

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

Sr. No. 1

(through video conference)

EMG-WP (C) PIL No. 2/2020
EMG-CM No. 17/2020
EMG No. 19/2020
EMG No. 20/2020

Court on its own motion

..... Appellant/Petitioner(s)

Through :- Mrs. Monika Kohli, Amicus Curiae
(on video call from residence in Jammu)

V/s

Union Territory of J&K and Ladakh

.....Respondent(s)

Through :- Mr. Amit Gupta, AAG
(on video call from residence in Jammu)
Mr. T. M. Shamshi, ASGI
(on video call from High Court, Srinagar)
Prof. Rajinder Kachroo, applicant in person in EMG-
CM No. 20/2020.
(on video call from his residence New Delhi)

HON'BLE THE CHIEF JUSTICE (on Video Conference from High Court at Jammu)
Coram:
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
(on Video Conference from High Court at Jammu)

ORDER
28.04.2020

EMG-WP (C) PIL No. 2/2020

1. Pursuant to the order dated 16th April, 2020 passed by us, a report has been received from the Principal Secretary, Department of Social Welfare placing before us the steps taken. The same is taken on record.

2. As per the report, during January, 2020 to March, 2020, 81 cases of domestic violence stands registered in the UT of J&K and during the lock down period, the Social Welfare Department has reported that 16 cases of rape, 64 cases of molestation and one case of eve teasing have been reported. Rs. 10 lacs for each district of UT of J&K has been sanctioned out of SDRF fund for COVID-19 containment for victims of domestic violence for providing temporary accommodation, food clothing, medical care etc.

3. Additionally, the department of Disaster Management, Relief, Rehabilitation and Reconstruction (DMRR) Government of J&K has issued directions to all the Deputy Commissioner for designating 10 beds in each District Quarantine Centre exclusively and accessible for victims of domestic violence in the J&K.

4. Mr. Amit Gupta, learned AAG draws our attention to the order passed by the Deputy Commissioners identifying the locations of these safe spaces for the victims of domestic violence.

5. We are informed that a total of 1314 calls have been received from the affected persons on the emergency number 181 from 24th March, 2020 to 24th April, 2020, out of which 65 are related to violence against women and legal process stands initiated in these. The remaining 956 calls were reported by migrant labourers, who were in distress on account of the lock down. Extensive publicity is being given for putting the information regarding measures available for the victims of domestic violence in the public domain.

6. So far as designation of informal safe spaces for women for reporting domestic violence/abuse without alerting the perpetrators is concerned, the Social Welfare Department has informed that it has notified Anganwadi Workers for the reason that women/complainants would not be comfortable in

expressing their personal issues with the male members of the society. We had cited the example of grocery stores and pharmacies in foreign countries being notified as such safe spaces for the reason that every family is accessing grocery stores and pharmacies even in the lock down period.

7. Women in distress would not have easy access to the Anganwadi Workers. Ease of access has to be a primary concern for notifying an authority, especially in the urban areas. It may not be correct that women as a rule would be uncomfortable in making a complaint against the violence to male members of the society. It is essential for the Social Welfare Department to consider ease of access of the women in distress, as a basis for notifying the authority.

Let the Department of Social Welfare examine this aspect of the matter and consider notifying such appropriate spaces so that women in difficulty have easy access to them.

8. It appears that that while recording our last order, we have overlooked certain other specific groups in the society, who need special protection. These include, senior citizens; children; the disabled and transgenders. Elderly abuse and violence against children as well as violence against transgenders is rampant in society at all point of time. Just like violence against women, such violence may have aggravated in the lockdown situation and resultant confinement.

The directions made by us on the 16th April, 2020 would squarely apply to these groups of the community as well.

9. Let the Department of Social Welfare and Member Secretary, J&K State Legal Services Authority examine the requirements and steps necessary to mitigate the complaints and difficulties of victims of elderly abuse; child violence; violence against disabled and transgenders in the UTs of Jammu and Kashmir as well as Ladakh.

A report of measures in place; steps under way and those contemplated regarding them be placed before us before the next date of hearing.

10. A report has been filed by Mr. M. K. Sharma, Member Secretary, J&K State Legal Services Authority. The same is taken on record.

11. This report does not inform this Court about the compliance with the orders regarding payment of maintenance. For instance, it is reported from Ganderbal that “*in most of cases maintenance under Section 23 of the Domestic Violence Act granted.*” However, this is not sufficient. The maintenance granted must reach the persons in need thereof.

12. We shall be informed about the manner in which the maintenance granted is being paid to the women in distress.

13. The report informs us that during the period of *COVID-19* lock up, 19 cases in all under Section 498-A of the Code of Criminal Procedure have been registered in 20 districts in UT of Jammu and Kashmir and no case has been registered in UT of Ladakh.

14. Let these cases be followed up and relief, of whatever kind required by the complainants, be made available to them.

15. The reports placed before us would show that every aspect and issue pointed out by us is being addressed to the minutest detail. Several issues which have not been noted by us have also met an extremely sensitive response by the Department of Social Welfare.

16. Before parting with this order, we would like to record our deep appreciation for the prompt responses and extensive steps taken by both, the Department of Social Welfare led by Mr. Salender Kumar, Secretary, Department of Social Welfare and the J&K State Legal Services Authority under

the leadership of Mr. M. K. Sharma, Member Secretary, J&K, State Legal Services Authority.

17. The Deputy Commissioners in the UTs as well as the Secretaries of the District Legal Services Authorities also deserve to be complemented for their commitment to the response to the domestic violence issues during COVID-19 lockdown.

List on 13th May, 2020.

EMG-CM No. 17/2020

This application be de-linked from WP(C) PIL No. 2/2020 and be registered and listed with the WP(C) PIL No. 5/2020.

EMG –CM No. 19/2020

The applicant is permitted to make good the deficiency in Court fee and the affidavit within two weeks after the removal of the lock down.

This application is allowed.

EMG-CM No. 20/2020

The applicant has submitted that he has extensive experience in the field of domestic violence since 2013 and can assist this Court on the issue under consideration. The applicant has sought impleadment as a party respondent in this petition.

We are of the view that it is not necessary to implead the applicant as a party for him to assist this Court. Therefore, the prayer for his impleadment is rejected.

However, it shall be open for the applicant to make his suggestions in writing and filing the same in this matter. The suggestions shall not exceed 2 to 3 pages.

This application is disposed of in the above terms.

(RAJNESH OSWAL)
JUDGE

(GITA MITTAL)
CHIEF JUSTICE

Jammu
28.04.2020
Karam Chand

