact with the victim and shall visit her at least once every week to provide necessary assistance, counseling, and support. A weekly contact report shall be prepared by the Support Person and submitted to the Chairman of the Child Welfare Committee and to the Secretary, District Legal Services Authority, within two days of each visit. In the event that the Support Person fails to maintain such contact or submit such reports, the Chairman of the Child Welfare Committee shall immediately bring the matter to the notice of the District Probation Officer and the District Magistrate for remedial action, including replacement of the Support Person.

139. The Principal Secretary, Medical Health and Family Welfare, Government of Uttar Pradesh, shall ensure that every district in the State has a duly constituted and functional Medical Board in accordance with Section 3(2-B) and the related provisions of the Medical Termination of Pregnancy Act, 1971. Monthly reports shall be called for from each district regarding the functioning of such Medical Boards, and continuous supervision shall be ensured so that the Medical Boards discharge their duties in letter and spirit. In particular, the Principal Secretary shall ensure that no Medical Board remains without reconstitution for a period exceeding one year, and shall maintain a centralized register of the constitution, reconstitution, and current membership of Medical Boards across all 75 districts of Uttar Pradesh, which shall be updated on a quarterly basis and made available to the Secretary, District Legal Services Authority, of the concerned district.

140. The Principal Secretary, Department of Women and Child Development, Government of Uttar Pradesh, shall ensure that all Child Welfare Committees function strictly in accordance with Government Notifications, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Rules framed thereunder. Proper

supervision shall be exercised over the functioning of the Child Welfare Committees and all authorities engaged in implementing the statutory framework for child protection and rehabilitation. The Principal Secretary shall ensure that no district is left without the requisite number of Support Persons as mandated under Section 39 of the POCSO Act, 2012, and shall maintain such record, within three months from the date of receipt of a certified copy of this order. A district-wise action plan for achieving an adequate Support Person-to-case ratio across all 75 districts of Uttar Pradesh, having regard to the case burden data shall be prepared and maintained for future reference and record.

141. The Principal Secretary, Department of Women and Child Development, shall, in coordination with the National Commission for Protection of Child Rights, conduct regular training and sensitization programmes for Chairpersons and Members of Child Welfare Committees, Support Persons, District Probation Officers, and all stakeholders involved in the implementation of the POCSO Act, 2012, the Medical Termination of Pregnancy Act, 1971, and the Juvenile Justice (Care and Protection of Children) Act, 2015. Such training programmes shall be conducted at least twice a year in every district, and attendance records and outcomes shall be reported to the Principal Secretary and to the NCPCR on a half-yearly basis.

142. The Chairman of the Child Welfare Committee and the Chief Medical Officer shall ensure that all proceedings conducted by the Child Welfare Committee and the Medical Board in such cases are forwarded to the Secretary, District Legal Services Authority, for supervision and monitoring of compliance. The Secretary, District Legal Services Authority, shall maintain a separate record on a case-by-case basis for monitoring, supervision, and future reference. A copy of all proceedings shall also be forwarded to the concerned District Magistrate for supervision, record-keeping, guidance, and necessary administrative oversight. The Secretary, District Legal Services Authority, shall convene a monthly review meeting with the Chief Medical Officer, the Chairman of the Child Welfare Committee, the District Probation

Officer, and one Senior Police Officer of the district, to monitor the status of all pending cases involving minor rape victims who are pregnant or have delivered, and shall submit a monthly report to the Member Secretary, State Legal Services Authority, Uttar Pradesh, for onward transmission to the Principal Secretary, Medical Health and Family Welfare, and the Principal Secretary, Department of Women and Child Development for their record and reference.

