

HIGH COURT OF JAMMU AND KASHMIR

AT JAMMU

WPPIL No.31/2013

CMA No.785/2013

Date of order: 27..03.2014

Suraj Singh

v.

State of J&K and others.

Coram:

Hon'ble Mr. Justice M. M. Kumar, Chief Justice

Hon'ble Mr. Justice Muzaffar Hussain Attar, Judge

Appearing counsel:

For the petitioner(s) : Mr. S.S.Ahmed, Advocate with
Mr. Suraj Singh, Advocate.

For the respondent(s) : Mr. Gagan Basotra, Sr.AAG.

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| i) | Whether to be reported
Press/Media | : | Yes |
| ii) | Whether to be reported in
Digest/Journal | : | Yes |
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M.M.Kumar, CJ

1. The instant petition filed in public interest brings to the fore the issue of sexual exploitation of mentally challenged girls at Rotary Inner Wheels, Channi Rama, Jammu, which resulted in registration of FIR No.183/2013 at Police Station, Bahu Fort, Jammu under Sections 176-C and 109 RPC.

2. In order dated 24.09.2013 this Court issued notice to the Chief Secretary, Commissioner/Secretary to Govt., Social Welfare Department, Inspector General of Police, Director, Social Welfare Department, Jammu, Deputy Commissioner, Jammu, Senior Superintendent of Police, Jammu and

Management Committee of Rotary Inner Wheels, Channi Rama, Jammu through its president. Except for the last respondent, notice was accepted by the learned Senior Additional Advocate General.

3. During the proceedings, Deputy Commissioner, Jammu filed various status reports along with Superintendent of Police City South, Jammu. In one of the affidavits filed by the Deputy Commissioner, Jammu it was specifically stated that vide order No.DMJ/PS/2013-14/78-83 dated 04.09.2013 the management of Rotary Inner Wheel has been taken over by a committee which has since been constituted and is headed by Additional Deputy Commissioner, Jammu. The committee includes two members of Rotary Inner Wheel Home because nothing was alleged against them in regard to the FIR No.183/2013. Deputy Commissioner in his affidavit has stated that he visited the home on many occasions and convened a meeting of management committee. After detailed discussions he has also issued various directions from time to time. The rape victims were medically examined along with other nine female inmates. It was assured to the Court that fair and impartial investigation has been carried and challan has already been presented.

4. One issue which was raised before this Court pertains to employment of staff because a number of persons working in

the home earlier on behalf of the management of Rotary Inner Wheels were named in the FIR and the same staff could not have continued to function in the home. On 03.12.2013, Ms. Sushma Chauhan, IAS, Additional Deputy Commissioner, Jammu appeared before the Court and she was apprised that any person who is even remotely involved in the sexual harassment case of mentally challenged girls should not be kept on duty in the home and their substitutes be supplied. The direction was necessitated on account of the fact that some persons, who figured in the FIR or any other report pointing out their culpability were still being kept at the home. Thereafter the process for filling up of those vacancies was initiated and the status report filed by the Deputy Commissioner, Jammu-respondent No.5 would show that after completion of interviews and the selection process, the old staff of the Rotary Inner Wheel has now been replaced with the new staff. The details of the new staff as per the status report is as under:-

	Name of the Official	Designation
1.	Rajinder Kumar Sharma	Administrator
2.	Smt. Deepa Devi	Warden(Girls)
3.	Smt. Kamla Devi	Warden(Boys)
4.	Miss Rupali Khullar	Teacher
5.	Santosh	Tailor
6.	Brij Lal	Chowkidar
7.	Santosh Devi	Cook
8.	Mohan Lal	Safai Karamchari

The Deputy Commissioner has also categorically stated that no member of the staff in the home figures in FIR No.183/2013 registered at Police Station, Bahu Fort, Jammu.

5. Mr. S.S.Ahmed, learned counsel appearing for the petitioner has argued that compensation to the rape victims in terms of Legislation framed by the State of Jammu and Kashmir and the judgments of the Court should be paid. However, we find that at no stage such an issue was raised before the Court.

6. As a sequel to the above discussion, We dispose of these proceedings by issuing the following directions:-

A) The deputy Commissioner, Jammu may review ghis order dated 04.09.2013 taking over the management of the Rotary Inner Wheel, Channi Rama, Jammu after a period of six months. If he finds that the management committee of Rotary Inner Wheel is able to manage the affairs effectively and lawfully then order No. No.DMJ/PS/2013-14/78-83 dated 04.09.2013 shall be reviewed. If it is otherwise then the Deputy Commissioner may maintain the order dated 04.05.2013. Such a review should be undertaken every six months.

B) The rape victims may make a representation to the Social Welfare Department for grant of compensation in accordance with law with in a period of two weeks from

the date of receipt of a copy of this order. If such a representation is made the same shall be decided by the respondents expeditiously preferably within a period of three months from the date of receipt of such representation.

- C) The proceedings in the instant public interest litigation shall close. However, liberty is granted to the parties to move appropriate application as and when any such necessity is felt.

7. Petition stands disposed of.

(Muzaffar Husain Attar)
Judge

(M. M. Kumar)
Chief Justice

Jammu,
26.03.2014
Anil Raina, Secy.