

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. No. _____ of 2013

IN

WRIT PETITION (C) NO. _____ OF 2013

IN THE MATTER OF:-

PARIVARTAN KENDRA, THOUGH ITS FOUNDER SECRETARY VARSHA ASHOK JAWALGEKAR SHIVAJI PATH, GOLA ROAD WEST BAILLEY ROAD DANAPUR, PATNA 80153		Petitioner
VERSUS		
1.	UNION OF INDIA, THROUGH ITS SECRETARY MINISTRY OF LAW AND JUSTICE SHASTRI BHAVAN, NEW DELHI, 110001	Respondent No. 1
2.	UNION OF INDIA, THROUGH THE SECRETARY, MINISTRY OF	Respondent No.2

	HEALTH & FAMILY WELFARE, GOVT. OF INDIA, NIRMAN BHAWAN, C-WING,NEW DELHI,110001	
3.	LAW COMMISSION OF INDIA THROUGH ITS SECRETARY LAW COMMISSION OF INDIA, 7TH FLOOR, A-WING, SHASTRI BHAWAN NEW DELHI- 110 001	Respondent No. 3
4.	THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY, GOVT. OF BIHAR, PATNA	Respondent No. 4
5.	STATE OF BIHAR, THROUGH PRINCIPAL SECRETARY (HEALTH & FW), DEPARTMENT OF HEALTH & FAMILY WELFARE, GOVERNMENT OF BIHAR, VIKAS BHAWAN, NEW SECRETARIAT, PATNA-800 015	Respondent No. 5
6.	UNION OF INDIA, THROUGH PRINCIPAL SECRETARY DEPARTMENT OF EDUCATION AND LITERACY	Respondent No. 6

	<p>SHASTRI BHAWAN, DR. RAJENDRA PRASAD RD NEW DELHI, DELHI 110001</p>	
7.	<p>VMMC & SAFDARJUNG HOSPITAL THROUGH THE MEDICAL SUPERINTENDENT DR.B.D.ATHANI 5TH FLOOR, M.S.OFFICE, NEW OPD BLDG SAFDARJANG HOSPITAL, NEW DELHI-110 029</p> <p style="text-align: center;">AND</p> <p><u>IN THE MATTER OF:-</u> CAMPAIGN AND STRUGGLE AGAINST ACID ATTACKS ON WOMEN (CSAAAW) REPRESENTED BY SUSHMA VARMA TRUSTEE OF CSAAAW</p>	Respondent No. 7
		INTERVENER/ APPLICANT

AN APPLICATION FOR IMPLEADMENT

TO:

THE HON'BLE THE CHIEF JUSTICE AND HIS OTHER
COMPANION JUSTICES OF THE HON'BLE SUPREME

COURT OF INDIA

THE HUMBLE APPLICATION

OF THE APPLICANT/PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH THAT:

1. That the Petitioner has filed the abovementioned Writ Petition (Crl.) No. 129/2006 before the Hon'ble Supreme Court seeking the rehabilitation of the acid attack survivors. Over a 1000 attacks have occurred in India in the past year targeting mostly young women. Acid attackers have ranged from disapproving boyfriends' families, to jilted stalkers, to street stalkers to even family members.
2. The contents of the Writ Petition are not being repeated herein for the sake of brevity and the same may be read as part of this application but in the present petition aforementioned no effective order can be passed without giving the opportunity to hear the Intervener/Applicant.
3. That the instant application is being filed by the applicant, for impleadment in the instant Petition before this Hon'ble Court since the Applicant represents the Campaign and Struggle Against Acid Attacks on Women (CSAAAW) and that any order passed in the abovementioned Petition would directly affect the acid attack victims as its primarily concerned is also the rehabilitation, access to emergent

medical treatment and to provide access to justice to the victims of acid attacks.

