

ITEM NO.5

COURT NO.5

SECTION PIL

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).349/2006

VOLUNTARY HEALTH ASS. OF PUNJAB

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(with appln. (s) for clarification and exemption from filing O.T.  
and further direction and permission and office report)

WITH

SLP(Cr1) No. 5800/2013

(With Office Report)

W.P.(C) No. 575/2014

(With Office Report)

W.P.(C) No. 341/2008

(With Office Report)

Date : 25/11/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.  
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Mr. Gaurav Kejriwal, Adv.

Mr. Gopal Singh, Adv.  
Mr. Chandan Kuamr, Adv.

Mr. Jatinder Kumar Bhatia, Adv.  
Mr. Mukesh Verma, Adv.

Mr. Nitin Lonkar, Adv.  
Mr. C. Tiwari, Adv.  
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Mr. P. N. Gupta, Adv.  
Mr. P. V. Dinesh, Adv.

Mr. Pragyan Sharma, Adv.  
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Mr. V. G. Pragasam, Adv.  
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Ms. Vanshaja Shukla, Adv.

Mr. Ankit Kumar Lal, Adv.

Mr. Arun K. Sinha, Adv.

Mr. Arvind Kumar Sharma, Adv.

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

WRIT PETITION (C) NO.349/2006, PETITION FOR SPECIAL LEAVE TO  
APPEAL (CRL) NO.5800/2013 AND WRIT PETITION (C) NO.575/2014

In pursuance of our earlier order, affidavits by certain States have been filed and certain States, by adopting a lackadaisical attitude, have not filed the affidavits. The States, namely, Assam, Arunachal Pradesh, Bihar, Goa, Gujarat, Kerala, Madhya Pradesh, Meghalaya, Mizoram, Orissa, Tripura, and UT of Daman and Nagar Haveli and Puducherry have not filed the affidavits. This attitude is not appreciated. However, they shall file their respective affidavits within two weeks hence.

As advised at present, we are inclined to think that the suggestions we had recorded in our previous order shall be adverted to in respect of cluster of States first. To elaborate, we shall deal with the problem that has occurred by dividing the States into certain clusters. Presently, we have decided to deal with the controversy pertaining to the States of Uttar Pradesh, Haryana and NCT of Delhi.

On a perusal of the affidavit of the State of Uttar Pradesh, we find that the affidavit is absolutely non-informative from all corners. A census chart of 2011 has been filed. We are absolutely unimpressed by the chart given during the census conducted in 2011 relating to the sex ratio that cannot be the guideline for the purposes of PC-PNDT Act. There has to be a different methodology to be adopted by the State. We would be failing in our duty if we do not refer to para 28 of the affidavit. It reads as follows :

"28. That it is pertinent to mention herein that according to "ANNUAL HEALTH SURVEY (AHS)" for the year 2010-11, 2011-12 and 2012-13, improvement has been revealed in the State in respect of Sex Ratio At Birth, Sex Ratio of Child (0 to 04 years age) and Sex Ratio in all age group, which is clear with the table given below:

Year of Annual Health Survey	Sex Ratio (At Birth)	Sex Ratio (0 to 04 Years of	Sex Ratio (In all ages)

		Age )	
2010-11	904	913	943
2011-12	908	914	944
2012-13	921	919	946"

On a query being made by the Court, learned counsel for the State was not in a position to explain on what basis the said figures have been arrived at, for the same is not reflectible from the assertions made in the affidavit.

As far as the State of Haryana is concerned, though the affidavit appears to be comprehensive, the chart given in paragraph 15 of the affidavit gives district-wise and month-wise sex ratio of births during the year 2014. It is as follows :

