


**OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE:  
ROHINI COURTS: DELHI**

No. **82(OWN)**.Genl.I/F.3(A)/RC/2022 Delhi, dated the **31/3/2022**

**Sub: Compliance of directions dated 01.02.2022 passed by the Hon'ble Supreme Court of India vide order dated 01.02.2022 in SMW(Civil) No. 6/2021 in RE Children in Street Situations (alongwith Standard Operating Procedure (SOP) for recording evidence of children through video conferencing.**

Copy of the letter bearing no. 21970-22080/Rules/Gaz./2022 dated 26.03.2022 alongwith order dated 01.02.2022 passed by Hon'ble Supreme Court of India in SMW (Civil) No. 6/2021 in RE Children in Street Situations and approved Standard Operating Procedure (SOP) for recording evidence of children through video conferencing as received from O/o Ld. Principal District & Sessions Judge (HQs), THC, Delhi are being forwarded (through electronic mode) for information & necessary compliance to :

1. All the Ld. Judicial Officers (**DHJS and DJS**), **North-West & North** District, Rohini Courts, Delhi.
2. The Secretary, **DLSA, North-West & North** District, Rohini Courts, Delhi.
3. The Personal Office, Ld. Principal District & Sessions Judge, **North-West & North** District, Rohini Courts, Delhi.
4. The Dealing Official, Computer Branch, Rohini Courts, Delhi for uploading the same on Website.
5. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on Layers.

  
**( RAKESH KUMAR-IV )**  
Additional Sessions Judge  
Officer In-charge, General Branch  
Rohini Courts Complex, Delhi

Encl: As above

Genl. Br.

575  
29/3/22



# DELHI STATE LEGAL SERVICES AUTHORITY

(Constituted Under the 'Legal Services Authorities Act, 1987', an Act of Parliament)

Under the Administrative Control of High Court of Delhi

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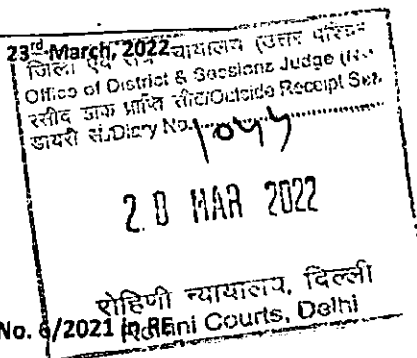
24x7 Toll Free Helpline No. 1516



File No. : 005/DLSA/LAW/Judl.Dlr./2022

13313

Dated : 23<sup>rd</sup> March, 2022



To

Ld. Principal District & Sessions Judge (Hqrs)  
Tis Hazari Courts,  
Delhi

Sub.: Compliance of directions dated 01.02.2022 passed in SWM (Civil) No. 6/2021  
Children in street Situations.

Respected Sir,

A matter is subjudice before the Hon'ble Supreme Court, wherein Hon'ble Supreme Court has taken up the issue regarding the testimony of children, who are victims of inter-state/inter-district child trafficking, to be recorded through video conferencing either at the video conferencing room of the court complex in the District or vulnerable witness room in the Court complex of the District or the office of District Legal Services Authority in the District where the child is residing.

Further, vide order dated 01.02.2022 Hon'ble Supreme Court has issued comprehensive directions for recording the evidence of children through video conferencing and further directed to ensure availability and functionality of video conferencing facility in all District Legal Services Authorities of State/UT. Besides, Hon'ble Apex court has also approved Standing Operating Procedure (SOP) for recording evidence of children through video conferencing, after considering the inputs from all the High Courts, which contemplates that an authorised persons at the Trial Courts will coordinate with the Remote Point Coordinator for recording of the testimony of child witnesses in inter-state/inter-district child trafficking cases. This would help save trouble to the children who have to travel thousands of kilometres to give evidence in Court.

Hon'ble Apex Court has further directed that the said SOP, shall be followed in all criminal trials where child witnesses, not residing near Court Points, are to be examined. Hon'ble Court further directed that the Remote Point Coordinators shall ensure that child-friendly practices are adopted during the examination of the witnesses.

As your goodself is very much aware that video conferencing facility is available in all the DLSAs and as directed by Hon'ble Apex Court, the Secretary of each DLSAs are also acting as Remote Point Coordinator for recording of the testimony of child witnesses, your goodself is requested to circulate the copy of aforesaid order dated 01.02.2022 along with Standing Operating Procedure (SOP) for Recording Evidence of Children through video conferencing amongst all the Trial Courts for compliance of directions passed by Hon'ble Apex Court in letter and spirit.

With Regards,

Yours sincerely,

(Kanwal Jeet Arora)

Member Secretary, DLSA

Encl.: As above.

**OFFICE OF PRINCIPAL DISTRICT & SESSIONS JUDGE (HQs) : DELHI**

No. 21970 - 22080 /Rules/Gaz/2022 Dated 26 MAR 2022

Sub:- Compliance of directions dated 01.02.2022 passed by Hon'ble Supreme Court in SWM (Civil) No.6/2021 in RE: Children in street situation.

Copy forwarded with the request to download the above said order dated 01.02.2022 alongwith Standing Operating Procedure (SOP) directions passed by Hon'ble Apex Court from the website link [https://delhicourts.nic.in/circular\\_new.htm](https://delhicourts.nic.in/circular_new.htm) for compliance to :-

1. ✓ Ld. Principal District & Sessions Judges, all court complexes, Delhi/New Delhi/Rouse Avenue with the request to circulate the copy of same amongst all the Courts under their control. (N)
2. All the Judicial Officers (Central) Tis Hazari Courts, Delhi.
3. The Secretary, DLSA (Central) Tis Hazari Courts, Delhi.
4. Sr. AO(J)/AO(J), VWDC, DLSA, General Branch (Central) Tis Hazari Courts, Delhi.
5. The Website Committee (Hindi/English) Tis Hazari Courts, Delhi.
6. The R&I Branch (Central) for uploading on LAYERS.

(MUKESH KUMAR GUPTA)

Addl. District Judge (Central)

Officer In-charge, Judicial Branch Central  
For Principal District & Sessions Judge (HQs)

26.3.2022

ITEM NO.2      Court 5 (Video Conferencing)      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

SMW (C) No(s). 6/2021

IN RE CHILDREN IN STREET SITUATIONS

([ONLY W.P.(CRL.) NO. 274 OF 2020 IS LISTED UNDER THIS ITEM] )

WITH

W.P.(CrI.) No. 274/2020 (PIL-W)

(IA No. 139277/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 10286/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 8311/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 97311/2020 - GRANT OF INTERIM RELIEF)

Date : 01-02-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO

HON'BLE MR. JUSTICE B.R. GAVAI

For the parties:      By Courts Motion

Mr. Gaurav Agrawal, AOR (A.C.)

Ms. Anitha Shenoy, Sr. Adv.

Ms. Srishti Agnihotri, AOR

Mr. Abishek Jebaraj, Adv

Ms. Kriti Awasthi, Adv.

Ms. Nimisha Menon, Adv

Ms. Priyanka Mali, Adv.

Saziya Mukadam, Adv.

Mr. Sambhav Gupta, Adv

Ms. Sanjana Grace Thomas, Adv.

Ms. Aarti Krupa Kumar, Adv.

A. Reyna Shruti, Adv

FOR NCPCR

Ms. Swarupama Chaturvedi, AOR

Ms. Soumya Kapoor, Adv.

Signature Not Verified  
Digitally signed by  
Anita Mahapatra  
Date: 2022.02.01  
17:18:33 IST  
Reason: -

Mr. K.M. Nataraj, Ld. ASG

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Ms. Swati Ghildiyal, Adv.

Mr. Digvijay Dam, Adv.

Mr. Manish, Adv.

	Mr. Vinayak Sharma, Adv. Mr. S.S. Rebello, Adv. Mr. M.k. Maroria, AOR
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State of Haryana	Ms. Bansuri Swaraj, AAG Dr. Monika Gusain, AOR
State of Goa	Mr. Ravindra A. Lokhande, Adv. Dr. Abhishek Atrey, Adv Ms. Ambika Atrey, Adv. Dr. Vidyottma Jha, Adv.
State of Goa	Mr. Arun R. Pedneker, Adv. Ms. Mukti Chowdhary, AOR
State of A.P.	Mr. Mahfooz A. Nazki, AOR Mr. Polanki Gowtham, Adv. Mr. Shaik Mohamad Haneef, Adv. Mr. T. Vijaya Bhaskar Reddy, Adv. Mr. K.V. Girish Chowdary, Adv.

