

(1994) 10 SC CK 0075

In the Supreme Court Of India

Case No : Criminal M.P. No. 505 of 1994 in Writ Petition (Criminal) No. 237 of 1989

Sheila Barse

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 03-10-1994

Acts Referred:

Citation : (1993) 3 Crimes 261 : (1993) 4 JT 558 : (1994) 4 SCALE 493 : (1993) 4 SCC 204 : (1993) 1 SCR 561 Supp

Hon'ble Judges : M. N. Venkatachaliah, C.J;S. Mohan, J

Bench : Division Bench

Judgement

1. We have perused the excellent report submitted by Sri Gopal Subramaniam, Senior Advocate. At the outset, we consider it our duty to place on record our deep appreciation of the time and energy spent by Sri Subramaniam in inquiring into the situation. We have no hesitation in accepting the report in its entirety. There is one other aspect which requires immediate attention.

2. Sri Subramaniam, though worked in his capacity as Commissioner appointed by this Court, appears to have put himself to personal expenditure in tens of thousands of rupees. We request him to furnish an account so that at least there should be some restitution of the money spent by him.

3. The report, in effect, is in three parts. The first part pertains to the provisions for rehabilitation of non-criminal mentally ill patients in the State of Assam. It is a shocking state of affairs that there is no understanding of the judgment of this Court dated 17th August, 1993, which strictly prohibited confining non-criminal mentally ill patients to jail. The State of Assam has a splendid record of having confined 387 persons to jail only on the ground that they were mentally ill. In many of the cases the Commissioner has found that they were, in fact, no mentally ill. In one case a person was confined to jail for merely being "talkative. At present, no steps are being taken by the State of Assam to have rehabilitation homes for non-criminal mentally ill persons. A part of the report deals with the

need in this behalf and has also offered suggestions.

4. The second part of the report is as to the need to compensate those who in violation of their constitutional rights and in the teeth of pronouncement of this Court were confined to jail and even after the judgment of this Court was pronounced. There are large number of such persons. The report indicates utter callous attitude of the administration of the State of Assam towards such persons. Indeed, the attitude of the Chief Secretary, State of Assam, is typical on this indifference and that of the Inspector General of Prisons is no better. We are afraid we have to appropriately assess and award compensation to those persons whose constitutional rights have been so violated. The law laid down by this Court indicates that in area where constitutional rights have been violated, the compensatory jurisdiction would require to be exercised. This matter shall be dealt with separately.

5. The third area is the action to be taken against the authorities and officers of the State Government, even at very high levels, for the utter disrespect and disregard for the pronouncement of this Court. This Court will have to look into this matter in detail and take appropriate action.

6. In the meanwhile, in response to notice in certain connected proceedings, the Minister for Law in the State of Assam, is before us.

Sri Harish N. Salve, learned senior counsel appearing on behalf of the Minister responding to the three suggestions made by the Commissioner for instituting appropriate steps for rehabilitation stated:

a) that the Tejpur Mental Hospital be made a regional institute for the North Eastern region under the North Eastern Council. The Council will consider a set up for this institute which will be an autonomous set up;

b) there should be a permanent Board of Administration for the Tejpur Mental Hospital which will take charge of improvement and additional facilities; and

c) involvement of non-government organisation specially Missionary of Charity Bishop Robbert Carcatta to share the task of rehabilitation of the non-criminal mentally ill patients, with the assistance of the Government.

7. So far as these suggestions are concerned, we direct that the State Government shall examine and communicate their acceptance of these proposals by 18th October, 1994, when the matter will be listed in Court.

8. In the meanwhile, we initiate suo moto proceedings for criminal contempt against the Chief Secretary, State of Assam and the Inspector General of Prisons, Assam, for the utter disregard of the orders of this Court and its implementation, who shall be present in person in Court on 18th October.

9. A copy of the Commissioner's report shall be furnished to Sri S.K. Nandy, learned Counsel for the State of Assam, to be forwarded to the Chief Secretary and the Inspector General of Prisons, State of Assam.

10. In view of the explanation filed by the Minister for Law, Power and Municipal Administration State of Assam, denying the authorship of the report we discharge the contempt notice. However, we expect him, in his capacity as Minister, to ensure that the recommendations of the Commissioner are effectuated in his State.