

**(2013) 04 AHC CK 0004**

**In the Allahabad High Court**

**Case No : Criminal M.W.P. (P.I.L.) No. 20736 of 2011**

**In Re: Inmates of Women Protection Home, Varanasi**

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**Date of Decision : 05-04-2013**

**Acts Referred:**

**Citation : (2013) 3 ACR 3153**

**Hon'ble Judges : Bachchoo Lal, J; Amar Saran, J**

**Bench : Division Bench**

**Advocate : Manju R. Chauhan, A.C, for the Appellant; Vimlendu Tripathi, A.G.A., for the Respondent**

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## **Judgement**

Amar Saran and Bachchoo Lal, JJ.—We have heard Sri Vimlendu Tripathi, learned A.G.A. and Ms. Manju R. Chauhan, learned amicus curiae. As we were not satisfied with the affidavit dated 14.5.2012 filed by the Director, Women Welfare, Lucknow, pursuant to our detailed order dated 28.3.2012, we had called for a fresh affidavit mentioning better details by our order dated 10.7.2012. Thereafter, another affidavit dated 23.1.2013 sworn by the Assistant Director, Women Welfare on behalf of the answering respondents, Principal Secretary, Women and Child Development and Director, Women Welfare, U.P. has been filed.

2. At the very outset, we have to point out that we are still not fully satisfied with the affidavit dated 23.1.2013 filed by the answering respondents. Whilst reiterating our appreciation that after the intervention of this Court, as many as 682 inmates were rehabilitated by restoration to their parents, husbands or by getting employment or by marriage or otherwise, we would like to point out that satisfactory answers to some of our other specific queries in the order dated 28.3.2012 have not been given.

3. It has still not been clarified as to what are the laws and Government orders under which the ten Women's Protection/Shelter Homes at Allahabad, Kanpur, Moradabad. Meerut. Etawah, Lucknow. Mathura, Bareilly, Gorakhpur and Faizabad, are being run.

4. However, pursuant to our orders dated 28.3.2012 and 10.7.2012 Guidelines

for running Women's Protection/Shelter Homes have been issued by the Special Secretary, Department of Women's Welfare, Child Development and Nutrition on 19.8.2012. It is further pointed out that pursuant to these guidelines whereas there were 486 inmates against a capacity of 475 inmates for all the women's protection homes in U.P., as on 19.8.2012. Their numbers have now been reduced to 330, as additionally 142 women inmates have been released to their guardians, and 14 women have been rehabilitated by getting them jobs, or self employment, or they have been married off or transferred to other homes. The 19.8.2012 guidelines mention that for providing shelter to women under risk of moral or physical danger, women in difficult circumstances, vagrant women or victims of domestic violence, (covered under the Women's Protection from Domestic Violence Act, 2005) Government Women's Protection Homes have been created. These shelter homes are not covered by any statute. Pending framing of Rules which are under consideration, the guidelines are to apply to such women.

5. The guidelines mention that the cases of rescued females below 18 years are to be covered by the Juvenile Justice Care and Protection Act, 2000 as amended in 2006 and orders for their custody are to be passed by the Child Welfare Committees (C.W.Cs.)/Magistrates. After entry to the Government Women's Shelter Homes such women are to be transferred to homes in areas where the C.W.Cs./Magistrates have jurisdiction in their matters.

6. Women detained in the Government Shelter Homes as well as their children up to 7 years are to be given free food, clothing, bedding and medicines for meeting their essential needs. Newly admitted women into the homes are to be medically examined.

7. Those women, who are not wanted under any criminal offence and desire to work for earning their livelihoods may be allowed to go out to work after proper verification of the safety of their proposed work place by the Probation Officer/In-charge of the Home. The Probation Officer or Superintendent of the Homes shall hear complaints of harassment at the work place and arrange counselling for such women. Bank accounts of such working women will be got opened. If the woman does not return by the fixed time from the work place the Station Officer of the concerned police station will be informed for immediate action in the matter.

8. Women who are detained by custody or protection orders or who are wanted for giving evidence in criminal offences by Magistrates/Courts will not be allowed to go out to work.

9. Adult women may be released on their own applications after obtaining orders from Magistrates/competent authorities who have ordered their detention in the homes.

10. The women, who give applications for being married may be transferred to the After Care Homes of the Women Welfare Department for facilitating their

marriages and rehabilitation.

11. Roll calls of attendance will be taken every morning and evening. There will be a proper routine for breakfast, meals, education and training as well as provision for entertainment and prayers, etc., in the Homes. Arrangement will be made for proper food for the women detained in the Homes with special diet for lactating or pregnant women. There will be no compulsion to follow any particular religion in the Homes.

12. No women can be forcibly detained in the Homes, other than those wanted in some criminal offence. In case of unforeseen death of any woman, her last rites will be got done only after post-mortem and after furnishing information to the Director Women Welfare/Government. Female Police Escorts will be available for appearance of women in the Courts. The employees working in the Homes should be given training for sensitively and competently handling their responsibilities towards such women.

