

MANU/DE/6644/2024

Equivalent/Neutral Citation: 2024:DHC:7366-DB

IN THE HIGH COURT OF DELHI

W.P. (C) 4827/2024

Decided On: 24.09.2024

Abhishek Yadav **Vs.** Delhi State Legal Services Authority and Ors.

Hon'ble Judges/Coram:

Rajiv Shakdher and Amit Bansal, JJ.

Counsels:

For Appellant/Petitioner/Plaintiff: Mansi Sood, Nimisha Menon and Ragini Nagpal, Advocates

For Respondents/Defendant: Amit George, Adhishwar Suri, Ibansara Syiemlieh, Arkaneil Bhaumik, Advocates, Satyakam, ASC, Pradyut Kashyap, Advocate, Aditi Mohan and Puru Lekhi, Advocates

Case Category:

LETTER PETITION AND PIL MATTER

DECISION

Rajiv Shakdher, J.

1. Although the instant petition is framed as a Public Interest Litigation Action [hereafter referred to as "PIL Action"], it is not adversarial, something that learned counsel appearing on behalf of the respondents acknowledge.

2. The petitioner claims to be a social worker who has acquired more than three years of experience as a support person for survivors under the Protection of Children from Sexual Offences Act, 2012 [hereafter referred to as the "POCSO Act"]. The petitioner claims that he has often accompanied child survivors and their families to various District Legal Services Authority [DLSA] offices to assist them in navigating through the documentation and other procedural hiccups that come in the way of timely receipt of compensation.

3. These experiences have propelled the petitioner to file the instant writ action in public zeal.

4. During the hearing, we realized the present writ action has two parts.

4.1. The first part concerns shedding light and enhancing awareness of victims concerning their right to receive compensation.

4.2. The second part involves examining suggestions made by the petitioner to improve the process for disbursement of compensation, both interim and final, under the regime put in place, i.e., the POCSO Act and the Delhi Victim Compensation Scheme, 2018 [hereafter referred to as "2018 Scheme"] concerning child survivors of sexual abuse.

5. In this regard, the hearings were more in the form of deliberations between learned

counsel for the petitioner, i.e., Ms. Mansi Sood and learned counsel for the respondents, i.e., Dr Amit George, learned counsel, who appeared on behalf of the Delhi State Legal Services Authority [DSLISA]; Ms. Aditi Mohan, learned counsel, who appeared for the Delhi High Court and Mr. Satyakam, learned counsel, who appeared on behalf of the Delhi Police.

6. We examined the suggestions made against the backdrop of the 2020 Standard Operating Procedure [SOP]. We are consciously not referring to the Delhi Victim Compensation Scheme, which was framed in 2011 and 2015, as it has been overtaken by the POCSO Act and the 2018 Scheme.

7. As indicated above, the part relating to making the child sexual abuse survivors aware of their right to receive compensation was crystalized in our order dated 01.08.2024. For convenience, the relevant part of the said order, which encapsulates awareness SOP, is set forth hereafter:

"1. Front Offices: District Legal Service Authorities (DLSAs) will set up a Front Office in a conspicuous place, preferably at the main entrance of the concerned court complex

2. Help Desks:

(i) The Advocate and the Paralegal Volunteer (PLV) assigned duty at the Front Office shall be members of the Victim Compensation Help Desk at the Front Office of each DLSA. They shall interact with the victim(s) and resolve their queries regarding victim compensation while maintaining privacy and confidentiality, as required under the law.

(ii) If the victim or her/his family member requires or desires it, PLVs shall accompany her/him to the designated courtroom to render assistance in moving an application for interim or final compensation or to inquire about the status concerning its disposal, and/or to respective DLSAs for obtaining information regarding the status of disbursement of compensation as well as availing of free legal aid.

(iii) Whenever required, the PLVs would assist victims in availing the services of the counsellor appointed by DSLISA for each DLSA.

3. Nodal Officer: The dealing official in every DLSA handling victim compensation matters shall be designated as the Nodal Officer to deal with any information/query of the victim regarding victim compensation. The Advocates and the PLVs manning the Victim Compensation Help Desk shall consult the Nodal Officer, if required, to provide the necessary information/assistance to the victim(s) regarding their compensation matters.