	Ms. Rajeswari Mukherjee, Adv
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State of H.P.	Mr. Himanshu Tyagi, AOR
State of Manipur	Mr. Pukhrambam Ramesh Kumar, AOR Ms. Anupama Ngangom, Adv. Mr. Karun Sharma, Adv.
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State of Meghalaya	Mr. Avijit Mani Tripathi, AOR Mr. Upendra Mishra, Adv. Mr. Kynpham V. Kharlyngdoh, Adv. Mr. T.K. Nayak, Adv.
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State of T.N.	Dr. Joseph Aristotle S., AOR Ms. Preeti Singh, Adv. Ms. Nupur Sharma, Adv. Mr. Sanjeev Kumar Mahara, Adv.
State of Nagaland	Ms. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv Ms. Chubalemla Chang, Adv.
NCT Delhi	Mr. Chirag M. Shroff, AOR
State of Mah.	Mr. Sachin Patil AOR. Mr. Rahul Chitnis, Adv. Mr. Aaditya A. Pande, Adv

	Mr. Geo Joseph, Adv.
	Ms. Shwetal Shepal, Adv.
UT OF A & N Islands	Mr. Samir Ali Khan, AOR
State of Jharkhand	Ms. Pragya Baghel, Adv Ms. Pallavi Langar, AOR Ms Shelley Singh, Adv
State of Sikkim	Mr. Raghvendra Kumar, Adv. Mr. Anand Kumar Dubey, Adv. Mr. Nishant Verma, Adv. Mr. Rajiv Kumar Sinha, Adv. Mr. Simanta Kumar, Adv. Mr. Narendra Kumar, AOR
State of M.P.	Ms. Ankita Chaudhary, DAG Mr. Pashupati Nath Razdan, AOR. Ms. Maitreyee Jagat Joshi, Adv Mr. Prakhar Srivastav, Adv. Ms. Sneh Bairwa, Adv.
H.C. of M.P.	Mr. Arjun Garg, AOR Ms Sagun Srivastava Adv
U.T. of Chandigarh	Mr. Ankit Goel, AOR
INT	Ms. Shobha Gupta, AOR Mr. Rajendra Kumar Panigrahi, Adv Jessy kurien, Adv Mr. Nishant Bahuguna, Adv
For Impleadment	Mr. Ankur S. Kulkarni, AOR Mr. Susheel Joseph Cyriac, Adv Ms. Uditha Chakravarthy, Adv
Haryana	Mr. Shekhar Raj Sharma, Dy. AG Mr. Sanjay Kumar Visen, AOR Mr. Paras Dutta, Adv. Mr. Bhanwar Jadon, Adv. Ms. Babita Mishra, Adv. Mr. Amit Gupta, Adv. Mr. Sanjeev Prakash Upadhyay, Adv. Ms. Adira A Nair, Adv

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Mr. Sanjay Kumar Visen AOR

Mr. Nikhil Goel, AOR  
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 Mr. Vinay Mathew, Adv.

Mr. Kunal Chatterji, AOR  
 Ms. Maitrayee Banerjee, Adv.  
 Mr. Rohit Bansal, Adv

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                          Ms. Ragini Pandey, Adv.

St. of Arunachal      Mr. Abhimanyu Tewari, AOR  
 Pradesh                Ms. Eliza Bar, Adv

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St. of Rajasthan      Dr. Manish Singhvi, Sr Adv  
                          Mr. Arpit Parkash, Adv  
                          Mr. Sandeep Kumar Jha, AOR

Mr. Sibbo Sankar Mishra, AOR

Ms. Uttara Babbar, AOR

Mr. M. Yogesh Kanna, AOR

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

W.P.(Cr1.) No. 274/2020

1. This Writ Petition has been filed for the following reliefs: -



*"(a) Issue a writ of mandamus or a writ/direction of a similar nature directing that during the COVID-19 pandemic, the recording of evidence of child victims/witnesses of human trafficking across Districts/States/Countries, including statements under Section 164 of the Cr.P.C., be ordinarily undertaken via video-conferencing from a government facility within the local jurisdiction of the residence of such children;*

*(b) Issue a writ of mandamus or a writ/direction of a similar nature directing that the recording of statements/evidence of child witnesses/victims of trafficking across Districts/States/Countries via video-conferencing, even after the COVID-19 pandemic abates, either take place via a Commission or in the Court complex/CWC nearest to the child's place of residence;*

*(c) Issue a writ of mandamus or a writ/direction of a similar nature directing the Respondents to ensure adequate infrastructure coverage in district courts across the country for the creation of a robust video-conferencing mechanism;*

*(d) Issue a writ of mandamus or a writ/direction of a similar nature directing the Respondent No. 3 (the National Commission for the Protection of Child Rights) to formulate guidelines for the recording of the testimonies and Section 164, Cr.P.C. statements of such child witnesses/victims via video-conferencing during and after the COVID-19 pandemic, in view of the principle of "the best interests of the child".*"

2. Mr. Gaurav Agarwal, learned Amicus Curiae, proposed a

pilot project, after having detailed discussions with the counsel appearing for the Petitioners. For the purpose of the pilot project, the learned Amicus Curiae selected four cases. Out of these, trial had commenced in two cases with respect to which, it was requested that directions be given for examination of witnesses by video conferencing. SC No. 151 of 2019 (***State v. Rahmatulla***) arises out of FIR No. 612 of 2018 dated 05.12.2018, registered under Sections 75/79 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ("**JJ Act**"), Sections 3/3A/14 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 ("**CLA**"), Sections 16/17/18 of the Bonded Labour System (Abolition) Act, 1976 ("**BLA**") and Sections 370/374 of the Indian Penal Code, 1860 ("**IPC**"). The brief facts of the said case are that on 05.12.2018, 11 children engaged in stitching work of suit/ coat covers were rescued by a surprise rescue operation from premises in Kirawal Nagar, North East Delhi, PS Khajuri Khas. The rescued children were sent to their native places, *i.e.*, Sitamarhi and East Champaran Districts of Bihar. The case was pending in the court of Additional District Judge, Karkadooma, New Delhi. The second case bearing Case No. 52 of 2019 (***State v. Mohd. Sherjahan***) relates to FIR No. 20 of 2019

registered in Jaipur under Sections 370(5)/344/374 of the IPC, Sections 3/14 of the CLA and Sections 75/79 of the JJ Act. The Anti-Human Trafficking Unit rescued four children on 08.01.2019, who were forced to make bangles in a confined room at Jaipur. They were not permitted to move outside, not given sufficient food and forced to work under threat. The rescued children were sent to their homes at Patna and Gaya in Bihar. The trial in the said case was due to be conducted in POCSO Court-2, Jaipur.

3. The learned Amicus Curiae submitted that the pilot project which would be in three stages, with the first stage focusing on assessment of state of infrastructure at the Court Point and the Remote Point. The Court Point is in the cities or places where the trial has to take place and the Remote Point is the district / Taluk court complex or the office of the District Legal Services Authority near the place of residence of the victims / witnesses. Availability of necessary equipment for video conferencing, along with other facilities integral to the process, was to be ascertained in the first stage. The second stage involved the Judge at the Court Point fixing a date for examination of the witnesses and thereafter, issuing summons to the witnesses. The suggestion made by the learned Amicus

Curiae is that through the summons, the witnesses be intimated about (i) the address of the Remote Point and date and time of hearing; (ii) name, contact details and a brief explanation of the role of the Remote Point Coordinator ("**RPC**"); and (iii) the requirement to carry a proof of identification. The third stage pertained to the actual examination of the child witnesses at the Remote Point and the procedures to be followed to ensure that the witnesses are examined *in camera* and without any influence.

