

SUPREME COURT OF INDIA

Environment and Consumer Protection Foundation

Vs.

Union of India

WP(Civil)No .659 of 2007

(Madan B. Lokur and Deepak Gupta,JJ.,)

11.08.2017

JUDGMENT

Madan B.Lokur,J.,

1. These petitions were filed and taken up in public interest are intended to bring back some sunshine in the lives of the widows in Vrindavan and in ashrams elsewhere in the country. It is a pity that these widows have been so unfortunately dealt with, as if they have ceased to be entitled to live a life of dignity and as if they are not entitled to the protection of Article 21 of the Constitution.

2. The petitioner, Environment and Consumer Protection Foundation is a registered charitable society and a non-political body. It filed a petition under Article 32 of the Constitution essentially for an appropriate writ requiring the Union of India and the State of Uttar Pradesh to take all steps to rehabilitate the widows of Vrindavan so as to bring them to a stage where they can live with dignity.

3. The petition was filed on the basis of an article ‘White Shadows of Vrindavan’ written by Atul Sethi and published in the New Delhi edition of the Times of India of 25th March, 2007. The apparent intention of the article was to report and bring to the notice of the public and the government agencies the pathetic and shocking conditions of the widows living in Vrindavan - begging in temples and then huddling together in hovels. Broadly speaking, the article described the city of Vrindavan in which abandoned widows live a hand to mouth existence like white shadows thus giving the city another name that is the City of Widows. According to the author no one knows since when these widows have been coming to Vrindavan but most of them are from West Bengal and their life stories often follow a similar pattern which is the death of the husband, relatives leaving them in Vrindavan, days spent singing prayers and begging at temples where they live on a day to day basis. Most widows refuse to go back to their village or home, even if they are given a chance to do so, saying that now this is our home.

4. According to the author, the widows congregate in some ashrams or temples where they sing bhajans and are paid about Rs. 18 per day for about 7 to 8 hours of singing. The rest of their time is spent begging on the streets. Many of them are too old to look after themselves requiring others to pool in their resources to look after them. Overall, the article paints a rather tragic and dismal picture of the living conditions of the widows in Vrindavan.

5. On reading the article, the petitioner addressed a letter to the District Magistrate in Mathura and brought to his notice its contents and sought further information on what was stated therein. A reply was sent to the petitioner to the effect that necessary steps were being taken to improve the living condition of the widows. There was some correspondence in this regard for a couple of months but to no real effect. It is this sequence of events that persuaded the petitioner to file a petition in this Court with the prayer as aforesaid.

6. This Court took up the petition in public interest and passed certain significant directions. For example, on 14th November, 2008 the National Commission for Women was directed to prepare a comprehensive report on the problems faced by the widows. It was also directed that the report should contain the age groups of the widows, their family background and all other information relevant for the purposes of this case.

7. On 1st April, 2011 the Ministry of Women and Child Development in the Government of India was impleaded as one of the respondents and on 9th May, 2012 this Court directed that in order to mitigate the miseries of the widows, a Special Committee should be constituted to undertake an exercise of identification and enumeration of the destitute in Vrindavan - both those having shelter and those wandering in the streets without any shelter. The Committee was required to collect complete data of the widows including the reason for their shifting to Vrindavan and particulars about their family and their present source of income.

8. Several other orders were passed from time to time more particularly from 2015 onwards when the Social Justice Bench was constituted by the Hon' ble Chief Justice of India. As a result, a very large number of reports were generated and concerned authorities like the National Commission for Women, the Ministry of Women and Child Development and the State of Uttar Pradesh began taking considerable interest in the problems faced by the widows of Vrindavan. The reports generated from time to time are as follows:

1. Summary Report (undated) of the Situation Analysis of Widows in Religious Places of West Bengal prepared by Jayaprakash Institute of Social Change DD - 18/4/1, Salt Lake City, Kolkata - 700 064. This is filed in W.P. No.133 of 2012.

2. Status Report (undated) filed by National Legal Services Authority, Delhi Legal Services Authority and by National Commission for Women.