XVI- DIRECTIONS FOR THE STATE:

143. The State Government is directed to undertake a comprehensive socio-psychological study, based upon an appropriate survey, concerning the number of rape cases; the number of children born as a consequence of rape; the number of abandoned children; the psychological condition and responses of victims; mechanisms required to address the trauma suffered by victims; the expectations of victims regarding rehabilitation; and all related and ancillary issues. Accordingly, the **Chief Secretary, Uttar Pradesh**, is hereby directed to constitute an **Expert Committee** comprising academicians, research scholars, data scientists, policy experts, bureaucrats, and doctors.

143.1 The Expert Committee shall also undertake visits to Child Care Institutions run by both Governmental and Non-Governmental Organizations, CWC, and other academic institutions as may be deemed necessary to achieve the object, to examine the impact of bureaucratic procedures and administrative rigidity upon the implementation of welfare schemes, statutory provisions, rules, regulations, and institutional mechanisms, besides constant in allocation and availability of funds. The State Government shall issue a notification constituting such Expert Committee within a period of three months from the date of receipt of a certified copy of this order. Assistance from Indian Institutes of Management and Indian Institutes of Technology may also be sought to achieve the desired objective. The Expert Committee shall submit its preliminary report within six months of its constitution and a final report

within twelve months thereof, and such reports shall be placed before the Chief Secretary for consideration.

144. The State Government shall further examine and evolve an institutional mechanism to fix accountability for failure to adhere to the statutory obligations under the POCSO Act, 2012, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Medical Termination of Pregnancy Act, 1971, Government Notifications, and welfare schemes framed for victims and children. Such exercise shall specifically examine lapses attributable to the Chief Medical Officer, Members of the Child Welfare Committee, District Probation Officers, and Superintendents of Child Care Institutions. The dignity and rights of children born as a consequence of sexual assault, as well as the rights of victims of such offences, require meaningful institutional protection through effective implementation of the statutory framework and accountable governance. The State Government shall, within twelve months months from the date of receipt of a certified copy of this order, send a draft accountability framework, including proposed amendments to service rules or Government Orders, establishing clear timelines for action, consequences for dereliction, and a designated authority for receiving and acting upon complaints of non-compliance, the Registrar General of this Court, who shall in turn place the said accountability framework in the record of this case.

145. The Principal Secretary, Medical Health and Family Welfare, Uttar Pradesh, shall ensure that every district has a functional Medical Board as mandated under Section 3(2-D) of the Medical Termination of Pregnancy Act, 1971.

146. Until the State Government formulates a structured and effective accountability mechanism as directed above, the ***Member Secretary, DLSA at State Level and In-charge, District Legal Services Authority,*** of each district shall supervise the functioning of the Child Welfare Committee and the Chief Medical Officer, insofar as the constitution of the Medical Board, compliance with the terms of this order, and

compliance with the orders passed by the Supreme Court of India are concerned.

146.1 Any party aggrieved by the conduct of the Chairman or a Member of the Child Welfare Committee, or of the Chief Medical Officer, may approach the ***In-charge, District Legal Services Authority***, of the concerned district. The In-charge, District Legal Services Authority, after affording the concerned officer or member an opportunity of being heard, and upon being satisfied that there has been negligence, dereliction of duty, non-compliance with Section 3(2-D) of the Medical Termination of Pregnancy Act, 1971, or non-adherence to the relevant provisions of the POCSO Act, 2012, the Juvenile Justice (Care and Protection of Children) Act, 2015, or the terms of this order, shall immediately write to the Principal Secretary, Medical Health and Family Welfare, and the Principal Secretary, Department of Women and Child Development, Government of Uttar Pradesh, with a copy to the Chief Secretary, Uttar Pradesh, recommending that immediate steps be taken to relieve the Chief Medical Officer from his official duties.

146.2 Where justified, the In-charge, District Legal Services Authority, may also recommend attachment of one month's salary of the Chief Medical Officer for utilization towards the welfare of the victim(s), and the initiation of a departmental inquiry. The In-charge, District Legal Services Authority, may, in its discretion, write to the police to initiate a criminal investigation under the relevant provisions of Chapters XII and XIII of the Bharatiya Nagarik Suraksha Sanhita, 2023. In cases involving the Chairman or a Member of the Child Welfare Committee, the In-charge, District Legal Services Authority, shall write to the Additional Chief Secretary (Home) with a copy to the concerned District Magistrate, recommending that the pecuniary benefits of the defaulting Chairman or Member be withheld or stopped, as the case may be.