4. After being satisfied with the trial run of examination of child witnesses at remote points, the learned Amicus Curiae in consultation with Ms. Anitha Shenoy, learned Senior Counsel appearing for the Petitioners, submitted a draft Standard Operating Procedure ("**SOP**"), with five stages, on 12.04.2021. By order dated 26.10.2021, this Court directed the draft SOP to be served on all the State Governments / Union Territories as well as the High Courts for their comments. After receiving responses from the High Courts, the learned Amicus Curiae submitted a note with a modified draft SOP for recording evidence of children through video conferencing. The draft SOP as suggested by the learned Amicus Curiae is as under:

"1. It is suggested that testimony of children, who are

victims of inter-state/inter-district child trafficking, is recorded through video conferencing either at the video conferencing room of the court complex in the district or vulnerable witness room in the court complex of the district or the office of DLSA in the district where the child is residing.<sup>1</sup>

2. To facilitate the above, it is prayed that the Ld. District Judges of all districts may ascertain the availability of video conferencing facility in the district/Taluk court complex or DLSA office and communicate the same to the jurisdictional High Court. The High Court may be requested to place the said information on its website on or before 30.04.2022. Further, it is prayed that efforts should be made to ensure that such video-conferencing infrastructure/facility is created in every district, especially in those states where the incidence of child trafficking cases is high.

3. The Secretary, DLSA of the district can be requested to be the Remote Point Coordinator (RPC) for recording of the testimony of child witnesses. However, if the Chairman of the DLSA considers necessary or desirable, he/she may appoint a Retired judicial Officer as a Remote Point Coordinator. It is prayed that the Hon'ble High Courts may place the aforesaid information i.e. the names and contact details of the RPC of each district on the website alongwith the information in para 2 above.

4. When an offence of inter-state/inter-district child trafficking is taken up for trial by a Court, and if the Court point and the remote point have video

conferencing facilities, the Trial Court should ordinarily give preference to examination of the child witness through video conferencing.

5. The authorized officer at the Court Point may get in touch with the RPC at the Remote Point and work out all modalities for recording of the child witness statement through video conferencing.

6. If video conferencing is feasible, a date and time be fixed by the trial court for examination of the witness(es). Summons may be issued to the child witness(es) to present himself/herself for evidence before the RPC. The summons may be served in addition through the local process server of the remote point. The witness would be required to come with identification documents. The summons would also have the name and contact details of the RPC at the Remote Point and would also mention that the witness can take help of legal aid or other assistance through the Secretary, District Legal Service Authority, if required.

7. The child witness shall be entitled to the presence of a support person as defined in the Protection of Children from Sexual Offences Rules, 2020 or any other applicable laws/guidelines or as allowed by the Trial Court. Further, best practices that are required to be followed in recording the evidence of child witnesses should continue to be followed even during the recording of the testimony through video conferencing. These include, ensuring that the child witness is provided diet money on the basis of the distance travelled by him or her to reach the remote point, the presence of a police officer at the remote point to ensure that the child

witness does not come in contact with the accused (if out on bail) or any relative of the accused, and any other best practice required by the law/relevant guidelines/being followed by the States.

8. Copy of documents, if any, required to be marked or shown to the witness may be transmitted by the Court electronically to the RPC. The RPC at the Remote Point would assist in examination of the witness and ensure that no tutoring takes place and no unauthorized person or recording device is present in the room.

9. The RPC may take all measures possible and shall seek the assistance of the support person to ensure that the child witness is comfortable. Questions posed by the Public Prosecutor/Defense Counsel may be put to the Ld. Trial Judge, who in turn will put them to the witness and the Trial Court would record the testimony of the witness. The RPC may help with translation or take the assistance of a translator/special educator if required or render any other assistance which the Learned Trial Court may require.

10. On completion of recording of evidence, the deposition will be sent by the Trial Court on email to the RPC at the Remote Point who shall take a print-out and read the same out to the witness. After ascertaining the deposition is correct and verified as under law including the affixation of the child's thumb impression/signature, the RPC may certify the same and send the deposition back, in a secure manner, to the Trial Court by Speed Post and by electronic means as permitted by law. An original may also be kept by RPC in case the Speed Post

is misplaced for some reason.

11. Whenever a Trial Court proposes to record the testimony of a child witness, who is residing in another State, an intimation of the same should also be given to the Registrar of the High Court of the Court point. The Ld. Registrar may intimate the same to the Ld. Registrar of the High Court of the Remote Point with a request to render all assistance possible for recording of the testimony of the child.

12. This Standard Operating Procedure is only a broad guideline. The method and manner of recording of testimony be dependent upon the video conferencing rules framed by the respective High Courts, which would be kept in mind while recording the testimony of the child witness. It should be kept in mind that the recording of the testimony should be done expeditiously, without undue delay.

<sup>1</sup> It can also be done at Taluk level as in some cases, video conferencing room can be available in a court complex at Taluk level or Sub Divisional level.”

5. Article 24 of the Constitution of India prohibits employment of a child below the age of 14 years in any factory or mine. Article 39(f) of the Constitution obligates the State to provide opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity and to ensure that childhood and youth are protected against exploitation and against moral and material



abandonment. The United Nations Convention on the Rights of Child stresses the need for protection of children from violence and exploitation. The CLA was introduced with the intention to ban the employment of children, *i.e.*, those who have not completed their fourteenth year, in specified occupations and processes and to lay down enhanced penalties for employment of children in violation of the provisions of the said Act. Section 3 thereof, as amended with effect from 01.09.2016, imposes a bar on employment of a child in any occupation or process, except where children help their families or family enterprises or work as artists in the audio-visual entertainment industry and where such work does not affect their school education. The Government of India, by a resolution dated 26.04.2013, adopted the National Policy for Children, 2013 ("**2013 Policy**"). The 2013 Policy was made to guide and inform all laws, policies, plans and programmes affecting children. According to the 2013 Policy, the best interest of the children is a primary concern in all decisions and actions affecting the child, whether taken by legislative bodies, courts of law, administrative authorities, public, private, social, religious or cultural institutions. Further, the State committed to ensure that all out-of-school children such

as child labourers, migrant children, trafficked children, children of migrant labour, street children, child victims of alcohol and substance abuse, children in areas in civil unrest, orphans, children with disability (mental and physical), children with chronic ailments, married children, children of manual scavengers, children of sex workers, children of prisoners, etc. are tracked, rescued, rehabilitated and have access to their right to education.

6. Taking note of employment of children in fire-cracker factories of Sivakasi, Tamilnadu, this Court in ***M.C. Mehta v. State of Tamil Nadu & Ors.***<sup>1</sup> issued the following directions to the State Governments:

*“33. To give shape to the aforesaid directions, we require the States concerned to do the following:*

*(1) A survey would be made of the aforesaid type of child labour which would be completed within six months from today.*

*(2) To start with, work could be taken up regarding those employments which have been mentioned in Article 24, which may be regarded as core sector, to determine which hazardous aspect of the employment would be taken as criterion. The most hazardous employment may*

<sup>1</sup> (1996) 6 SCC 756

*rank first in priority, to be followed by comparatively less hazardous and so on. It may be mentioned here that the National Child Labour Policy as announced by the Government of India has already identified some industries for priority action and the industries identified are as below:*

*The match industry in Sivakasi, Tamil Nadu.*

*The diamond polishing industry in Surat, Gujarat.*

*The precious stone polishing industry in Jaipur, Rajasthan.*

*The glass industry in Firozabad, Uttar Pradesh.*

*The brass-ware industry in Moradabad, Uttar Pradesh.*

*The handmade carpet industry in Mirzapur-Bhadohi, Uttar Pradesh.*

*The lock-making industry in Aligarh, Uttar Pradesh.*

*The slate industry in Markapur, Andhra Pradesh.*

*The slate industry in Mandsaur, Madhya Pradesh.*

*(3) The employment to be given as per our direction could be dovetailed to other assured employment. On this being done, it is apparent that our direction would not require generation of much additional employment.*

*(4) The employment so given could as well be the*

*industry where the child is employed, a public undertaking and would be manual in nature inasmuch as the child in question must be engaged in doing manual work. The undertaking chosen for employment shall be one which is nearest to the place of residence of the family.*

*(5) In those cases where alternative employment would not be made available as aforesaid, the parent/guardian of the child concerned would be paid the income which would be earned on the corpus, which would be a sum of Rs 25,000 for each child, every month. The employment given or payment made would cease to be operative if the child would not be sent by the parent/guardian for education.*

*(6) On discontinuation of the employment of the child, his education would be assured in suitable institution with a view to make him a better citizen. It may be pointed out that Article 45 mandates compulsory education for all children until they complete the age of 14 years; it is also required to be free. It would be the duty of the Inspectors to see that this call of the Constitution is carried out.*

*(7) A district could be the unit of collection so that the executive head of the district keeps a watchful eye on the work of the Inspectors. Further, in view of the magnitude of the task, a separate cell in the Labour Department of the appropriate Government would be*