3. Study by the National Commission for Women in 2009-10 on widows in Vrindavan.

4. Minutes of the Meeting held on 10th May, 2011 by the Secretary Ministry of Women and Child Development.
5. Report filed by National Legal Services Authority dated 14th July, 2012. This is filed in W.P. No. 133 of 2012 on 26th July, 2012.
6. A Report dated 10th September, 2012 on Measures taken for compliance of Hon' ble Supreme Court Order dated 03-08-2012 And Few Ground Realities With Some Reforms Immediately Required by Secretary District Legal Service Authority, Adl. Chief Judicial Magistrate, Mathura. This is filed in W.P. No.133 of 2012.
7. Plight of Foresaken/Forlorn Women - Old and Widows Living in Vrindavan & Radhakund, Mathura (U.P.) - A Survey Report dated 10th November, 2012 by District Legal Services Authority, Mathura. This is filed in W.P. No.133 of 2012.
8. Report of the Member Secretary, National Legal Services Authority dated 14th January, 2014 filed in W.P. No. 133 of 2012 on 12th September, 2014.
9. Report of the Secretary, District Legal Services Authority at Mathura dated 31st March, 2014.
10. Status Report filed by Ms. Renuka Kumar on 16th April, 2015.
11. Minutes of the Meeting held by the Secretary, Ministry of Women and Child Development on 2nd September, 2015.
12. Status Report filed on 11th March, 2016 on behalf of State of Uttar Pradesh.
13. Report by Ms. Renuka Kumar dated 19th April, 2016 on 17 homes administered by the U.P. Mahila Kalyan Nigam.
14. Status Report dated 28th April, 2016 by the National Commission for Women of 28.04.2016 giving some preliminary recommendations.
15. Status report along with budget requirement submitted by Ms. Renuka Kumar on 31st August, 2016.
16. Status Report on widows in Swadhar Homes in Uttar Pradesh, Uttarakhand, West Bengal and Odisha by the National Commission for Women in November, 2016.
17. Report on the medical facilities for widows and destitute women in Vrindavan submitted by Ms. Renuka Kumar on 8th November, 2016.

18. Affidavit in compliance filed by the Ministry of Women and Child Development on 2nd June, 2017 concerning order dated 21st April, 2017. “

9. With the plethora of reports and material available and with the generous assistance given and deep involvement of all learned counsel, we found it more appropriate to request them to give us agreed directions that could be issued to mitigate the discomfort of the widows of Vrindavan. Accordingly, the following order was passed on 29th March, 2017:

“Ms. Aparna Bhat, learned counsel appearing for the National Commission for Women and Mr. A.K. Panda, learned senior counsel appearing for the Ministry of Women and Child Development assisted by Ms. Pushpa Bisht, Deputy Secretary in the Ministry of Women and Child Development say that it will be appropriate if agreed directions are formulated and issued so that immediate steps are taken to improve the conditions of widows in different parts of the country. Learned counsel for the parties say that either they or their representatives will sit together and come out with a list of agreed directions which may be passed by this Court on 6th April, 2017.”

10. Unfortunately, perhaps due to some misunderstanding or a lack of effective communication, agreed directions could not be finalized till 18th July, 2017. On that date the learned Solicitor General handed over an Agreed Action Plan. The Agreed Action Plan with our comment on some issues is given in the table below:

AGREED ACTION PLAN

	Directions proposed by the National Commission for Women	Action Plan of the Ministry of Women and Child Development	Our Comment
1.	Create an interactive data-base which would provide access for homes to input information as soon as a widow enters their system. The database must have a profile of the widow to be able to understand her needs [and needs to be updated] as soon as a widow enters the system. The portal can be created by the government with access given to registered homes to provide their	The Ministry of Women and Child Development will develop appropriate Aadhaar enabled software for capturing data concerning inmates of Swadhar Greh within next six months and, if necessary, an external agency will be engaged for it. Access, to the extent required, will be provided to different stakeholders and the agency entrusted with the development of the software will be asked to build in adequate safeguards to protect the confidentiality of the information	The Aadhaar enabled software will, of course, be subject to the pending litigation in this Court.

	inputs. The Government of India has initiated such a programme for the purposes of adoption.		
2	Widows with families must be identified and their families must be counseled for taking care of them and in cases where required legal action, as warranted, may be taken.	Family counseling centres working under Central Social Welfare Board (CSWB) and State Social Welfare Boards (SSWB) across the country will be entrusted with the responsibility of identifying widows who have families. The progress of the work done will be compiled by the CSWB every month and a report sent to the Ministry every quarter. The CSWB will, in consultation with other stakeholders, be asked to develop a suitable module for counseling families within a period of six months and, thereafter, review and update it as and when required.	The follow-up post counselling should be made clear and particularly in cases where the family does not take care of the widow even after being counselled.
3	NALSA must create a mechanism to enable homes to access legal aid.	NALSA/DALSA will be advised to provide legal aid to the inmates of Swadhar Greh within 15 days of the acceptance of the plan of action by the Hon' ble Supreme Court.	
4	Public sector organizations must be encouraged to contribute certain percentage of their CSR funds for a Widows Management Fund which would be used for developing vocational trainings for widows.	The Ministry of Women and Child Development has already taken up the matter with the Department of Public Enterprises and Ministry of Corporate Affairs. The matter shall be further pursued with them.	The concerned Ministry should be advised that the fund is intended to assist and benefit destitute widows.
5	The government must actively explore medical insurances for all widows and at least widows that are housed in the	In all States and Union Territories, medicines are provided free of cost to the patients through the Common Health Centres and Primary	The benefit of the supply of free medicines should be made available to destitute women as well.