146.3 The In-charge, District Legal Services Authority, shall conduct monthly visits to and inspections of the records of the Medical Board

and the proceedings of the Child Welfare Committee, and shall record its findings in a register maintained for this purpose in its office.

XVII- OBJECTIVE AND REASONS FOR RECOMMENDING THE ENACTMENT OF A NEW STATE LEGISLATION:

147. A child born as a consequence of rape, especially in cases involving a minor unmarried girl, must never be viewed through the lens of stigma, shame, or social prejudice. The circumstances of birth are not the choice of the child, and therefore no moral, social, or legal dishonour can ever attach to that life. A civilized and justice-oriented society must recognize that every child is born with equal dignity, equal humanity, and equal constitutional protection. Neither social customs nor personal prejudices can diminish the intrinsic value of a human life. The child of a minor rape survivor is not a symbol of dishonour; rather, the true dishonour lies in the violence, exploitation, and injustice inflicted upon the victim. The responsibility of the State and society is therefore not to condemn or exclude, but to protect, nurture, and uphold the rights of both the survivor and the child.

148. Justice requires compassion guided by constitutional morality. A child cannot inherit stigma from a crime committed by another person. To deny such a child respect, identity, opportunity, or dignity would amount to punishing an innocent human being for an act over which the child had no control. The State must therefore ensure equal protection, social acceptance, education, healthcare, and a life of dignity for every such child, affirming that human worth is determined not by the circumstances of birth but by the equal humanity shared by all.

149. Human civilization has attained extraordinary advancement in science, philosophy, law, and governance, yet it remains entirely beyond human capacity to determine the destiny, character, or moral worth of a child- whether before birth, at the moment of birth, or by reason of the circumstances that led to the birth. History bears witness to the fact that individuals who later transformed society and brought new dimensions to statesmanship- among them Chandragupta Maurya, founder of the

Maurya dynasty, and numerous figures from religious and mythological traditions whose lives have shaped the ethical consciousness of generations- were once children whose future greatness no one could have foreseen.

150. Even in royal lineages, no person could accurately predict whether a child would emerge as a wise and compassionate sovereign, a great emperor, or otherwise. Human character is not predetermined by birth, lineage, social status, legitimacy, or the circumstances surrounding conception; it is shaped by values, education, opportunity, and the choices made throughout life. If the circumstances of birth, or the conditions that led to it, were permitted to define the worth and dignity of a human being, civilization would stand in judgment of the innocent- a proposition wholly incompatible with constitutional morality, natural justice, and the foundational values of a humane society.

151. This principle acquires even greater significance in cases involving children born as a consequence of sexual violence. A child born to a minor unmarried girl as a result of rape carries no guilt, stigma, or dishonour. The crime belongs solely to the perpetrator, and no moral or social burden can justly be transferred to an innocent child. To attach shame or discrimination to such a child would be contrary to the principles of humanity, constitutional morality, and natural justice. The foundation of a just and civilized society must therefore rest upon the recognition that every child, irrespective of the circumstances of birth, possesses inherent dignity, equal humanity, and an equal right to life, identity, respect, and opportunity. The State, as the guardian of constitutional values and social justice, bears a solemn duty to protect both the survivor and the child from discrimination, exclusion, and indignity. Justice demands not condemnation but compassion; not stigma but protection; and not prejudice but equal treatment under law.

