
(2007) 03 AHC CK 0173

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 15630 of 2006

Vishnu Dayal Sharma

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 22-03-2007

Acts Referred:

Citation : (2007) 03 AHC CK 0173

Hon'ble Judges : Amar Saran, J and R.N.Misra, J

Final Decision : Disposed Of

Judgement

1. We have heard Shri Sukhendu Pal Singh, learned Counsel for the petitioner, Shri A.K. Sand, learned Additional Government Advocate, Shri K.C. Sinha, learned Assistant Solicitor General of India and Shri D.K. Singh, Joint Registrar (Inspection), High Court, Allahabad.

2. In the case of the petitioner there was a specific direction to the Investigating Officer (SHO, police station Jagdishpura, Agra) to submit a progress report regarding investigation and to trace out the missing boy by the next date of listing, but the said report of the Investigating Officer concerned has not been received.

3. We express our displeasure over noncompliance of the direction and direct the Investigating Officer that the said report shall be made available to this Court on the next date of listing and that he shall make full and sincere efforts to trace out the missing boy by the next date of listing otherwise this Court may be constrained to summon the Investigating Officer for obtaining his explanation about his lapse.

4. We have also perused the counteraffidavit dated 1432007 of Dr. Anil Mishra, Deputy Superintendent of Police (Legal Cell), D.G.P. Headquarters, Lucknow, which has been filed by the learned Additional Government Advocate on behalf of the State, wherein disaggregated districtwise gender and age details of 719 children, who are missing in the year 2006 have been given.

5. We direct the Director General of Police to ensure that serious steps are taken to locate these children in accordance with the DGP's earlier circular letter dated 1012007 and to submit a further progress report about the steps taken on the next date of listing.

6. Another annexure has been filed giving disaggregated districtwise gender and agewise report relating to still missing children in the previous five years, which shows that 1971 children are missing, out of which 1440 are male and 531 are female.

7. Steps need to be taken in accordance with the DGP's earlier circular letter dated 1012007 for tracing out these missing children. Also in respect of our specific direction No. 3 in our order dated 1222007 to provide progress reports on the various directions issued at serial Nos. 1 to 5 of the DGP circular letter dated 1012007, only Annexures CA3 and CA3A have been filed which simply mention dates of receipt of compliance reports from the districts, zonal and railways authorities by the DGP headquarters. This is a very inadequate compliance of the direction in our order. The DGP's circular at serial Nos. 1 to 5 requires S.S.Ps/S.P.s in charge of different districts, S.P. (Railways) to instruct concerned police stations to forthwith register reports of missing children, to start investigations in right earnest by visiting the place of disappearance of the child and take all measures needed for recovery of the missing child and for punishing the abductor. To take the aid of radio, television and press media for publicizing information of the missing child. In case of failure of the local police to take action or to register an FIR, the aggrieved person was to have easy access to the SSP/SP/CO who should see that the serious action is taken on such complaints, notice boards put up and Public Relation Officer posted at the offices of SSP, SP and CO and in each police station for noting down the complaint of the aggrieved person and for recovering the missing child. The concerned officers were to be especially sensitive and accessible to the resourceless poor and marginalized, rather than only the politically well connected or the rich who have slightly better access to justice. In pursuance of this direction the DGP has instructed the concerned Gazetted Officers to also perform the functions of the Public Relation Officers mentioned in our earlier order dated 212007 and the SP/SSP incharge of the districts and Railways were to issue clear directives in the matter to subordinate police stations. In the bigger police stations the SSIs had been entrusted with this responsibility. Special cells were to be constituted in each district where information about cases of abductions/missing children including particulars of the abducted/missing child, age, gender, date of abductions/disappearance of the child, any other particulars and contact location for giving information, steps taken for locating the missing/abducted child, action taken against the kidnappers, was to be collated. The progress report of all matters were to be reported to the DIG (Region) IG (Zone) before the 5th of each month. The DIG/IG (Zone) was to send reports alongwith their comments to the DG (Crimes) Headquarters, Lucknow by the 10th of each month. The circular had warned of stringent action against negligent officers for failure to

comply with the circular or the High Court's orders. These details are conspicuous by their absence in the State's C.A.'s on all these points, and simply mentions the dates of when some reports have been received. Even a general mention or mention in tabular form of the steps taken for compliance with these directions, or the difficulties in implementing the same have not been enumerated in the counteraffidavit. Better details in respect of compliance with directions 1 to 5 in the DGP's circular dated 1012007, and the difficulties in implementation of the same must be given in the affidavit to be filed on the next date of listing by the State Government.