4. Training and Sensitization: The Advocates as well as PLVs manning the Victim Compensation Help Desk shall be trained, sensitized, and onboarded concerning issues arising from, but not limited to, the provisions of 'The Protection Of Children From Sexual Offences Act, 2012' ["POCSO Act"], 'the Protection of Children from Sexual Offences Rules, 2020' ["POCSO Rules"], and the Delhi Victims Compensation Scheme, 2018 ["2018 scheme"] by the concerned Secretary, DLSA, or his nominees [including domain experts] by the 30th of every month, concerning the duties allocated to them in the coming month. The staff officials at the Front Office and the Nodal Officer posted at

each DLSA shall also be given training and orientation concerning the scope of their work and duties.

5. Information Boards - Bilingual Information Boards regarding the availability of victim compensation under the 2018 scheme shall be installed outside each designated court dealing with POCSO cases, setting forth, amongst other aspects, the following:

i) First, victims are entitled to receive compensation under the 2018 scheme in consonance with the directions passed by the POCSO court under Section 33(8) of the POCSO Act, read with Rule 9 of the POCSO Rules.

ii) Second, victims are entitled to free legal aid from the concerned DLSA for preferring applications for grant of interim or final compensation.

iii) Third, particulars concerning the location of DLSA and the contact number of the concerned official/Nodal Officer.

6 . Pamphlets - DLSA will publish and circulate pamphlets to disseminate information and bring about awareness amongst the general public as well as the victims concerning entitlement and the process involved in receipt of compensation. Amongst other things, the pamphlet will detail out [the] documents required to be filed in support of the claim. The pamphlets published by DSLSA shall be placed in the Front Office of each DLSA and the designated courtroom, and will be simultaneously uploaded on the DSLSA website.

7. Counselors- The nine (9) full-time Counselors engaged by DSLSA who have been provided training and are now rendering services in DLSAs will provide psychosocial counselling and support to the victims. The SOP devised for the Counselors will form part of the instant protocol.?

8. Regarding the second aspect, we have concluded, albeit after discussing the issue with learned counsel for the parties, that an addendum to the existing SOP framed in the context of the 2018 Scheme needs to be appended. We have thus decided to have an addendum to the 2018 Scheme to provide a separate SOP for victims of child sexual abuse.

9. This decision has been taken having regard to the fact that the 2018 Scheme framed by the National Capital Territory of Delhi [hereafter referred to as "NCT of Delhi"] under Section 357A of the Code of Criminal Procedure, 1973 [hereafter referred to as "CrPC"] and the SOP of 2018 Scheme have aspects which would be relevant for disbursement of compensation to child victims whose cases fall under the POCSO Act. Therefore, to iron out the difficulties experienced by the child victims, which sometimes do not get addressed by the existing 2018 SOP, it is thought fit to have an addendum to it in the form of Part F.

10. It is pertinent to point out, at this juncture, that the existing SOP which has been framed in the backdrop of 2018 Scheme has five (05) parts [A to E]. The addendum we intend to put in place will be the sixth part, marked as Part F.

11. Thus, Part F would have five (05) clauses which would read as follows:

Part F

Preface

F-1 A harmonious reading of the provisions of the 2018 Scheme and Section 33(8) of the POCSO Act and the rules framed thereunder could establish that a child victim of sexual abuse is entitled to the following three (03) kinds of compensation:

(i) Interim compensation given directly under the 2018 Scheme based on the schedule appended thereto and the judgment rendered by the court in X v. State of NCT of Delhi (Acting through its Secretary) & Anr., MANU/DE/4086/2022. This compensation is payable once the victim makes an application in that behalf to the concerned District Legal Services Authority [DLSA].

(ii) Interim compensation awarded by the concerned special court under the POCSO Act.

(iii) Final compensation awarded by the special court under the POCSO Act.

F-1.1 Thus, the direction and instructions in this part would apply only to disbursement of compensation where the offence committed falls within the ambit of the POCSO Act and compensation is to be given in the circumstances referred to in F-1 (i) to (iii) referred to hereinabove.

F-2 Directions

F-2.1 DLSAs will strictly adhere to the compensation disbursement regime put in place in this part concerning child victims of sexual abuse whose cases come within the purview of the POCSO Act.

F-2.2 The directions and instructions in this part will be in addition to and not in derogation of those set out in parts A to E of the SOP. However, in case of conflict between the directions/instructions in this part and those in other parts of the SOP, the directions/instructions in this part shall prevail.

F-3 Procedure and safeguards for disbursement of compensation

F-3.1 The child victim would be required to submit only the following documents to the concerned DLSA for disbursement of compensation referred to under sub-clauses (i) to (iii) of Clause F-1 above:

(a) Documents such as an Aadhar card and birth certificate would suffice as proof of the child victim's identity.