	Swadhar Homes so that good medical facilities can be accessed by the widows.	Health Centres under the National Health Mission of the Ministry of Health & Family Welfare. It may, therefore, not be necessary to introduce medical insurance as such a measure could take away a portion of the income of widows and impoverish them further. The Ministry of Health & Family Welfare has been requested to advise all State Governments and Union Territory administrations to ensure that access to free medicines is ensured to all those staying in Swadhar Homes.	Availability of free medical treatment needs consideration.
6.	Homes must be linked to existing Government Programmes. Homes must be encouraged to open more avenues for employing the widows in the care and hospitality sector than sticking to tailoring etc. which do not provide economically viable employment to the widows and hence compels them to stay in these homes.	The Ministry of Skill Development and Entrepreneurship has been requested to prepare a plan of action for development of skills of widows; and orphan, destitute and marginalized women through sectoral skill development councils. They have also been requested to monitor the progress in this regard at regular intervals. The Ministry of Women & Child Development will continue to engage with the Ministry of Skill Development and Entrepreneurship to ensure development of suitable modules for skill development.	
7.	Staff of Swadhar Home must be trained periodically and should be adequately and appropriately,	The National Institute of Public Cooperation and Child Development (NIPCCD) under the Ministry of Women & Child Development is already	

	compensated financially.	mandated to provide training to different stakeholders including the staff of Swadhar Greh. Depending upon training needs assessment, the CSWB can also be entrusted with this responsibility. Provision has been made for imparting induction training and subsequent periodic training on regular intervals of time to the staff of Swadhar Greh.	
	Immediate action to be taken to improve the infrastructure of the Homes and funds to maintain it.	In addition to the Swadhar Greh Scheme being implemented throughout the country, the Ministry of Women & Child Development has commenced construction of a new 1000 bedded Swadhar Greh at, Vrindavan, Distt. Mathura. It has been designed to be old age friendly and will have dormitories with attached toilet and utility balconies. The Swadhar Greh will also have facility for physiotherapy, open theatre, vocational training, solar PV, solar water heating system, multipurpose hall, etc. The expected date of completion of this Swadhar Greh is January, 2018.	State Governments should be encouraged to adopt the model planned by the Ministry.

PENSION

1.	. It was found that the current allocation of pension was either inadequate or non-existent. The primary concerns that arose out of the research was that the pension amounts were not	The comparison between the amount of pension provided by the Government and the minimum wages payable under various government schemes is not fair. While, pension is paid as a welfare measure without any services being rendered by the beneficiary, wages is the remuneration for the services rendered by the wage earner. If the two were to be	Pension, as a welfare measure ought to be linked with the cost of living index and should not be arbitrarily fixed.
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	linked to the cost of living. There was no rational calculation for the amounts or the ceiling in the number of beneficiaries that the pension could be given to in any given State. Pension should be based on the Cost of Living Index and hence it should be on par with the minimum wage of an unskilled worker with corresponding increase as the minimum wage increases	equal, it will be a major disincentive to able bodied person to do any work.	
STRUCTURE AND FUNCTIONING OF SHELTERS			
1.	A Multi-optional model be employed for institutionalized shelters. The shelters can be built to cater the requirement of the user on the basis of a corresponding user-fee for an overnight shelter, a day shelter or a fulltime shelter.	User-fees can be paid by a person who is earning. Swadhar scheme caters to women who are in the abyss of poverty and payment of any user-fee by them would be beyond their means. [However, working women hostels will be encouraged to be established by the States and Union Territories.]	
2.	Direct the integration of Swadhar Homes, short stay homes and other similarly placed facility homes to facilitate a smoother implementation of the policies directed for widow rehabilitation.	The two schemes Swadhar Homes and Short Stay Homes of the Ministry of Women & Child Development have already been merged into the new scheme namely Swadhar Greh w.e.f. 01.01.2016. This scheme is implemented by the State Government/UT Administration with funding from Govt. of India.	Social audits should be conducted with regard to implementation of the schemes.
3.	Enhance the ceiling limit of three years on the women staying in	The proposal for enhancing the limit for staying in Swadhar Greh for women beneficiaries above 55 years of age is	