152. At present, there is no specific legislation in India comprehensively addressing the independent rights, status, protections, and entitlements of a child born to a minor- whether married or

unmarried- as a direct consequence of sexual assault or rape, including offences committed in detention or custodial situations. ***It is recommended that the State Government examine the need for a separate legal framework to protect the independent rights of a child born to an unmarried minor as a result of sexual assault. While framing such a framework, the State Government may, if it considers appropriate, take into account the findings and recommendations of the Expert Committee constituted under this order.***

XVIII- FURTHER RECOMMENDATIONS:

153. The National Medical Commission and the Uttar Pradesh Medical Council should hold detailed discussions on whether a separate chapter on medical jurisprudence should be added to the curriculum of medical colleges. This would help achieve the objectives of the National Medical Commission Act, 2019. Such discussions should also consider how medical professionals can be given adequate legal knowledge and how their understanding of medico-legal obligations can be strengthened.

154. The concerned authorities should also examine whether the capacity of medical professionals needs to be improved in the following areas. First, a better understanding of forensic science. Second, basic principles of the law of evidence, particularly regarding the admissibility and evidentiary value of medico-legal opinions and related documents. Third, the provisions of the Medical Termination of Pregnancy Act, 1971, and other related laws. Fourth, the study of landmark judgments of Constitutional Courts on medical jurisprudence, including guidelines issued by those Courts.

155. To achieve these objectives, medical colleges may consider making it mandatory to engage a jurist, a practicing advocate, or a former Judge to deliver guest lectures or serve as permanent faculty for teaching medical jurisprudence.

XIX- DIRECTIONS FOR CIRCULATION AND IMPLEMENTATION:

156. The Registrar (Compliance) is directed to transmit a certified copy of this order to the following authorities for information, circulation, and

compliance: **(i)** The Chief Secretary, Government of Uttar Pradesh, **(ii)** The Chairman, National Commission for Protection of Child Rights; **(iii)** The Secretary, Ministry of Women and Child Development, Government of India for information, and necessary action; **(iv)** The Additional Chief Secretary (Home), Uttar Pradesh, for sensitizing District Magistrates and Chairpersons of Child Welfare Committees; **(v)** The Principal Secretary, Department of Women and Child Development, Government of Uttar Pradesh; **(vi)** The Principal Secretary, Medical Health and Family Welfare, Uttar Pradesh, who shall further circulate the same to all Chief Medical Officers of the State; and **(vii)** The Director General of Police, Uttar Pradesh, for issuing appropriate circulars to officers of the respective departments and for ensuring that Senior Superintendents of Police across the State secure compliance with the directions contained in this order.

157. All the District Judges shall discuss this order in a weekly and monthly judicial meetings and sensitize the Magistrates and Judges of their judgeship regarding its contents and the obligations arising therefrom.

158. The Director, Judicial Training and Research Institute, Lucknow immediately upon receipt of a certified copy of this order, shall prepare study material on the subject and shall thereafter convene regular meetings and workshops for Member Secretary, Legal Services Authority, and all In-charge District Legal Services Authorities across the State, for the purpose of sensitizing and educating them regarding this order and the relevant orders of the Supreme Court. Such meetings shall be convened at least once every six months. A report of each such meeting, together with a list of participants and topics covered, shall be kept by the Director, JTRI for record and future reference.

159. A copy of this order shall also be forwarded to the National Medical Commission and the Uttar Pradesh Medical Council, for deliberation on the necessity and desirability of incorporating a separate chapter on statutory provisions related to medical jurisprudence in the

curriculum of medical colleges, so as to further the objectives of the National Medical Commission Act, 2019.

160. The National Medical Commission and the Uttar Pradesh Medical Council shall submit their response and deliberations on these recommendations to the Registrar General of this Court within six months from the date of receipt of this order, who shall keep the response with the record of this case.

161. No further order on merits is required, inasmuch as the grievances raised by the petitioner stood substantially redressed pursuant to the order dated 04.08.2023. Accordingly, the petition stands disposed of in the above terms.