*created. Monitoring of the scheme would also be necessary and the Secretary of the Department could perhaps do this work. Overall monitoring by the Ministry of Labour, Government of India, would be beneficial and worthwhile.*

*(8) The Secretary to the Ministry of Labour, Government of India would apprise this Court within one year from today about the compliance of aforesaid directions. If the petitioner would need any further or other order in the light of the compliance report, it would be open to him to do so.*

*(9) We should also like to observe that on the directions given being carried out, penal provision contained in the aforesaid 1986 Act would be used where employment of child labour, prohibited by the Act, would be found.*

*(10) Insofar as the non-hazardous jobs are concerned, the Inspector shall have to see that the working hours of the child are not more than four to six hours a day and it receives education at least for two hours each day. It would also be seen that the entire cost of education is borne by the employer."*

7. The International Labour Organization proposed 2021 as the International Year for the elimination of Child Labour. The

International Year was adopted by the UN General Assembly. All the member states were asked to take effective measures to eradicate forced labour and human trafficking. The number of children labourers has risen in the last four years globally. According to data released by agencies the problem of Child Labour in India is persisting inspite of the best efforts of the Government. Covid-19 had a devastating effect on children from the lower strata of society who have been suffering due to the loss of employment of their parents & closure of schools which has forced them into labour for survival. We have highlighted the problem for the purpose of reiterating the importance of protection of children and rescuing and rehabilitating them.

8. At present, we are concerned with obviating difficulties to victims of trafficking with respect to travelling long distances for the purpose of giving evidence in trial courts. Though, the public-spirited Petitioners were concerned with the safety of the trafficked children being forced to travel long distances for giving evidence during the COVID-19 pandemic, we are of the opinion that the suggestions made by the learned Amicus Curiae, in consultation with Ms. Shenoy, relating to the SOP should be put in practice as a regular feature. The said

procedure need not be restricted only to the period affected by the COVID-19 pandemic. The permissibility of recording evidence through video conferencing has been considered by this Court in ***State of Maharashtra v. Dr. Praful B. Desai***<sup>2</sup>, ***Sakshi v. Union of India & Ors.***<sup>3</sup> as well as ***Eera v. State (NCT of Delhi) & Anr.***<sup>4</sup>. In ***Sampurna Behura v. Union of India & Ors.***<sup>5</sup>, this Court encouraged the use of technologies in court proceedings by stating as under:

*“77. The use of technology, both by the JJBs as well as by the CWCs is extremely important and we are disheartened to note from the affidavits and submissions made by MWCD that there is an acute shortage of computers and peripherals with the JJBs and CWCs. Technology is important not only for the effective functioning of the JJBs and CWCs, but also to deal with issues that would arise from time to time concerning the tracing and tracking of missing children, the rescue of children working in hazardous industries, trafficked children, children who leave the Child Care Institutions, victims of child sexual abuse and follow-up action, among several other requirements. It is well known that our country is a technological powerhouse and if we are unable to take advantage of the resources available with us and fully utilise the benefits of technology through computers and the internet for the benefit of children, our status as a technological powerhouse would be in*

2 (2003) 4 SCC 601

3 (2004) 5 SCC 518

4 (2017) 15 SCC 133

5 (2018) 4 SCC 433

*jeopardy and would remain only on paper. Data, particularly of the magnitude of the kind that we are concerned with, can be easily collected through the use of computers and the internet. This would be of great assistance in planning and management of resources and MWCD and others concerned with child rights must take full advantage of this.*

**78.** *That apart, there can be no doubt that the use of computers and peripherals would make an immense contribution to the administrative functioning of the JJBs and CWCs. Both the Government of India and the State Governments need to look into this and provide necessary software and hardware to the JJBs and the CWCs for obvious reasons. We were informed by the learned counsel that the police authorities in Telangana and Andhra Pradesh in consultation with the Juvenile Justice Committee of the High Court have made considerable use of information and communication technology and we are of the view that innovative steps must be encouraged. Similarly, the use of videoconferencing could also be considered in appropriate cases where some inconvenience to the juvenile in conflict with law necessitates the use of videoconferencing facilities."*

9. We have carefully examined the draft SOP which contains minute details about steps to be taken for recording the testimony of child witnesses at Remote Points. Responses have been filed by the High Courts. There is no objection taken by any High Court to the SOP being put in practice



immediately. We direct that the SOP, as has been reproduced above, shall be followed in all criminal trials where child witnesses, not residing near Court Points, are examined and not physically in the courts where the trial is conducted. We direct the RPCs to ensure that child-friendly practices are adopted during the examination of the witnesses.

10. A direction was sought by the learned Amicus Curiae regarding the source of payment of honorarium to the RPCs. We are informed by the learned Amicus Curiae that a daily honorarium of Rs.1500/- was paid to the RPCs who were appointed as such during the pilot project. For the present, we are of the opinion that the RPCs shall be paid Rs.1500/- per day as honorarium. We are in agreement with Ms. Shenoy that Section 312 of Code of Criminal Procedure empowers the Criminal Court to direct the Government to pay the expenses of the witnesses attending any inquiry, trial or other proceedings.

11. We requested learned Amicus Curiae who also appeared on behalf of NALSA, to get instructions regarding the willingness of NALSA to bear the expenditure relating to the payment to be made to the Remote Point Coordinator. Learned Amicus Curiae on instructions from NALSA suggested the

following :

- (1) NALSA would pay Rs.1,500/- per day to the Remote Point Coordinator (RPC) whenever the RPC is required for the purposes of examination of the child witness(es) through video conferencing.
- (2) NALSA would provide legal assistance to the child on the days when he/she comes from his/her examination, if the child is otherwise not represented by a counsel.

12. We appreciate the stand taken by NALSA to strengthen the video conferencing facilities in DLSA offices in the States of Uttar Pradesh, Bihar, West Bengal, Odisha and Assam, to begin with to ensure that in case video conferencing facility in the court complex is not available, video conferencing facility in DLSA office can be utilized for recording of the evidence of the child witness.

13. NALSA has also come forward to place the details regarding the availability of video conferencing facility for recording of statement of child witnesses in the offices of DLSA and court complex and the name and contact number of the RPC on its website and the website of State Legal Services Authority (SLSA) by 30.04.2022.

14. The concerned judicial officer at the Remote Point and the trial Court shall ensure that the recording of evidence shall be in camera wherever necessary.

List this matter on 2<sup>nd</sup> May, 2022 at the end of the Board.

**(Geeta Ahuja)**  
Court Master

**(Anand Prakash)**  
Court Master

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRL) NO.274 OF 2020

IN THE MATTER OF:

Santosh Vishwanath Shinde & Anr.

...PETITIONERS

VERSUS

Union of India & Ors.

...RESPONDENTS

**DRAFT STANDARD OPERATING PROCEDURE**  
**FOR RECORDING EVIDENCE OF CHILDREN THROUGH**  
**VIDEO CONFERENCING**

PAPER BOOK

[for Index, kindly see inside]

ADVOCATE FOR PETITIONERS: SRISHTI AGNIHOTRI

[Filed on: 15.01.2022]

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IN THE SUPREME COURT OF INDIA  
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**DRAFT STANDARD OPERATING PROCEDURE FOR  
RECORDING EVIDENCE OF CHILDREN THROUGH VIDEO  
CONFERENCING**

- A) Based on the experience gathered from 2 pilot projects, a draft SOP was circulated to the Hon'ble High Courts pursuant to order of this Hon'ble Court dated 26.10.2021. Comments received from the Hon'ble High Courts alongwith the summary has been enclosed separately.
- B) The present suggested SOP is a simplified version of the earlier SOP. The suggested SOP contemplates that an authorized person at the Trial Court will coordinate with the Remote Point Coordinator for recording of the testimony of child witnesses in inter-state/ inter-district child trafficking cases. Preference will be given to recording of testimony through video conferencing unless there are cogent reasons for not doing the same. This would help save trouble to the children who have to travel thousands of kilometres to give evidence in court.

**DRAFT STANDARD OPERATING PROCEDURE**

- 1) It is suggested that testimony of children, who are victims of inter-state/ inter-district child trafficking, is recorded through video conferencing either at the video conferencing room of the court complex in the district or vulnerable witness room in the court complex of the district or the office of DLSA in the district where the child is residing.<sup>1</sup>
  
- 2) To facilitate the above, it is prayed that the Ld. District Judges of all districts may ascertain the availability of video conferencing facility in the district/Taluk court complex or DLSA office and communicate the same to the jurisdictional High Court. The High Court may be requested to place the said information on its website on or before 30.04.2022. Further, it is prayed that efforts should be made to ensure that such video-conferencing infrastructure/ facility is created in every district, especially in those states where the incidence of child trafficking cases is high.
  