"District wise and month wise Sex Ratio at Birth during year 2014 in Haryana State as per CRS (Prov)							
Sr. No.	District	up to Jan.14	up to Feb.14	Up to March 2014	Up to April 2014	Up to May 2014	Up to June 2014
1	Ambala	1012	993	959	939	913	910
2	Bhiwani	824	812	843	848	846	832
3	Faridabad	929	892	889	884	890	890
4	Fatehabad	859	898	890	888	886	874
5	Gurgaon	829	856	851	854	855	839
6	Hissar	892	872	883	878	885	880
7	Jhajjar	797	793	793	801	800	811
8	Jind	886	876	878	911	915	899
9	Kaithal	953	921	920	928	927	918
10	Karnal	911	899	888	881	889	894
11	Kurukshetra	956	904	900	892	890	888
12	Mewat	920	942	932	923	920	919
13	Mohindergarh	777	776	797	786	782	770
14	Palwal	867	871	871	871	876	875
15	Panchkula	853	837	860	914	902	914
16	Panipat	924	931	915	904	903	895
17	Rewari	856	850	849	822	816	806
18	Rohtak	894	884	865	863	859	889
19	Sirsa	897	872	879	885	892	886

20	Sonepat	859	884	850	838	834	835
21	Yamunanagar	906	940	916	897	894	869
	Haryana State	889	884	881	878	878	874"

Nothing has been filed stating as to how this figure has been reached except making a statement that the base is of certain registers.

On a perusal of the affidavit by the State of Delhi, we find in paragraph 5, it has been stated, thus :

"5. It is submitted that Sex Ratio at Birth in Delhi, which is a reliable indicator of violations under the PC & PNDT Act, has improved by 9 points in 2013 over the previous year. The data available from Civil Registration System indicates that Sex Ratio at Birth was 809 females per 1000 males in the year 2001 and it is currently at 895 in 2013 Annexure R-I."

A document has been filed as indicated therein supporting the same.

In our considered opinion, there should be a verification of the documents that form the basis on which these figures have been arrived at. Let it be clarified that the figures that have been put forth do not show any indication of improvement but we would like to have it verified to satisfy ourselves whether the figure that has been put forth is correct or not. The purpose is to find out whether there is degradation of the sex ratio or a stagnation or any steps have really been taken by the concerned States to improve/enhance the sex ratio or not?

In view of the aforesaid, we direct that a meeting be held under the auspices of National Inspection and Monitoring Committee wherein the Additional Secretary who has filed the affidavit for the Union of India and two other Joint Secretaries of the Ministry of Health and Family Welfare shall remain present. The deponents who have filed the affidavits before this Court on behalf of the States of Uttar Pradesh and NCT of Delhi shall remain present. The Director General, Health Services, State of Haryana shall remain present in the meeting. The Principal Secretary along with the Special Secretary, State of Uttar Pradesh shall remain present in the meeting. To avoid any amount of controversy, we fix the date for the meeting on 03.12.2014 at 10.30 a.m. The State shall produce the relevant registers/records before the said Committee. We are sure, the States should be in a position to produce the registers/record in the meeting so that it can be scrutinized.

Any discrepancy in this respect shall not be appreciated for the States must have prepared the chart on the basis of the such registers/records.

We recapitulate the saying, "Awake, Arise, Oh ! Parth" and we say this to the States so that they can really wake up to take the issue of female foeticide with all seriousness and sincere concern.

As requested by Mr. Gonsalves and Mr. Parekh that they should be allowed to be present at the meeting and we permit them to participate.

The report shall be filed before this Court by 10.12.2014.

Apart from the child sex-ratio, the aforesaid three States shall also bring records with regard to the prosecutions levied by the State yearwise and the stage of the prosecution.

The next States shall be addressed to for this limited purpose are the States of Tamil Nadu, Himachal Pradesh, Bihar and Rajasthan.

At this juncture, without expressing any opinion, we would require the States to give suggestions by a separate affidavit, if some incentives can be given to the family who show respect and honour for the girl child and give birth to girl child so that the sex ratio is improved.

Learned counsel Mr. Gonsalves shall file a status report by giving a compilation of convenience in respect of all the States.

Let the matter be listed on 11.12.2014.

WRIT PETITION (C) NO.341 OF 2008

Let the matter be listed on 04.12.2014. Let a copy of the writ petition shall be sent to the Central Agency to be given to the Solicitor General of India.

Mr. Kaul, learned Additional Solicitor General would apprise the learned Solicitor General about the issue in question.

(Gulshan Kumar Arora)  
Court Master

(H.S. Parasher)  
Court Master