162. This Court places on record its sincere appreciation for the invaluable assistance rendered by Ms. Vijeta Singh, learned *Amicus Curiae,* whose diligent efforts, sustained engagement, and thoughtful submissions throughout the proceedings have been of considerable assistance to this Court in adjudicating the complex issues arising in the present matter. The Court also acknowledges with appreciation the contributions of Ms. Pratima Vishwakarma, learned Advocate, and Mr. Jatin Rana, Research Associate attached to this Court, whose dedicated research and scholarly inputs have materially enriched the Court's consideration of the legal, statutory, and constitutional questions involved herein.

163. The Registrar General is directed to ensure that all case records are properly scanned and preserved for future reference. This includes affidavits filed by the Chairman, Child Welfare Committee, Meerut; Chief Medical Officer, Meerut; Senior Superintendent of Police, Meerut; Principal Secretary, Department of Women and Child Development; Principal Secretary, Medical Health and Family Welfare; Director General of Police, Uttar Pradesh; and Chairman, NCPCR. It also includes the affidavit of the learned Amicus Curiae, any reports submitted in compliance with earlier orders of this Court, and any affidavits that may be filed in compliance with this order.

164. The judgment opens with the judicial maxim of Vaughan C.J. in *Thomas v. Sorrell* (1677) to reflect upon a troubling reality. Despite a comprehensive legal framework enacted by Parliament over several decades, its implementation on the ground has remained deeply inadequate.

165. I conclude with concern that Parliament enacted the Medical Termination of Pregnancy Act in 1971 to regulate and permit termination of pregnancies under specified conditions. The Medical Termination of Pregnancy Rules and Regulations were subsequently framed in 2003 to provide a detailed procedural framework for implementation of the Act. The Protection of Children from Sexual Offences Act was enacted in 2012 to provide stringent protection to children against sexual abuse and exploitation.

166. In the field of juvenile justice, the Children Act, 1960 was the first central legislation in independent India dealing with the welfare of children and juveniles. It was replaced by the Juvenile Justice Act, 1986, which was enacted to bring Indian law in line with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules, adopted in 1985. However, after India ratified the United Nations Convention on the Rights of the Child in 1992, the 1986 Act was found to be inadequate. It was replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000, which adopted a child-friendly approach, shifting the focus from punishment to reformation and rehabilitation. It established Juvenile Justice Boards for children in conflict with the law and Child Welfare Committees for children in need of care and protection. The Act was amended in 2006 and 2011 to address gaps in implementation, and was finally replaced by the more comprehensive Juvenile Justice (Care and Protection of Children) Act, 2015, which introduced the significant provision of trying certain juveniles as adults for heinous offences.

167. Notwithstanding this extensive legislative framework built over more than five decades, the facts of the present case reveal that the law,

in practice, has remained largely unimplemented. It is this gap between the law on paper and its reality on the ground that the opening maxim seeks to highlight.

168. In a country as vast and diverse as India, minor unmarried girls from remote villages who are victims of sexual assault are compelled to approach multiple authorities, including the police, hospitals, Child Welfare Committees, and courts, merely to enforce a right that the law already provides. Most of these girls belong to poor, illiterate, and socially marginalized families. They have no access to legal aid or informed guidance. By the time their cases reach a court, (it is noticed that such cases, in routine, reach up to the Supreme Court) weeks and months have been lost. In many cases, the pregnancy has already crossed the permissible limit for termination, not because the law was inadequate, but because the authorities entrusted with its implementation failed to discharge their statutory obligations in time.

169. In this background, a question of fundamental importance arises. Who bears responsibility for this failure? The answer is unambiguous. Neither the minor victim nor the child born as a consequence of such assault. The responsibility rests entirely with the State and its officers, who were under a clear and non-negotiable legal duty to act promptly and effectively. Every officer who delayed, every authority that remained inactive, and every institution that failed to function as mandated by law must be held accountable. The law casts this obligation without exception, and its breach cannot be excused on any ground.

May 29, 2026
Anil K. Sharma

(Vinod Diwakar, J.)