- 3) The Secretary, DLSA of the district can be requested to be the Remote Point Coordinator (RPC) for recording of the testimony of child witnesses. However, if the Chairman of the DLSA considers necessary or desirable, he/she may appoint a Retired Judicial Officer as a Remote Point Coordinator. It is prayed that the Hon'ble High Courts may place the aforesaid information i.e. the names and contact details of the RPC of each district on the website alongwith the information in para 2 above.

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<sup>1</sup>It can also be done Taluk level as in some cases, video conferencing room can be available in a court complex at Taluk level or Sub Division level.

- 4) When an offence of inter-state/ inter-district child trafficking is taken up for trial by a Court, and if the Court point and the remote point have video conferencing facilities, the Trial Court should ordinarily give preference to examination of the child witness through video conferencing.
- 5) The authorized officer at the Court Point may get in touch with the RPC at the Remote Point and work out all modalities for recording of the child witness statement through video conferencing.
- 6) If video conferencing is feasible, a date and time be fixed by the trial court for examination of the witness(es). Summons may be issued to the child witness(es) to present himself/herself for evidence before the RPC. The summons may be served in addition through the local process server of the remote point. The witness would be required to come with identification documents. The summons would also have the name and contact details of the RPC at the Remote Point and would also mention that the witness can take help of legal aid or other assistance through the Secretary, District Legal Service Authority, if required.
- 7) The child witness shall be entitled to the presence of a support person as defined in the Protection of Children from Sexual Offences Rules, 2020 or any other applicable laws/ guidelines or as allowed by the Trial Court. Further, *best practices* that are required to be followed in recording the evidence of child witnesses should continue to be followed even during the recording of the testimony through video conferencing. These include, ensuring that the child witness is provided diet money on the basis of the distance travelled by him or her to reach the remote point, the presence of a police



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officer at the remote point to ensure that the child witness does not come in contact with the accused (if out on bail) or any relative of the accused, and any other best practice required by the law/ relevant guidelines/ being followed by the States.

- 8) Copy of documents, if any, required to be marked or shown to the witness may be transmitted by the Court electronically to the RPC. The RPC at the Remote Point would assist in examination of the witness and ensure that no tutoring takes place and no unauthorized person or recording device is present in the room.
- 9) The RPC may take all measures possible and shall seek the assistance of the support person to ensure that the child witness is comfortable. Questions posed by the Public Prosecutor/ Defense Counsel may be put to the Ld. Trial Judge, who in turn will put them to the witness and the Trial Court would record the testimony of the witness. The RPC may help with translation or take the assistance of a translator/ special educator if required or render any other assistance which the Learned Trial Court may require.
- 10) On completion of recording of evidence, the deposition will be sent by the Trial Court on email to the RPC at the Remote Point who shall take a print-out and read the same out to the witness. After ascertaining the deposition is correct and verified as under law including the affixation of the child's thumb impression/ signature, the RPC may certify the same and send the deposition back, in a secure manner, to the Trial Court by Speed Post and by electronic means as permitted by law. An original may also be kept by RPC in case the Speed Post is misplaced for some reason.

- 11) Whenever a Trial Court proposes to record the testimony of a child witness, who is residing in another State, an intimation of the same should also be given to the Registrar of the High Court of the Court point. The Ld. Registrar may intimate the same to the Ld. Registrar of the High Court of the Remote Point with a request to render all assistance possible for recording of the testimony of the child.
  - 12) This Standard Operating Procedure is only a broad guideline. The method and manner of recording of testimony be dependent upon the video conferencing rules framed by the respective High Courts, which would be kept in mind while recording the testimony of the child witness. It should be kept in mind that the recording of the testimony should be done expeditiously, without undue delay.
- C) Some High Courts have raised the question of the source of payment of honorarium to the Remote Point Coordinator (if he is a Retired Judicial Officer). It is humbly prayed that this aspect may kindly be clarified by this Hon'ble Court.
- D) It is also prayed that the Hon'ble High Courts may consider circulating the SOP [as approved by this Hon'ble Court] to the Ld. Judges of the trial court.

FILED BY

[SRISHTI AGNIHOTRI]  
Advocate for Petitioners

NEW DELHI  
FILED ON: 15.01.2022

**SUMMARY OF COMMENTS OF THE HON'BLE HIGH COURTS ON THE REVISED SOP**

SL NO	High Court	Date of comments	Comments
I.	The High Court of Meghalaya (Pages 1-5)	9.11.2021	<ul style="list-style-type: none"> <li>• Proposal for appointing Secretary, DLSA as RPC appears to be feasible</li> <li>• Role of RPC to include assistance in serving summons, coordinating with different government depts. including CWC, making arrangements for video conferencing, facilitating attendance of child-witnesses.</li> <li>• Stage I: Identification of witnesses: <b>endorsed</b>. In addition, the same procedure is recommended for a witness living in a different district.</li> <li>• Suggestion that the Trial court will confirm the availability of VC technology is <b>endorsed</b>.</li> <li>• Stage II: Intimation to High Court at the Court point, <b>endorsed</b>.</li> <li>• Stage III: Intimation to Remote Point Courts. Comment: The Central Project Coordinator may be involved in the process who would collaborate with the Secretary DLSA concerned.</li> <li>• Payment of honorarium: Comment: Source of funding for payment of honorarium may be specified (i.e. whether it will be from NALSA or State Government funds).</li> <li>• Suggestion of PP Sending all relevant documents in advance to the Secretary DLSA, is <b>endorsed</b>.</li> <li>• Other court complexes in the State may be considered if VC facilities not available in a particular state: <b>endorsed</b>.</li> <li>• Procedure for issuance of summons: <b>endorsed</b>.</li> <li>• Procedure for recording of testimony: <b>endorsed</b></li> </ul>

			<ul style="list-style-type: none"> <li>• Suggestions on NALSA Nodal Committee and Social security to repatriated children, <b>endorsed</b>.</li> <li>• Additional Comments: <ul style="list-style-type: none"> <li>a. Basic rules/ guidelines regarding examination of witnesses through video conferencing rules may be strictly adhered to.</li> <li>b. Identity of child witness needs to be properly verified</li> <li>c. Examination of child witnesses only during court hours.</li> <li>d. Recording of demeanor of the witness by the Court.</li> <li>e. Priority may be given to such recording of evidence so as not to prolong it.</li> </ul> </li> </ul>
2.	High Court of Kerala (Pages 6-7)	12.11.2021	High Court of Kerala states that the SOP was considered by its Juvenile Justice Committee and the suggestions in it are in sync with the Electronic Video Linkage Rules of the High Court.
3.	High Court of Madhya Pradesh (Pages 8-16)	12.11.2021	<p><b>Stage I: Identification of cases:</b>No comments.</p> <p><b>Stage II: Intimation to High Court at Court Point</b></p> <p><b>And Stage III: Intimation to remote point courts:</b></p> <ul style="list-style-type: none"> <li>• Suggested nominating a nodal officer for intimating the High Court (given pendency and workload in district courts).</li> <li>• Reference made to the Madhya Pradesh video-conferencing and Audio-visual Electronic Linkage Rules, 2020.</li> <li>• In terms thereof it was suggested that the coordinator be the person/ officer suggested in the rules of the concerned state.</li> </ul> <p><b>Stage IV: Issuance of summons</b></p> <ul style="list-style-type: none"> <li>• Suggestion that summons may also be sent through email to the parents/ guardians of the child, subject to availability. IO may be directed to secure such email during investigation.</li> </ul> <p><b>Stage V: Recording of testimony: No comments.</b></p>