	Swadhar Homes in order to effectively stabilize the lives of the inmates.	under consideration of the Government and a decision in this regard will be taken shortly.	
4.	Structural integration of old age homes into shelters; To this end, medical assessment of Women between the age of 60 to 65 years of age in the shelters be conducted on the basis of which the women can continue to reside in the shelters.	The Ministry of Social Justice and Empowerment has been requested to accommodate widows from Swadhar Greh to Old Age Home on attaining age of 60 years. The required medical facilities will be tied up by agencies concerned with the local CHCs/PHCs.	
HEALTH AND NUTRITION			
1.	To integrate the efforts of the Rashtriya Swasthya Bima Yojana into the Swadhar Scheme. Linkage of homes that house old women with medical dispensaries is recommended.	As stated above, free medicines are provided by CHCs and PHCs to all patients under the NHM of the Ministry of Health & Family Welfare and the Ministry has been requested to advise all State Governments and Union Territory administrations to ensure that access to free medicines is ensured to all those staying in Swadhar Homes	
2.	Utilization of the Widow Pension Scheme for procuring medical facilities.	Widow pension is paid to individuals. In the light of the availability of medicines free of cost, as stated above, it may not be necessary to divert the pension amount for purchase of medicines.	
COVERAGE OF LEGAL FEES AND EXPENSES			
1.	NALSA and DALSA to allocate appropriate sanctions to cover the legal expenses of the widows involved in legal matters, and the incidental expenses incurred for commuting and so on and so forth.	The inmates of Swadhar Greh will have access to free legal aid provided by NALSA/DALSA and necessary advisory will be issued in this regard.	

VOCATIONAL TRAINING			
	Mandatory and organized vocational training of the women in the shelters to impart skill sets necessary for an ordinary life and to enable them to earn a dignified livelihood.	As stated above, the Ministry of Skill Development and Entrepreneurship has been requested to prepare a plan of action for development of skills of widows and orphan, destitute and marginalized women through sectoral skill development councils. They have also been requested to monitor the progress in this regard at regular intervals. The Ministry of Women & Child Development will continue to engage with the Ministry of Skill Development and Entrepreneurship to ensure development of suitable modules.	
GRANT OF SANCTIONS			
1.	Enhancement of sanctions by the Ministry to provide the concerned agencies with a budget necessary for the proper functioning of the homes.	Periodic and timely release of grants to facilitate the continuance and sustenance of the homes. The financial norms of Swadhar Greh Scheme have been revised w.e.f. 01.01.2016 and on further examination, the Department of Expenditure has opined that these are adequate for the time being.	The norms should be reviewed every six months.
PERIODIC REVIEW OF THE HOMES			
1.	That the National Commission for Women be directed to conduct a review to study the existing status of widows in the homes in our country in the near future.	The National Commission for Women may take appropriate action for taking the proposed review to study the existing status of widows in homes.	
2.	To this end, grants be sanctioned by the Rural Ministry, Ministry of Social Justice and Empowerment and the	National Commission for Women may carry out their study out of the existing funds available with them. Additional funds if sought by them will be made subject to availability of funds.	The Ministry ought not to be stingy with funds - especially for a good cause.

	Ministry of Women and Children for the survey to be conducted by the NCW.		
3.	Mandate a periodic review of the homes every five years at the State and District Level to conduct periodic inspections of the homes to ensure the proper implementation of the schemes and the functioning of the homes and the records monitored by the DPO (District Project Officer). Annually for 3 years and then every 3 years.	The Swadhar Greh Scheme has an inbuilt monitoring mechanism. The monitoring of Homes is undertaken through a three tiered structure viz. District Level, State Level and the Central Level. Swadhar Greh will be sanctioned initially for a period of five years. After Implementation of the scheme for 5 years, the Project Sanctioning Committee shall decide on its further continuance or otherwise depending on its performance and need.	
CREATION OF AWARENESS			
1.	To engage at rural and district levels to spread awareness of the existence of the schemes akin to swadhar homes and to impart knowledge of the rights exercisable by the women in similarly placed situations.	The Swadhar Greh Scheme is being implemented by the State Governments. The States/UTs will generate awareness about Swadhar Greh and disseminate information about Swadhar Greh through various modes. As a part of the scheme, guidelines have already been issued by the Ministry of Women & Child Development.	