8. Shri K.C. Sinha, learned Assistant Solicitor General of India has furnished some instructions received from the Under Secretary, Ministry of Women and Child Development, Government of India, that as per a decision taken in a meeting dated 922007, a Core Committee to monitor the implementation of the plan of action for setting up a national missing children tracking system and also to look into administrative and coordination aspects was constituted with the Secretary, Ministry of Women and Child Development as the Chairperson and senior officers of Ministry of Home Affairs, National Crime Records Bureau, National Informatics Centre, UNICEF and Secretaries of Department Women and Child Development/Social Welfare and Home Departments of the State Governments of West Bengal, Delhi, Tamil Nadu and Maharashtra were the members.

9. He further states that some follow up meeting was to take place on 1422007, however, he does not have the details of the said meeting. It is stated that the central national portal on missing children tracking system is likely to be ready by June, 2007.

10. However, so far as our directions No. 8 and 9 in our order dated 1222007 are concerned, about giving notice to the Director General, Prasar Bharti, New Delhi, about the steps taken for showing the photographs of the missing children in the telecasts of Doordarshan or any other TV channel and our suggestions that Central and State Government interact with some private TV channels, who may be sympathetic to the cause of getting photographs of missing children telecast on their channels, neither the learned Assistant Solicitor General nor the learned Additional Government Advocate were able to provide any information.

11. We require them to furnish information to this Court on these aspects also on the next date of listing. The State of U.P. must also give further details about the timeframe for setting up of the web site as directed in our earlier orders perhaps on the lines suggested by the Ministry of Women and Child Development. We would be happy if the State Government coordinates effectively with the Central Government in setting up the web site and even sends some representative to attend the meetings, which are called by the Central Ministry in this regard. We also hope and trust that the Central Ministry shall inform the State Government about the date and agenda of the meeting so that the representative of the State Government may attend the same.

12. Shri D.K. Singh, Joint Registrar (Inspection), High Court, Allahabad informs us that two circular letters dated 2022007 and 1432007 have been sent to all the District Judges. In the first circular letter dated 2022007 the directions in our order dated 212007 that the District Judges of all the districts may issue directions to the legal aid committees to ensure that lawyers providing legal aid are present at S.S.P/S.P/C.O.'s office to help such indigent and resourceless persons who approach these offices in connection with the matters of missing children and other similar matters.

13. In the subsequent circular letter dated 1432007, pursuant to our order dated 1222007, directions have been issued to provide legal aid lawyers at the S.S.P/ S.P/C.O. office and also at the special cells for missing children which are to be constituted in each district pursuant to the DGP's circular dated 1012007 in addition to the legal aid lawyers who were to be provided at the S.S.P/S.P/C.O. level pursuant to our earlier order dated 122 2007. The District Judges were also asked to monitor or get monitored the quality of legal aid being provided by the duly appointed lawyers and their regularity in attending the said offices. The District Judges concerned were to apprise this Court of any difficulty that they may face in implementing this direction for providing legal aid. They were also to suggest other areas of social concern for providing legal aid to the unserved, resourceless persons needing legal aid so that this Court may coordinate this activity and issue appropriate directions wherever needed.

14. We had also directed that monthly report of the special cell and the DIG (Region) and I.G.(Zone) about missing children be placed before the district level monitoring committees comprising the District Judge, District Magistrate, Senior Superintendent of Police etc. in their monthly meetings for effective coordination with the district judiciary and for appropriate directions. Shri D.K. Singh, Joint Registrar (Inspection) High Court, informs us that so far no compliance report of these directions has been received from the District Judges.

15. Let a reminder be issued to all the District Judges to send compliance reports about the aforesaid directions.

16. List this case on 1052007 for further orders and for obtaining compliance report from the Central Government, State Government District Judges and Registry of High Court, Allahabad.

17. Copy of this order shall be given to the parties within 72 hours.