			<p>Additional Suggestions/ Submissions.</p> <ul style="list-style-type: none"> <li>• Necessary to keep a support person with the child witness.</li> <li>• Accused should be given full opportunity for defense.</li> <li>• Modality suggested in a case where the support person is also a witness in the case, their testimony may be taken first.</li> <li>• Last two paragraphs deal with infrastructure in the State of MP.</li> </ul>
4.	High Court of Manipur (Page17)	10.11.2021	High Court of Manipur has no suggestion to make and the draft SoP is acceptable to the High Court
5.	Gauhati High Court (Page 18-19)	8.11.2021	<p><b>Stage I: Identification of cases. Comments:</b></p> <p>Reference made to the "Gauhati High Court Rules for Video Conferencing for Courts"</p> <p><b>Stage II: Intimation to the High Court at the Court Point.</b></p> <p>Comment: When a case is of two districts under the same high court, this step may not be necessary.</p> <p><b>Stage III: Intimation to the Remote Point Courts:</b></p> <p>Comments: The District and Sessions judge to be at liberty to constitute a panel of retired judicial officers and nominate one to Act as RPC. If no RPC can be so nominated and there is no Secretary, DLSA, the Court may appoint any other suitable person to act as RPC.</p>

			<p>Stage IV: Issuance of Summons: No comments.</p> <p>Stage V: Recording of Testimony: No comments.</p>
6.	High Court of Himachal Pradesh (Pages 20-27)	12.11.2021	<p><b>Stage I: Identification of Case</b></p> <ul style="list-style-type: none"> <li>• The High Court agrees with this as it will ensure quick disposal of cases and reduce the suffering of victim. However, the High Court suggests that the Public Prosecutor or the counsel for the victim should ensure the present location of such child witness, in writing, before the court, at the stage of issuing summons to the child witness/victim.</li> <li>• For hilly areas, criteria of distance should be of 50 kms instead of the proposed 100 kms, as in hilly areas it takes more than 03 hours to cover even a distance of 50 kms.</li> <li>• Video conferencing facilities are available in 43 of the 51 Court complexes in the State of Himachal Pradesh. However, video- conferencing facilities are not available in each Court of these 43 complexes.</li> <li>• Technical manpower is posted only at the District Courts but the same can be deployed by the concerned District and Sessions Judge to the Taluka Courts as and when required.</li> </ul> <p><b>Stage II: Intimation to the High Court at the Court Point: Endorsed.</b></p> <p><b>Stage III: Intimation to the Remote Point Courts.</b></p> <p>All Courts having VC facilities should upload information on their</p>

			<p>respective websites regarding dates and time slots, when such facilities are available so that a case is not delayed for finding out whether facilities are available or not.</p> <p>A list of retired judicial officers who have volunteered to be Remote Point Coordinators may be prepared and record of the same may be kept with the Secretaries, DLSAs.</p> <p><b>Stage IV: Issuance of summons: endorsed.</b></p> <p><b>Stage V: Recording of testimony:</b></p> <ul style="list-style-type: none"> <li>• SOP to be followed in letter and spirit.</li> <li>• All participants must be present well before a child witness and no unnecessary adjournments.</li> <li>• Should be ensured that no person other than the child witness, RPC and the support person, if any, are present at the remote point.</li> <li>• Vulnerable witness rooms are generally not available due to paucity of space, but they have been made available in some complexes whereas make-shift arrangements have been made in others.</li> <li>• No unauthorized recording gadget allowed during the testimony.</li> <li>• Guidelines to be laid down for correction of testimony in case of any mistake/ discrepancy pointed out by the witness.</li> </ul> <p>The Hon'ble High Court of Himachal Pradesh, in compliance with directions passed by this Hon'ble Court in Criminal Appeal No. 1820 of 2017 (arising out of SLP- Cr1. No. 2172 of 2014) titled the State of Maharashtra versus Bandu Daulat, adopted the guidelines for recording evidence of vulnerable witnesses in criminal matters, as</p>
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			framed by the High Court of Delhi.
7.	High Court of Andhra Pradesh (Pages 28-30)	12.11.2021	<p><b>Stage I: Identification of cases: No comment.</b></p> <p><b>Stage II: Intimation to High Court at Court Point:</b></p> <ul style="list-style-type: none"> <li>• Instead of the Registrar or Nodal Officer if the District Judge is given the responsibility it will be less time consuming.</li> </ul> <p><b>Stage III:</b></p> <ul style="list-style-type: none"> <li>• Instead of Registrar High Court if the Secretary DLSA is given responsibility to ensure availability of video conferencing facilities it will be less time consuming.</li> </ul> <p><b>Other comments:</b></p> <ul style="list-style-type: none"> <li>• Recorded testimony should be preserved till case/ appeal/ revision finally disposed of.</li> <li>• Statement made by the child in his own words should be put down in writing and parents/ siblings/ relatives should sign.</li> <li>• If the testimony is in another language (other than English) official translation should be kept on record.</li> <li>• Testimony has to be uploaded to the concerned court and an authenticated copy has to be given to child witness/ victim and the prosecution.</li> <li>• A copy has to be preserved under seal and signature by secretary DLSA for future purposes.</li> <li>• Person recording testimony should ensure child is emotionally stable to give evidence and there is a child friendly atmosphere.</li> <li>• Unit Head of the Court of the area in which the child resides should be given the responsibility to oversee.</li> </ul>
8.	High Court of Madras	12.11.2021	The Hon'ble Juvenile Justice Committee of the High Court of Madras is of the view that:



	(Page 31)		<p>a. The Madras High Court Video Conferencing Rules, 2020 covers most of the points in the SOP.</p> <p>The High Court will send a report on practical difficulties after implementing them in POCSO cases, at first, by having a workshop for POCSO Judges, POCSO Public Prosecutors, Forensic Sciences Department experts and POCSO investigating officers.</p>
9.	High Court of Jharkhand (Pages 32-37)	5.11.2021	<p>The High Court of Jharkhand makes a reference to the following rules and regulations:</p> <p>b. The High Court of Jharkhand Rules for Video Conferencing for Courts 2020</p> <p>c. High Court of Jharkhand (Video Conferencing for Courts) Regulations, 2020.</p> <p>The High Court states that these Rules/ Regulations have been enacted to streamline the procedure relating to the use of video conferencing for Courts.</p> <p>The High Court also states that it will follow any directions passed by this Hon'ble Court on the SOP submitted by the Amicus Curiae in the present case.</p>
10.	High Court of Rajasthan (Page 38)	17.11.2021	<p>The draft of SoP is in order with the rules for video conferencing in courts and exhaustively covers all the aspects regarding examination of child witnesses through video conferencing. The procedure to conduct examination of child witnesses has been minutely described and does not require any specific addition except for the procedure described in Stage V i.e. 'Recording of Testimony', which provides that '<i>The RPC will identify the victim and administering oath to him/her</i>'. In place of this, the provision of administering oath to deponent by concerned Court may be incorporated'</p>

11.	Patna High Court (Pages 39-45)	---	<p><b>Stage I (Identification of Cases) : No comments.</b></p> <p><b>Stage II ((Intimation to High Court at the Court Point): No comments</b></p> <p><b>Stage III: (Intimation to Remote Point Courts )</b></p> <p>In case the video conferencing is not available at the court complex, other means like Telegram, WhatsApp etc. may also be considered for recording of evidences.</p> <p><b>Stage IV: Issuance of Summons</b></p> <p>a) While issuing the summons, witnesses should also be apprised about their legal rights</p> <p>b) Summons may be served through the Para Legal Volunteers (PLVs) in place of process server, so that the Para Legal Volunteers may inquire and if needed, free legal aid could be provided to the witnesses.</p> <p><b>Stage V: Recording of Testimony</b></p> <p>b) On completion of recording of evidences, a signed copy of the deposition may be given to the witnesses free of cost.</p>
12.	High Court of Sikkim (Page 46)	15.11.2021	High Court of Sikkim does not have any inputs on the draft SOP.
13.	High Court of Punjab and Haryana	1.12.2021	Whatever orders will be passed by the Hon'ble Supreme Court on the finalization of the Standard Operating Procedure, the same shall be complied with.