11. It is also our opinion that the effort put in by all concerned in the reports that we have adverted to above should not go waste - it must be gainfully utilized, being in a sense a gold mine of pragmatic and workable suggestions. Accordingly, we constitute a Committee to study all the reports filed in this Court and provide us with a common working plan (based on the suggestions in the reports) within a period of two months and in any case on or before 30th November, 2017. The Committee shall consist of the following (the first two suggested by the learned Solicitor General on instructions from the Ministry of Women and Child Development and the third by learned counsel for the National Commission for Women):

- “1. Ms. Suneeta Dhar of NGO Jagori,
2. Ms. Meera Khanna of Guild for Service
3. Ms. Abha Singhal Joshi, Lawyer and activist
4. A nominee of HelpAge India, an NGO that has rendered valuable assistance in this case,
5. A nominee of Sulabh International, an NGO that has rendered valuable assistance in this case,
6. Ms. Aparajita Singh, a lawyer practising in this Court to provide any assistance on legal issues.”

12. One of the issues adverted to during the hearing of the petitions, but not mentioned in any of the reports, is the need to encourage widow remarriage. This is a subject of hope that might enable our society to give up the stereotype view of widows. We request the Committee to consider this during its deliberations.

13. We request the National Commission for Women, in public interest, to assist in providing some working space to the Committee. We propose to adequately remunerate the Committee with an honorarium that will be decided when the matter is next heard. The Registry will ensure that all the reports are made available to the members of the Committee.

14. Why are the Action Plan and these directions necessary? We seem to be forgetting the power of Public Interest Litigation and therefore need to remind ourselves, from time to time, of its efficacy in providing social justice. Many years ago, this Court noted in *People ' s Union for Democratic Rights v. Union of India*¹ that.

“Public interest litigation is brought before the court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large numbers of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and unredressed. That would be destructive of the rule of law which forms one of the essential elements of public interest in any democratic form of Government.”

A little later in the judgment, it was said:

“Millions of persons belonging to the deprived and vulnerable sections of humanity are looking to the courts for improving their life conditions and making basic human rights meaningful for them. They have been crying for justice but their cries have so

far been in the wilderness. They have been suffering injustice silently with the patience of a rock, without the strength even to shed any tears.”

15. The advantage of public interest litigation is not only to empower the economically weaker sections of society but also to empower those suffering from social disabilities that may not necessarily be of their making. The widows of Vrindavan (and indeed in other ashrams) quite clearly fall in this category of a socially disadvantaged class of our society.

16. Placing empowerment in perspective, this Court noted in *State of Uttaranchal v. Balwant Singh Chauhan*² that the first phase of public interest litigation concerned itself with primarily with the protection of the fundamental rights under Article 21 of the Constitution of “the marginalized groups and sections of the society who because of extreme poverty, illiteracy and ignorance cannot approach this Court or the High Courts.” We may add - the socially underprivileged groups. These are the people who have no real access to justice and in that sense are voiceless, and these are the people who need to be empowered and whose cause needs to be championed by those who advocate social justice for the disadvantaged.

17. This recognition formed the basis of the decision of this Court in *Delhi Jal Board v. National Campaign for Dignity & Rights of Sewerage & Allied Workers*³ wherein providing succour to the deprived sections of society was recognized as a “constitutional duty” of this Court. Referring to several judgments delivered by this Court, it was observed:

“These judgments are a complete answer to the appellant’s objection to the maintainability of the writ petition filed by Respondent 1. What the High Court has done by entertaining the writ petition and issuing directions for protection of the persons employed to do work relating to sewage operations is part of its obligation to do justice to the disadvantaged and poor sections of the society. We may add that the superior courts will be failing in their constitutional duty if they decline to entertain petitions filed by genuine social groups, NGOs and social workers for espousing the cause of those who are deprived of the basic rights available to every human being, what to say of fundamental rights guaranteed under the Constitution. It is the duty of the judicial constituent of the State like its political and executive constituents to protect the rights of every citizen and every individual and ensure that everyone is able to live with dignity.”

18. There can be little or no doubt at all that widows in some parts of the country are socially deprived and to an extent ostracized. Perhaps this is the reason why many of them choose to come to Vrindavan and other ashrams where, unfortunately, they are not treated with the dignity they deserve. This is evident from the article that caused this public interest litigation and the compilation of reports that this litigation has generated. It is to give voice these hapless widows that it became necessary for this Court to intervene as a part of its constitutional duty and for reasons of social justice to issue appropriate directions.

19. We must express our gratitude to the petitioners, the Ministry of Women and Child Development and the National Commission for Women for the efforts put in and particularly to Ms. Renuka Kumar who has been of great assistance to this Court through her reports.

20. With a view to follow-up on the Agreed Action Plan submitted by the learned Solicitor General, list these matters on 9th October, 2017.

Judgment Referred.

¹(1982) 3 SCC 0235

²(2010) 3 SCC 0402

³(2011) 8 SCC 0568