(b) To establish the existence of a valid bank account in the name of the child victim, inter alia, the copy of the passbook issued by the bank. A valid account will be one that satisfies the requirements of clause 11(1) and/or clause 15 of the 2018 Scheme, as applicable.

(c) An undertaking/indemnity bond shall be furnished in terms of clause

B.12 of the SOP. No affidavit will be sought in terms of Part-I clause 4 of the 2018 Scheme.

F-4 As regards child victims who ordinarily reside outside the NCT of Delhi but were subjected to offences within the jurisdiction of NCT of Delhi, the concerned DLSA shall seek assistance of the local DLSA and/or any other statutory authority which has sway over the area where the child victim is located for conducting verification of documents.

F-4.1 After the child victim submits relevant documents, the concerned DLSA shall, with the assistance of the Investigating Officer [IO], endeavour to complete verification of the documents submitted within two (2) weeks commencing from the date of submission of the said documents.

F-4.2 The Deputy Police Commissioner having jurisdiction over the concerned area will ensure that the timeline indicated above is not crossed.

F-4.3 To ensure strict adherence to timelines, the Commissioner of Police will issue standing instructions to all field formations.

F-4.4 Upon completion of verification of documents by the concerned DLSA with the assistance of an I.O., a certificate will be issued detailing the documents that stand verified. Thereafter, in case the child victim is awarded any further compensation, whether under sub-clause (i), (ii), or (iii) of Clause F-1 or otherwise, the said certificate shall be taken as valid proof of his/her documents being verified.

F-4.5 Once verification is complete and a certificate is issued, the concerned DLSA will ensure that no further objections regarding jurisdiction are raised for issuing compensation to the bank account of the child victim.

F-4.6 The child victim will not be required to undergo a re-verification unless the reliance is placed on new documents not mentioned in the certificate. In case such an eventuality arises, verification of the new document shall be conducted by the concerned DLSA with the assistance of the I.O. at the earliest, at least two (02) weeks from the date of submission of the new document(s).

F-5 The DSLSA, along with the concerned DLSA, shall ensure that disbursement of interim or final compensation takes place within 30 days from the date of issuance of direction by the concerned DLSA for grant of compensation in terms of sub-clause (i) of Clause F-1 above or the receipt of the order passed by the special court for grant of compensation under sub-clause (ii) or (iii) of Clause F-1 above.

12. Apart from the addendum mentioned above in the form of Part F to the 2018 Scheme, we are inclined to issue the following directions to DSLSA, Delhi Police and the Registrar General of this Court:

(a) The DSLSA will issue and disseminate a detailed protocol regarding the procedure and safeguards for conducting biometric verification before disbursing compensation to child victims.

(b) Biometric protocol will, among other things, take into account the following:

- (i) The biometric data is stored and transmitted only in encrypted form.
- (ii) The encrypted biometric data is decrypted only on authentication.
- (iii) The service provider does not obtain access to decrypted biometric data.
- (iv) The decrypted or digital key is kept separate from the biometric data.
- (v) The protocol put in place by DSLSA would also provide the leeway to the victim to seek deletion of his/her biometric record after attaining majority in terms of the extant legal regime.

(c) As regards those victims who were residing outside NCT of Delhi but are subjected to offences within the jurisdiction of NCT of Delhi, after verification is completed in terms of Part F of the SOP, compensation will be disbursed in their bank account wherever it is located, albeit within the territory of India, without raising objections with regard to the bank's situs.

(d) Delhi Police will ensure that the I.O.s verify documents in accordance with the SOP given above.

(e) The Commissioner of Police will ensure that the responsibilities given to the police department is followed scrupulously.

(f) Insofar as the Registrar General of this Court is concerned, the following directions are issued:

(i) The special courts established under the POCSO Act shall communicate orders to the concerned DLSA as soon as they are passed, though not later than three (03) working days from the date of issuance of the order, by sending a copy of the order physically and also via the official email id of the designated court reader.

(ii) The special courts shall ensure that the victim impact assessment report is filed by the I.O. ordinarily within two (02) weeks.

13. The Registrar General will ensure that a circular is taken out whereby the addendum to the 2018 SOP is brought to the notice of all concerned, i.e., the special courts, the concerned DLSAs and officers manning the special courts.

13.1. Likewise, the DSLSA will issue a circular bringing to the notice of the concerned DLSAs the directions issued via the instant judgment.

14. The writ petition is disposed of in the aforesaid terms.

15. Parties will act based on the digitally signed copy of the judgment.

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