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	(Page 47)		
14.	High Court of Chhattisgarh, Bilaspur (Pages 48-49)	26.11.2021	<p>Comments:</p> <p>a. In sub-clause (a) of Clause D – Identification of Cases, the word ‘or’ may be used in place of ‘and’ in the 5<sup>th</sup> line which mentions ‘residing in another State and more than 100 kms away from the Court’.</p> <p>b. Clause (d) of Stage III mentions that: Public prosecutor would send all relevant documents to Secretary DLSA well in advance to enable marking of exhibits during testimony. In addition to the above, the following can also be modes of marking of exhibits.</p> <ol style="list-style-type: none"> <li>If the image is at the court point, by transmitting a copy or image of the document to the remote point, electronically.</li> <li>If the document is at the Remote point, by putting it to the person and transmitting a copy/ image of the same to the Court point electronically, including through a document visualiser. Hard copy of the document counter signed by the witness and the coordinator at the Remote Point can be dispatched to the Court point via authorized courier/ registered speed post.</li> </ol> <p>c. Whenever there is any difficulty in understanding the language of the victim or child witness or remote point coordinator, a translator or interpreter may be permitted at the time of examination of such witness with permission of Court or Judicial Officer of the Remote Point.</p>

15.	High Court of Gujarat (Pages 50-53)	11.11.2021	<p>Comments:</p> <p><b>Stage I: Identification of cases:</b></p> <p>Instead of "another state and more than 100 kms away" considering the location of the child witnesses/ victims, it may be considered as: "another state or more than 100 kms away or less than 100 kms in peculiar circumstances of the case, if and when required."</p> <p><b>Stage II: Intimation to the High Court at the Court Point</b></p> <p>No comments</p> <p><b>Stage III: Intimation to Remote Point Courts</b></p> <p>Two queries:</p> <p>a. Whether the Registrar of the High Court at Court point or the Remote Court Point has to request the Secretary DLSA or to, or through the Registrar of the High Court at Remote Point.</p> <p>b. May be clarified that the honorarium has to be paid by the State Legal Services Authority of the State/ UT of the concerned remote point.</p> <p><b>State IV: Issuance of summons</b></p> <p>Digitally signed e-summons may be considered to be sent through Email from the Court concerned to the Remote Point Court. The print of the same duly signed by the authorized official of the Remote Court Point, may be used for service of summons.</p> <p>The summons may be issued to witnesses in vernacular languages when Remote Point Court is within the State.</p> <p>Whereas when sending to the Remote Point Court situated outside the State, the Remote Point Court shall arrange the translation of summons in vernacular language.</p>
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			<p><b>Stage V: Recording of Testimony:</b></p> <p>It is proposed to have preserved copy of audio-visual recording of the hearing of case through VC as it is also provided in the Model Video Conferencing Rules drafted by the Hon'ble eCommittee of the Supreme Court of India which also approved by the High Court of Gujarat.</p> <p>Safeguards may be ensured so that the child witness does not see the accused, save and except at the time of identification.</p> <p><b>Overall comments and suggestions:</b></p> <p>1. Video conferencing rules, if in currency, may be followed. The provisions of this SOP may be incorporated suitably in the said rules, by way of amendment, as may be necessary.</p> <p>2. All High Courts should share with each other the locations of Vulnerable Witness Deposition Centre (VWDC) with video conferencing facilities. The same should be circulated to all the DLSAs of all the State/ UTs of the High Courts.</p>
16.	High Court of Orissa. Cuttack (Pages 54-57)	11.11.2021	<p><b>Stage I: Identification of cases</b></p> <p>This appears to be a wholesome process in the arena of examination of witnesses. It will not only save time but augment the process of trial to a greater extent.</p> <p><b>Stage II: Intimation to the High Court at the Court Point</b></p> <p>Instead of intimating the High Court, it is better that both the Court Point and the Remote Point should communicate with each other to fix the date for the examination of the child witness.</p> <p>It will not only save time but make the process simpler.</p> <p>Intimation to the High Court can be made soon after the examination of the child witness through video conferencing is over.</p> <p><b>Stage III: Intimation to remote point Courts</b></p>

			<p>All these steps can be effectuated in view of the wide prevalence of video conferencing now-a-days.</p> <p><b>Stage IV: Issuance of summons:</b></p> <p>This point revolves around issuance of summons in the usual mode along with the additional facility of legal aid if the witness so approaches.</p> <p>This is also a good point in providing fillip to the criminal justice system in the direction of the constitutional vision of free legal aid, enshrined under Article 39 A of the Constitution of India 1950 and is the entitlement of every child u/s 12 of the Legal Services Authority Act, 1987.</p> <p><b>Stage V: Recording of Testimony:</b></p> <p>This is a vital stage of the video conferencing process. All precautions are required to be taken before recording the statement of a child witness.</p> <p>This process is being adopted now-a days while examining witnesses and there appears to be no hurdle for the implementation of the same.</p> <p>The Ld. Presiding officer of the Court may ensure that the witness does not see the accused while giving evidence. However, the accused may be provided with the opportunity to see the child witness.</p>
17.	High Court of Karnataka (Pages 58-63)	27.11.2021	<p><b>General Comments:</b></p> <p>a. The Rules for Video Conferencing for Courts framed by the High Court of Karnataka (HCK Rules) is detailed and comprehensive. It would cover all cases including those involving child witnesses in trafficking cases. If similar Rules are framed by all the States or Pan India, it would be convenient to record video conference evidence in all cases including inter-state Child trafficking case as well.</p> <p>b. The 'One Stop Centers' in every district established as per the orders of the Hon'ble Supreme Court in <i>Nipun Saxena v. Union of</i></p>

			<p><i>India</i>, [(2019) 2 SCC 703] may be used as a Court Point/Remote Point for recording evidence through video conference mode. These One Stop Centers are required to have video conference facility for recording evidence of women and child witnesses.</p> <p>c. Courts and remote points must be empowered with requisite technology and designated software for conducting video conferencing.</p> <p><b>Stage I – Identification of cases</b></p> <p><b>Stage I(a):</b> Identification of cases should not be restricted to the location of child based on kilometers but left to the discretion of the Trial Court. Rule 6 of the HCK Rules provides a concrete procedure for identification of cases for appearance, evidence and submission of Video Conferencing. The said Rule provides for request of party, discretion of the court, fixing the schedule and costs involved.</p> <p><b>Stage I(a) –</b> The facilities required to conduct video conferencing should be specifically mentioned. Rule 4 of the HCK Rules clearly lays down the facilities recommended for video conferencing.</p> <p><b>State II – Intimation to High Court at the Court Point</b></p> <p><b>State II(a) –</b> Intimating every suitable case by the Trial Court to the Ld. Registrar of the High Court would be very time-consuming. Instead periodical reports regarding recording of evidence of child witnesses in child trafficking cases may be submitted by the Trial Court to the High Court.</p> <p>As per Rule 5 of the HCK Rules, all the preparatory arrangements must be performed by the Trial Court itself.</p> <p><b>Stage III – Intimation to Remote Point Courts</b></p> <p><b>Stage III(a):</b> The trial court must be empowered to manage its board as it will be difficult for the Ld. Registrars of High Court/ Secretary, DLSA to coordinate with Trial Courts on case to case basis.</p> <p>Under Rule 5.4 of the HCK Rules, Trial Courts are empowered to formally request the District Judge to arrange for Video Conference</p>
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		<p>in proximate and suitable Court premises if there is no facility at the remote point.</p> <p><b>Stage III(b):</b> There is no clarity as to the facilities required for video conferencing and as to who will be the Court Point Coordinators and Remote Point Coordinators. In child trafficking cases, generally Court of another State, Mediation Centre/ Office of DLSA or TLSC, Hospitals, observation homes/ child facility, women rescue homes, shelter homes etc. are probable remote points, but are not included in the SOP. While recording evidence of child witnesses, the services of social workers attached to the District Child Protection Unit may be obtained as remote point coordinators.</p> <p>Rule 4 of the HCK Rules clearly lays down the facilities recommended for video conferencing, and Rule 5 defines the Court Point and Remote Point Coordinators and their roles. Rule 5.3 provides for the 10 most probable Remote Points and who should be the RPC for each.</p> <p><b>Stage III(c):</b> Considering human resource and technical support available, it would be difficult for the Member Secretary to arrange for video-conferencing facility at remote point unless the child/ victim is present in the office of the DLSA/TLSC or Mediation Centre.</p> <p>As per Rule 5.3.3, if only the required person is at the mediation centre/ office of Legal Service Institution, any authorized person nominated by the DLSA shall act as remote point coordinator.</p> <p><b>Stage III(d):</b> Sending all relevant documents to the Secretary, DLSA would be a time consuming and tedious exercise.</p> <p>As per Rule 5.7, HCK Rules, for the purpose of exhibiting the documentary evidence, non editable digital scanned copies of documents are to sent to email of Remote Point Coordinator.</p> <p><b>Note for Stage III:</b> Micro-level implementation will be difficult, it is better if the Trial Court itself makes arrangements with the Remote</p>
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			<p>Point coordinator.</p> <p><b>Stage IV: Issuance of summons</b></p> <p><b>Stage IV(a):</b> In criminal cases, process servers are not deployed. The issuance of summons through Special Juvenile Police Unit (constituted u/s 107 of JJ Act) may be encouraged. No purpose will be served by sending proof of identity of the witness at the time of service of summons.</p> <p>Rule 7. HCK Rules deals with service of summons, and Rule 8.1 contemplates that before examination of a person through VC, s/he shall produce and file proof of identity.</p> <p><b>Stage IV(b):</b> If HCK Rules 5 to 8 are followed, role of Secretary, DLSA does not arise for consideration. However, providing free legal aid will be the DLSA's statutory duty.</p> <p><b>Stage V – Recording of testimony</b></p> <p><b>Stage V(a):</b> The procedure contemplated does not refer to requirement for VC facility fixing the schedule, punctuality, privacy, presence of translator/ interpreter/ expert etc.</p> <p>HCK Rule 5.5 to 5.9.3 deals with all procedure and formalities required for holding video conference evidence. The Remote Point Coordinators must be trained to perform their functions effectively and in a child-friendly manner.</p> <p><b>Stage V(b):</b> The procedure contemplated is not comprehensive. HCK Rule 8 comprehensively deals with examination of persons, including the obtaining of signature on testimony of witnesses.</p>
18.	High Court of Tripura (Pages 64-69)	11.01.2022	<p><b>Comments:</b></p> <p>a. The draft SOP and suggestions therein may be read in addition to the Tripura Video Conferencing (Conduct of Proceedings including recording of Evidence and Remands of accused in the Trial Courts) Rules, 2018. The provisions contained in the SOP may prevail in the case of any repugnancy between the SOP and</p>

