

ITEM NO.61

COURT NO.4

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).565/2012

NIPUN SAXENA & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.23394/2018-EXEMPTION FROM FILING O.T.)

WITH

W.P.(C) No. 568/2012 (PIL-W)

W.P.(Cr1.) No. 1/2013 (PIL-W)

W.P.(C) No. 22/2013 (PIL-W)

W.P.(C) No. 148/2013 (PIL-W)

SLP(Cr1.)...CRLMP No. 16041/2014 (II-A)

Date : 11-05-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

Ms. Indira Jaising, Sr. Adv. (A.C.)

Ms. Sangeeta Madan, Adv.

Mr. P.S. Tripathi, AOR

Ms. Vani Vyas, Adv.

Mr. Mukesh Kumar Singh, Adv.

Ms. Aanchal Singh, Adv.

Mr. Ravi Chandra Prakash, Adv.

Mr. Abhishek Tripathi, Adv.

Ms. Ajita Sharma, Adv.

For Petitioner(s)

Ms. Ankita Chaudhary, Adv.

Mr. Nipun Saxena, Petitioner-in-person

Mr. Aditya P. Arora, Adv.

Mr. Namit Saxena, Adv.

Mr. Prashant Chaudhary, AOR

Mr. R. P. Gupta, AOR

Mr. E.C. Agrawala, AOR

For Respondent(s)	Ms. Pinky Anand, ASG Mr. Ashok Kumar Panda, Sr. Adv. Mr. Sachin Sharma, Adv. Ms. Sushma Verma, Adv. Mr. Raj Bahadur, Adv. Mrs. Anil Katiyar, Adv. Mr. S.A. Haseeb, Adv. Ms. Bhakti Pasrija Sethi, Adv. Mr. M.P. Gupta, Adv. Ms. Kirti Dua, Adv. Mr. B.V. Balaram Das, Adv. Mr. Ajay Kumar Singh, Adv. Mr. Shailinder Saini, Adv. Mr. R.K. Rathor, Adv. Ms. Rashmi Malhotra, Adv. Ms. Sunita Sharma, Adv. Mr. R.R. Rajesh, Adv. Ms. Saudamini Sharma, Adv. Mr. S. Wasim A. Qadri, Adv. Mr. Zaid Ali, Adv. Mr. Tamim Qadri, Adv. Mr. Saeed Qadri, Adv. Mr. G.S. Makker, Adv. Mr. Arun Kumar, Adv. Ms. Aishi Singh, Adv.
For States of Assam	Mr. Debojit Borkakati, Adv. Ms. Diksha Rai, Adv. Mr. M. Balashivudu, Adv.
Andhra Pradesh	Mr. Guntur Prabhakar, Adv. Ms. Prerna Singh, Adv.
Bihar	Mr. Gopal Singh, AOR Mr. Manish Kumar, Adv.
Chhattisgarh	Mr. Jugal Kishore Gilda, Adv. Gen. Mr. A.P. Mayee, Adv. Mr. Avnish M. Oza, Adv. Mr. Chirag Jain, Adv.
Goa	Mr. A.N.S. Nadkarni, ASG Ms. Ruchira Gupta, Adv. Mr. Santosh Rebello, Adv. Mr. Anurag Sharma, Adv. Ms. Nivedita Nair, Adv.
Gujarat	Ms. Hemantika Wahi, AOR Ms. Jesal Wahi, Adv. Ms. Mamta Singh, Adv. Ms. Shodhika Sharma, Adv.

