

SUPREME COURT OF INDIA

Laxmi

Vs.

Union of India

Crl.No.129 of 2006

(R.M.Lodha and Fakkir Mohamed Ibrahim Kalifulla,JJ.,)

18-07-2013

JUDGMENT

1. On 6.2.2013, a direction was given to the Home Secretary, Ministry of Home Affairs associating the Secretary, Ministry of Chemical & Fertilizers to convene a meeting of the Chief Secretaries/concerned Secretaries of the State Governments and the Administrators of the Union Territories, inter alia, to discuss the following aspects: i) Enactment of appropriate provision for effective regulation of sale of acid in the States/Union Territories. (ii) Measures for the proper treatment, after care and rehabilitation of the victims of acid attack and needs of acid attack victims. (iii) Compensation payable to acid victims by the State/or creation of some separate fund for payment of compensation to the acid attack victims.

2. Following the order of 6.2.2013, three subsequent orders on 16.4.2013, 9.7.2013 and 16.7.2013 were passed by this Court.

3. Various State Governments/Union Territories have filed their affidavits. The Union of India filed its last affidavit on 17.7.2013. Along with that affidavit, draft Model Rules entitled "The Poisons Possession and Sale Rules, 2013" (for short "Model Rules") have been placed on record. Mr. Mohan Parasaran, learned Solicitor General states that the Central Government will circulate the Model Rules to regulate sale of acid and other corrosive substances framed 2 SpotLaw under the Poisons Act, 1919 to all the State Governments and Union Territories within a week from today. He also states that Model Rules will include, inter alia, the form of acids (liquids or crystalline and its concentration) that can be stored and sold, issue of licenses, procurement by individuals, educational and research institutions, hospitals, industries, Government Departments and departments of Public Sector Undertakings. We accept the statement made by the learned Solicitor General as noted above.

4. Insofar as the States and Union Territories are concerned, we are informed that the States of Maharashtra, Karnataka, Kerala, Haryana, Punjab, Madhya Pradesh, Sikkim and Arunachal Pradesh have framed rules to regulate sale of acid and other corrosive substances. As regards state of Meghalaya, we find from the available record that draft rules have been prepared, a copy of which has been made available to the Court.

5. Learned counsel for the State of Tamil Nadu has stated before us that within two months from today, appropriate rules to regularise sale of acid and other corrosive substances shall be framed.

6. In our opinion, all the States and Union Territories which have not yet framed rules will do well to make rules to regulate sale of acid and other corrosive substances in line with the Model Rules framed by the Central Government. The States, which have framed rules but these rules are not as stringent as the Model Rules framed by the Central Government will make necessary amendments in their rules to bring them in line with the Model Rules. The Chief Secretaries of the respective States and the Administrators of the Union Territories shall ensure compliance of the above expeditiously and in no case later than three months from the receipt of the draft Model Rules from the Central Government.

7. The Centre and States/Union Territories shall work towards making the offences under the Poison Act, 1919 cognizable and non-bailable.

8. In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made 3 SpotLaw operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect: i) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold. (ii) All sellers shall sell acid only after the buyer has shown: a) a photo ID issued by the Government which also has the address of the person: b) specifies the reason/purpose for procuring acid. (iii) All stocks of acid must be declared by the seller with the concerned SubDivisional Magistrate (SDM) within 15 days. (iv) No acid shall be sold to any person who is below 18 years of age. (v) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000/- (vi) The concerned SDM may impose fine up to Rs. 50,000/- on any person who commits breach of any of the above directions.

9. The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines: 4 SpotLaw (i) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM. (ii) A person shall be made accountable for possession and safe keeping of acid in their premises. (iii) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used.

10. The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions.

11. Section 357A came to inserted in the Code of Criminal Procedure, 1973 by Act 5 of 2009 w.e.f. 31.12.2009. Inter alia, this Section provides for preparation of a scheme for

providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

12. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared 'Victim Compensation Scheme' (for short "Scheme"). As regards the victims of acid attacks the compensation mentioned in the Scheme framed by these States and Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs. 25,000/- in such scheme, the State of Rajasthan has provided for Rs. 2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, learned Solicitor General suggested to us that the compensation by the States/Union Territories for acid attack victims must be enhanced to at least Rs. 3 lakhs as the after care and rehabilitation cost. The suggestion of learned Solicitor General is very fair. 5 SpotLaw

13. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.

14. The Chief Secretaries of the States and Administrators of the Union Territories shall take necessary steps in getting this order translated into vernacular and publicise the same appropriately for the information of public at large.

15. List the matter on December 3, 2013.