

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION(S)(CIVIL) NO(S). 1156/2021

WE THE WOMEN OF INDIA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 20-05-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

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

Learned counsel for the State of Arunachal Pradesh submitted that the said State was impleaded subsequent to the order imposing costs of Rs.5,000/-. Hence, an application seeking waiver of the costs is being filed during the course of the day.

Taking note of the said submission, the order for payment of costs of Rs.5000/- is set-aside with regard to the State of Arunachal Pradesh.

We have heard learned senior counsel for the petitioner and learned ASG for Union of India and learned counsel for National Legal Services Authority (for short "NALSA") and all learned standing counsel for the respective States and Union Territories who are present.

The Protection of Women from Domestic Violence Act, 2005 enacted two decades ago is an Act to provide for more effective protection of the rights of women guaranteed under the Constitution of India to those who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. This Act has been passed in furtherance of Article 15(3) of the Constitution of India which provides *inter alia* for protection of women and children.

Learned senior counsel appearing for the petitioner submitted that this Court has entertained this Writ Petition in the year 2021 and has passed several directions from time to time. However, there is need to focus on certain aspects of the Act.

In this regard she has highlighted that there is need for appointment of protection officers under Section 8 of the Act. Section 8 of the Act reads as under:

"8. Appointment of Protection Officers.—

(1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and

perform the duties conferred on him by or under this Act.

2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed."

Section 9 delineates the duties and functions of Protection Officers. She, therefore, submitted that dedicated Protection Officers have to be appointed by the States/Union Territories for rendering effective services to women who are victims of domestic violence. However, till such time such dedicated officers are appointed, there is an absolute necessity for designating certain officers at the Taluka and District level for rendering services as Protection Officers to victims of domestic violence. She submitted that the casting of responsibilities on officers who are involved in ICDS work or who are Anganwadi workers would not be of much assistance. Therefore, she sought a direction that the States and Union Territories may designate certain officers who are working in the Department of Women and Child at Districts and Taluka levels to be also designated as Protection Officers under Section 8 of the Act.

Learned senior counsel next submitted that Section 10 speaks of service providers. For ease of reference Section 10 is extracted as under:

"10. Service providers.—

(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

(2) A service provider registered under sub-section (1) shall have the power to—

(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence."

It was the submission of learned senior counsel that steps have to be taken by the States and the Union Territories for empaneling the concerned persons and organizations as Service Providers for the effective

implementation of the Act. Therefore, a direction may be issued to the States and Union Territories to take steps in that regard where there is no empaneling of such Service Providers or the empaneled Service Providers are inadequate for implementing the provisions of the Act.

It was next submitted that shelter homes have to be provided under Section 6 of the act. The same reads as under:

"6. Duties of shelter homes.—If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home."

That if an aggrieved person requests protection in a shelter home then she must get assistance through a shelter home. Therefore, there must be designation of certain homes as shelter homes for the purpose of implementation of Section 6 of the Act.

Similarly, Section 7 of the Act provides for duties of medical facilities. The medical facilities must be rendered as and when necessitated to an aggrieved woman including having access to a primary health centre or any other local medical health centre for medical treatment. Therefore, learned senior counsel submitted that appropriate directions may be issued to the respondent-States and Union Territories.

Further, our attention was also drawn to Section 11 of the Act which deals with duties of the Government which,

inter alia, requires the State Governments and Union Territories to give adequate publicity to the provisions of the Act so that a distressed woman in a domestic relationship is aware of the rights and remedies under the said Act. For immediate reference Section 11 of the Act is extracted as under:

"11. Duties of Government.— The Central Government and every State Government, shall take all measures to ensure that—

(a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;

(b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;

(c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;

(d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place."

It was also brought to our notice that Section 9(1) (d) states that an aggrieved woman shall be provided legal aid under the Legal Services Authorities Act, 1987 free of costs.

Section 12 of the Legal Services Authorities Act, 1987, *inter alia*, states that a woman is entitled to legal services. Therefore, in case of necessity, women must have

access to legal aid and therefore a direction may be issued to NALSA for communicating to the Members Secretaries of the State Legal Services Authorities who in turn would communicate to the District and Taluk level Member Secretaries, the need to provide legal aid to distressed women who are aggrieved by domestic violence to seek remedies under the provisions of the Act.

By way of response, learned counsel standing counsel for the respondent-States and Union Territories submitted that if directions are issued by this Court they would convey the same to the Chief Secretaries and the Department of the Women and Children so that those directions would be complied with if some time is granted by this Court.

Learned counsel appearing for NALSA also submitted that if a direction is issued by this Court, the same would be complied with so as to provide free legal aid to any aggrieved women who is distressed and is need of remedies under the provisions of the Act.

In view of the aforesaid discussion, we issue the following directions:

1. We direct the States and Union Territories to identify officers in the Department of Women and Child working at the level of the District and Taluka levels as Protection Officers and designate them as such. It is needless to observe that on such designation the

Protection Officers shall discharge their duties in terms of Section 9 of the Act.

2. We direct the Chief Secretaries of States/Union Territories as well as the Secretaries, Department of Women and Child of the respective States and Union Territories to coordinate in this regard and ensure that the officers are designated as Protection Officers under the provisions of the Act. Such exercise shall be carried out within a period of six weeks from today wherever designation of the officers as protection officer has not taken place.
3. The respondent-States and Union Territories shall take steps to discharge their duties under Section 11 of the Act by giving wide publicity through public media about the provisions of the Act for having an effective coordination between the services provided by various Ministries and Departments for the implementation of the Act and to ensure that the protocols of the various ministries concerned with the delivery of services to women under the Act are taken in place.

While we may issue further directions in this regard, we expect that having regard to the explicit provisions of Section 11, the

State Government shall take all measures in delineated under the said provisions.

4. We also note that Section 11 also imposes duty on the Central Government and, therefore, we direct that adequate and sufficient steps may be taken by the Union of India for implementation of Section 11 of the Act which is extracted above.
5. We have noted that Section 9(d) of the Act read with Section 12 of the Legal Services Authority Act, 1987 entitles a woman and particularly a distressed women who are aggrieved to legal aid. In view of this mandate, we direct the Member Secretary of NALSA to communicate to the Member Secretaries of the States/Union Territories, Legal Services Authorities, to in turn communicate to the Member Secretaries at the District level as well as the Taluka level to give wide publicity to the fact that an aggrieved women under the provisions of the Act is entitled to free legal aid and advise.
6. The Member Secretaries at the States, Districts and Talukas level may give adequate publicity to this aspect in the context of the provisions of the Domestic Violence Act, 2005. It goes without saying that should any distressed women

approach the Member Secretary or any other officer of the Legal Services Authority for seeking legal aid and advice the same would be provided expeditiously since the Act envisages that every woman is entitled to free legal aid.

7. The steps shall also be taken by the concerned departments to empanel the service providers as per Section 10 of the Act. Shelter homes for Nari Niketan, one stop centres or any other homes for women must be accessible to the victims/aggrieved women of domestic violence and therefore, steps have to be taken to ensure that such homes are made available to the distressed women. The respondent-State and Union Territories are directed to identify and notify shelter homes for this purpose at the District and Taluka levels within a period of ten weeks from today.

The aforesaid directions have been issued as initial steps so as to ensure ultimate implementation of Act in all respect.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)