			<p>Rules until appropriate amendment in the Rules is carried out.</p> <p>b. <b>Stage IV: Issuance of Summons</b> – it is proposed that since cases pertaining to child trafficking are criminal cases, summons may be sent by the Trial Court to the witnesses through the Special Juvenile Police Unit of the Court end and the Remote end.</p> <p>c. For the purpose of authenticated service upon the witness, use of ICT tools such as NSTEP mobile application may be utilized for providing service upon the intended witness.</p> <p>d. A database is required to be created for all Special Juvenile Police Units with their email addresses for transmitting summons from one end to the other end and to obtain the report of service.</p> <p>e. In order to effectively implement the suggestions made in the draft SOP, adequate training may be imparted to the Nodal Officer to be appointed for the Court end and Remote end/ point and also the Secretary, DLSA or retired Judicial Officer to act as Remote Point Coordinator. It should be ensured that such officers are technically capable in order to perform their duties as per the draft SOP.</p> <p>f. The State Governments may be directed to provide proper civil and IT infrastructure to the Trial Courts and release adequate funds for the augmentation of the same.</p> <ul style="list-style-type: none"> <li>- Basic minimum facilities like a child-friendly room, provision of water/food, good quality VC equipment with at least two Internet connections through fibre optics should be available with the Trial Court so as to record the evidence of a victim/ witness through video conferencing.</li> <li>- This should be done in a time bound manner and trial courts may be directed to follow the SOP for evidence recording in child trafficking cases once the infrastructure is ready so no</li> </ul>
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			inconvenience is caused to child victims/ witnesses in such cases due to lack of infrastructure or flaws in the same.
19.	High Court of Kerala (Pages 70-71)	13.01.2022	The Juvenile Justice Committee of the High Court had a detailed deliberation and was of the opinion that the draft SOP is well drafted and almost all the stages in the draft SOP are included in the Electronic Video Linkage Rules issued by the High Court of Kerala.
20.	High Court of Delhi (Pages 72-79)	11.01.2022	<p>Comments:</p> <p>1.The High Court fully appreciates and agrees with the draft SOP and inputs suggested therein, which are covered under various Rules of the 'High Court of Delhi Rules for Video Conferencing for Courts, 2021' ('2021 Rules') and 'Guidelines for recording of evidence of vulnerable witnesses in criminal matters' issued by the High Court of Delhi</p> <p>2.That the 2021 Rules are comprehensive and contain not only certain issues mentioned in the draft SOP but various other facets connected with recording of proceedings at all stages of judicial proceedings, including recording of evidence through video-conferencing.</p> <p>a. Rule 3(i) of Chapter II of the 2021 Rules states that VC facilities may be used at all stages of judicial proceedings and proceedings conducted by the Court. It does not restrict identification of cases to where the witness is residing in another/ more than 100 km away from the Court as suitable, the discretion is with the Court.</p> <p>b. Rule 5 of Chapter II of the 2021 Rules, 'Preparatory Arrangements' covers Stage II and II of the SOP whereby modalities have been defined regarding appointment of coordinator at Court Point and Remote Point</p>

			<ul style="list-style-type: none"> <li>- Rule 5.2 – provides that in civil and criminal courts falling within the purview of the district judiciary, persons nominated by the High Court or concerned District Judge shall perform the functions of Coordinators at the Court Point and Remote Point as provided in Rule 5.3.</li> <li>- Rule 5.5 and 5.6 provide the duties of the coordinator at both the Court Point and Remote Point</li> </ul> <p>c. Rule 7 of the 2021 Rules covers the various aspects of Stage IV of the draft SOP</p> <p>d. Rule 8 of Chapter III of the 2021 Rules, 'Examination of Persons' covers certain aspects of Stage V of the draft SOP.</p> <p>3. 'Guidelines for recording of evidence of vulnerable witnesses in criminal matters' cover almost all aspects of Stage V (Recording of Testimony) of the SOP.</p> <p>a. The issue of vulnerable witnesses to be given access to a support person and legal assistance/ counsel of their choice are provided under Rule 18 and 17 respectively of the guidelines.</p> <p>b. Requirements that the witness/ child victim does not see the accused while testifying, in-camera proceedings, and that the witness is to be allowed reasonable period of recess while undergoing depositions are provided under Rule 31, 29, 26 respectively.</p> <p>4. The High Court has provided details of rooms that have already been established as well as number of vulnerable witness deposition court room which are to be established in the Delhi district courts.</p>
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Hon'ble Apex Court has further directed that the said SOP, shall be followed in all criminal trials where child witnesses, not residing near Court Points, are to be examined. Hon'ble Court further directed that the Remote Point Coordinators shall ensure that child-friendly practices are adopted during the examination of the witnesses.

As your goodself is very much aware that video conferencing facility is available in all the DSLAs and as directed by Hon'ble Apex Court, the Secretary of each DSLAs are also acting as Remote Point Coordinator for recording of the testimony of child witnesses, your goodself is requested to circulate the copy of aforesaid order dated 01.02.2022 along with Standing Operating Procedure (SOP) for Recording Evidence of Children through video conferencing amongst all the Trial Courts for compliance of directions passed by Hon'ble Apex Court in letter and spirit.

With Regards,

Yours sincerely,

Encl.: As above.

{Kanwal Jeet Arora}  
Member Secretary, DSLSA

**OFFICE OF PRINCIPAL DISTRICT & SESSIONS JUDGE (HQs) : DELHI**

No. \_\_\_\_\_/Rules/Gaz/2022 Dated \_\_\_\_\_

Sub:- Compliance of directions dated 01.02.2022 passed by Hon'ble Supreme Court in SWM (Civil) No.6/2021 in RE: Children in street situation.

Copy alongwith its enclosures forwarded to Website Committee, Tis Hazari Courts, Delhi with the direction to upload the above said order dated 01.02.2022 alongwith Standing Operating Procedure (SOP) directions passed by Hon'ble Apex Court for information & compliance to:-

1. Ld. Principal District & Sessions Judges, all court complexes, Delhi/New Delhi/Rouse Avenue with the request to circulate the copy of same amongst all the Trial Courts under their control.
2. All the Judicial Officers (Central) Tis Hazari Courts, Delhi for compliance of directions passed by Hon'ble Apex Court.
3. The Secretary, DSLA (Central) Tis Hazari Courts, Delhi for compliance of directions passed by Hon'ble Apex Court.
4. Sr. AO(J)/AO(J), VWDC, DSLA, General Branch, Admin (I,II&III) (Central) Tis Hazari Courts, Delhi.
5. The Website Committee (Hindi/English) Tis Hazari Courts, Delhi.
6. The R&I Branch (Central) for uploading on LAYERS.

(MUKESH KUMAR GUPTA)  
Addl. District Judge (Central)  
Officer in-charge Judicial Branch Central  
For Principal District & Sessions Judge (HQs)