13. We find however that the said guidelines dated 9.8.2012 make no provision for monitoring of the Homes by Monitoring Committees, which is essential for ensuring transparent running of the homes and treatment for the inmates and that the salutary guidelines are followed. The committee should consist of official members such as the District Magistrate or his nominee, Probation Officer. Superintendent of the Home, preferably a female Judicial Officer nominated by the District Judge and especially non-official members who could be activists and volunteers (usually female) to be selected by the District Magistrate in consultation with the District Judge/District Secretary Legal Services Authority and the Probation Officer. The said Committee should meet at least once a month and ensure that the guidelines dated 9.8.2012 described above are fully complied with. We would like the Principal Secretary, and Director Women's Welfare to make necessary changes in the guidelines for creating such monitoring committees in the homes for ensuring that the guidelines are properly implemented and the conditions of the homes/inmates are monitored.

14. The District Judges/District Secretaries Legal Services Authorities must especially ensure that adult women are not being detained against their wishes, that applications are made and orders for their release are promptly passed by the detaining Magistrates/authorities, that minor women who were detained for their protection or welfare are not indefinitely detained and that they are released as per their wishes on reaching majority, or are released sooner in the custody of their parents/guardians if they earlier make applications for that purpose and that legal aid is liberally made available to all such "forgotten" women who want to be released, in case they cannot afford a lawyer.

15. We would also like to be Informed on the next date as to the steps being taken and the time period required for framing the rules for monitoring the aforesaid categories of women, who are to be detained in the shelter homes.

16. We would also like a fresh detailed break up in tabular form of the number of

the women, who continue to be detained in different Homes, the reasons for their detention, whether the woman wants to be released and the period of their detention, and the other details as were mentioned in the Forms 1 and 2 attached to the earlier affidavit of compliance dated 19.3.2012.

17. The District Legal Services Authority shall examine all the cases of such women who are identified in the above mentioned table to be prepared by the State, copies of which are to be forwarded to all the district judges and also for providing legal aid to all the woman who desire to be released, or where women who were detained because they were accused or required as witnesses have spent the required period in the home, or who have become major if detained under the provisions of the Juvenile Justice Act.

18. We also find that there are a large number of women in the homes, who are physically handicapped, i.e., usually deaf, dumb or blind or crippled or are mentally challenged. We would also like to be furnished with details about such women and also to be informed by the Principal Secretary/Director Women's Welfare and Secretary Handicapped Welfare whether and what special facilities/arrangements are being provided for such women or are being planned for them.

19. In our order dated 28.3.2012 we had also sought Information whether any drop-in centres run by the Government or N.G.Os. exist or are being contemplated, where women in temporary need of shelter may be allowed to voluntarily stay for short periods of time, especially women who are victims of domestic or other violence, or who are in danger of moral or physical abuse or in grave difficulties. No information was furnished in this regard. We would, therefore, like to be furnished with the necessary details on the next date and also whether the Government proposes to set up such short stay shelters or support the good N.G.Os. who are working in this direction.

20. The guidelines speak of allowing adult women who desire to work outside for livelihood to be allowed to carry out such work, subject to some monitoring by the Probation Officer/Home In-charge. We would like to know the number of such women in the homes and their details on the next listing. This is necessary to dispel our impression that such institutions are functioning like prisons with no freedom to go outside on any condition.

21. Before parting, we would like to express our appreciation of two reports which furnish good accounts of the conditions of the Homes in their districts which have been submitted by Mrs. Rekha Dixit, Special Judge, E.C. Act. Kanpur Nagar, dated 4.5.2012 and by Gaurav Sharma, Secretary of District Legal Service Authority/A.C.J.M., Mathura, dated 11.5.2012.

22. We would like the State Legal Service Authority to ensure compliance of these directions especially related to the District Legal Services Authorities and also our directions to the other authorities, and we require the said authorities to furnish necessary details in compliance of these orders also to the Member Secretary, State Legal Services Authority, and the U.P. S.L.S.A. shall also submit

its report on the next date and appoint a counsel to represent it before this Court. We would like the District Judges (Chairpersons District Legal Service Authorities) to take up this matter regarding women's homes and their inmates in their monthly meetings with the administration and to submit reports every three months to this Court regarding the extent to which the conditions in the homes and the inmates are being monitored alongwith their further suggestions.

23. We would like personal affidavits of compliance to be filed by the Principal Secretary Women and Child Development and the Director Women and Child Development, and the Secretary Handicapped Welfare on the next listing.

24. List on 23.4.2013.

25. On that date, we would also like the presence of the Director Child Development and Women Welfare to instruct the Court on any queries that may be raised. Copies of this order be given/sent forthwith to the Registrar General, learned A.G.A., amicus curiae, Principal Secretary and the Director Women and Child Development, Secretary Handicapped Welfare, all District Judges (Chairpersons, District Legal Service Authorities), Chairperson and Member Secretary, U.P., State Legal Services Authority and to the High Court Committee for Monitoring Women's Protection Homes.