Haryana	Mr. Sanjay Kumar Visen, Adv.
H.P.	Mr. Ajay Marwah, Adv. Mr. Mool Singh, Adv.
Jharkhand	Mr. Tapesb Kumar Singh, Adv. Mr. Mohd. Waquas, Adv. Mr. Aditya Pratap Singh, Adv.
J&K	Mr. M. Shoeb Alam, Adv. Ms. Fauzia Shakil, Adv. Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
Karnataka	Mr. V.N. Raghupathy, Adv. Mr. Parikshit P. Angadi, Adv.
Kerala	Mr. C.K. Sasi, Adv.
M.P.	Ms. Prachi Mishra, Adv. Mr. Arjun Garg, Adv. Ms. Pragya Garg, Adv.
Maharashtra	Mr. Nishant Ramakantrao Katneshwarkar, AOR
Manipur	Mr. Leishangthem Roshmani, Adv. Ms. Maibam Babina, Adv.
Meghalaya	Mr. Ranjan Mukherjee, Adv. Mr. K.V. Kharlyngdoh, Adv. Mr. Daniel Stone Lyngdoh, Adv.
Mizoram	Mr. K.N. Madhusoodhanan, Adv. Mr. T. G. Narayanan Nair, AOR
Nagaland	Ms. K. Enatoli Sema, AOR Mr. Edward Belho, Adv. Mr. Amit Kumar Singh, Adv. Mr. K. Luikang Michael, Adv.
Punjab	Mr. Karan Bharihoke, Adv. Ms. Zahra Khan, Adv.
Rajasthan	Mr. Nalin Kohli, AAG Mr. Ankit Roy, Adv. Mr. Indrajeet Singh, Adv. Ms. Nimisha Menon, Adv. Mr. Milind Kumar, Adv.
Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv.

	Ms. Anuradha Arputham, Adv. Ms. Simran Jeet, Adv. for M/s Arputham Aruna & Co.
Tamil Nadu	Mr. M. Yogesh Kanna, Adv. Mrs. Sujatha Bagadhi, Adv.
Telangana	Mr. S. Udaya Kumar Sagar, AOR Mr. Mrityunjai Singh, Adv.
Uttar Pradesh	Ms. Aishwarya Bhati, AAG Mr. Aviral Saxena, Adv. Mr. Pradeep Misra, Adv.
Uttarakhand	Ms. Rachana Srivastva, Adv. Ms. Monika, Adv. Ms. Sudipta Sarkar, Adv.
West Bengal	Mr. Suhaan Mukerji, Adv. Mr. Vishal Prasad, Adv. Ms. Astha Sharma, Adv. Mr. Amjid Maqbool, Adv. Mr. Amit Verma, Adv. For PLR Chambers & Co.
A&N Islands	Mr. Bhupesh Narula, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, AOR
Chandigarh	Ms. Kamakshi S. Mehlwal, Adv. Mr. Sanveer Mehlwal, Adv. Ms. Geetanjali Mehlwal, Adv.
Dadar & Nagar Haveli	Mr. A.K. Panda, Sr. Adv. Ms. Sushma Verma, Adv. Mr. R.R. Rajesh, Adv. Mr. Sachin Sharma, Adv. Mr. Amit Pratap Singh, Adv. Mr. Arun Kumar, Adv.
NCT of Delhi	Mr. Chirag M. Shroff, AOR
Puducherry	Mr. V.G. Pragasam, Adv. Mr. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv. Mr. T.N. Rama Rao, Adv. Mr. Hitesh Kumar Sharma, Adv. Mr. T. Veera Reddy, Adv. Mr. Ardhendumauli Kumar Prasad, Adv. Ms. Taruna Ardhendumauli Prasad, Adv.

Mr. Namit Saxena, Adv.
Ms. Tajinder Virdi, Adv.

Ms. Bina Madhavan, Adv.
for M/s. Lawyer's Knit & Co.

UPON hearing the counsel the Court made the following
O R D E R

Pursuant to orders passed by us from time to time, NALSA has framed the "Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes - 2018.

In this context the order passed by us on 15th February, 2018 was communicated by the Ministry of Women and Child Development of the Government of India to all the Principal Secretaries/Administrators of the States/Union Territories.

The order dated 15th February, 2018 reads as follows:

"In spite of all talks, discussions and intents expressed about gender justice and safety of women, we find that there are 24 States / UTs that have not even bothered to file an affidavit in terms of our order dated 09.01.2018.

On 09.01.2018, we had required all the State Governments / UTs to file an affidavit within a period of four weeks indicating the amount received by each State Government / UT under the Nirbhaya Fund towards victim compensation, the amount disbursed from the Nirbhaya Fund and even otherwise and to the number of victims of sexual assault.

This simple information could not be filed as mentioned above by following 24 States / UTs:

1. Andhra Pradesh
2. Arunachal Pradesh
3. Assam
4. Chhattisgarh
5. Goa
6. Haryana
7. Himachal Pradesh

8. Jammu & Kashmir
9. Kerala
10. Maharashtra
11. Manipur
12. Meghalaya
13. Mizoram
14. Rajasthan
15. Tamil Nadu
16. Telangana
17. Tripura
18. Uttar Pradesh
19. Uttarakhand
20. West Bengal
21. Dadra and Nagar Haveli
22. Daman and Diu
23. Delhi
24. Lakshadweep

The affidavits be now filed by these State Governments / UTs within four weeks from today, if they are at all interested in looking after the welfare of women in their States/UTs.

List the matters on 27.03.2018.

The Learned *Amicus* has finalized a draft of the Victim Compensation Scheme with the assistance of NALSA. It is stated that this will be put on the portal of NALSA for inviting suggestions and comments."

Thereafter, on 9th March, 2018, NALSA put up a notice on its website which reads as follows:

"09.03.2018

To

State Legal Services Authorities
Ministries/Government Departments
Law Universities and NGOs.

Sub: Suggestions invited on the Model
"Victim Compensation for Survivors of
Sexual Assault and Acid Attack - 2018" -
reg.

Sir/Madam,

Whereas vide order dated 12.10.2017, Hon'ble Supreme Court of India had directed NALSA to set up a Committee for preparation of Model "Victim Compensation Scheme for Survivors of Sexual offences and Acid Attack". The Committee formed by NALSA has now come with a Draft to be added in the State Victim Compensation Scheme titled "Victime Compensation for Survivors of Sexual Assault and Acid Attach - 2018".

As per order dated 15.02.2018, NALSA is now uploading the Draft on its website so that suggestions can come from SLSAs, various Governments, NGOs and other stake holders.

Suggestions, if any, can be e-mailed to NALSA on nalsa-dla@nic.in in the next two weeks on or by 25.03.2018.

Yours faithfully,

Surinder S. Rathil

We are informed that 14 responses from the State Legal Services Authorities were received to the notice of this Model Victim Compensation Scheme.

After all the objections were considered, a Committee comprising the following members was constituted for preparation of the Model Scheme. The members of the Committee are as follows:

"Ms. Pinky Anand
Additional Solicitor General

Shri Rakesh Srivastava
Secretary, Ministry of Women and Child
Development, Government of India

Shri T.V.S.N. Prasad, Adv.
Additional Secretary, Ministry of Home Affairs
Government of India

Ms. Indira Jaising
Senior Advocate, Supreme Court of India

Shri Alok Agarwal
Member Secretary, NALSA

Shri Surinder S. Rathi,
Director, NALSA

Ms. Anju Rathi Rana,
Joint Secretary,
Department of Legal Affairs,
Ministry of Law and Justice, Govt. of India

Shri K.L. Sharma,
Joint Secretary
National Commission for Women

Ms. Bharti Ali
Co-Director,
HAQ: Centre for Child Rights

We have gone through the Scheme prepared by NALSA with the assistance of learned *amicus curiae* and we are of the view that it contains the best practices of all similar schemes and should be implemented by all the State Governments and Union Territory Administrations.

A copy of the Scheme should be sent by the Ministry of Women and Child Development, Government of India to the Principal Secretaries of the State Governments and Union Territory Administrations within two weeks from today for implementation.

We make it clear that the Scheme postulates only the minimum requirements. This does not preclude the State Governments and Union Territory Administrations from adding to the Scheme. However, nothing should be taken away from the Scheme.

For other issues, list the matter on 25th July, 2018.

(SANJAY KUMAR-I)
AR-CUM-PS

(CHANDER BALA)
COURT MASTER