4. The Applicant has done extensive work towards its objective stated above.
5. CSAAAW is a coalition formed in 2002 and formalized in early 2003 and registered as a trust in December 2003 in Bangalore, Karnataka, having nearly 20 women's rights and human rights organizations, Survivors of Acid Attacks and many concerned individuals as its constituents. CSAAAW came into being due to the increased incidence of violence of acid attacks in the State of Karnataka. CSAAAW is primarily engaged with campaigning against acid attacks on women and within this primary engagement, it has defined for itself a two-pronged approach – to fight towards a complete halt to acid attacks on women by establishing a recognition that acid attacks are a form of gendered sexual violence and to demand justice for the women who have survived these attacks. Though the constituent groups are based in Karnataka at present, the issue involved is universal and is of consequence to all women cutting across borders, be it geographical, class, caste or religion.
6. Despite increasing frequency of these attacks, efforts to systematically document or enquire into the violence were absent. A need for fact finding became imminent. Hence

CSAAAW took up the arduous task of fact finding across different districts in Karnataka from late 2002.

7. The fact finding team from the Applicant traveled extensively across Karnataka, to Mysore, Chikkamagalur, Honnavara, Gadag, Bidar, Raichur, Hubli, Bangalore, Sirsi and other places, to meet with the survivors and their families, Police Officers, witnesses, Doctors, lawyers, and local women's rights organizations.
8. The main objective behind meeting with survivors and interacting with government structures at various levels was to deepen the applicants extant understanding of the medical legal and social implications and to enquire into the State response. The perspective framing the investigation was very specific-a sustained campaign was needed to fight against gendered sexual violence with all its surrounding ramifications and on a more immediate level to support the survivors in their battles for life, livelihood and justice.
9. Following the fact finding several actions were initiated to take forward these agendas. First being a recording of documentary film "Suttaroo Soloppadavaru" (Burnt not defeated), to capture the voices of the victims and to narrate their experiences with the Police, medical authorities, other government agencies, such as women's commission, judiciary and prosecutors. The film was used as a campaign tool to generate discussions and raise public

awareness about the issue; a further aim of the film was to challenge public into action. It was screened widely across schools and colleges in different parts of Karnataka in an attempt to mobilize public for various social actions undertaken by the Applicants.

10. Further, the applicants conducted a three day focused campaign from 2 January 2004 to 4 January 2004 in Bangalore. This included a protest demonstration in Bangalore on 2 January 2004 at the end of which a memorandum was submitted to the Karnataka State Women's Commission demanding immediate action to reimburse medical expenses and rehabilitate acid attack victims. A public screening of the documentary film, 'Suttaroo Soloppadavaru' (Burnt not defeated), was organized on 3 January 2004.
11. The main focus of the three day campaign was however the public hearing which was organized by the Petitioners on 4 January 2004. This public hearing aptly brought out the sufferings of the acid attack victims, and the insensitivity and negligence from the side of the State and its various agencies. One of the significant outcomes of the public hearing was the directive issued by the then Police Commissioner, Mariswamy S. to all police stations in Bangalore. The directive ordered that acid attack cases should be booked under sections 307, 320 or 326 of the IPC

and that investigations should be carried out by a police officer belonging to an Inspector rank.

12. The investigations and the subsequent public hearing clearly highlighted the following issues:

1. In the case of acid attacks on women, the constitutional guarantee of 'health for all' and 'right to life' has not been implemented and has in effect remained on paper. It is obvious that the public health systems, i.e., government hospitals have miserably failed in providing necessary first aid and medical treatment. Due to the lack of immediate medical care and facilities irreparable damage and loss of life has been caused. Every time a treatment or surgery had to be done, the doctors and the hospitals asked for huge amount of fees due to the lack of which the injuries got aggravated and untold damages were caused.
2. In their investigations of the crimes, the police have reflected a strong patriarchal bias and undue delay in the procedures. As a result, women victims of acid attack have been denied justice, in contravention to the Constitution of India and various international covenants ratified by the Government of India. In some cases the investigation failed to prove the guilt of the acid procurers even though they were named as accused. Thus a vital link of acid

procurers and suppliers were lost due to the laxity of police.

3. Against the constitutional guarantee of speedy trials, the judiciary has taken an inordinate time for disposal of the cases. The delay in disposing of cases has increased the victims' vulnerability and has increased their susceptibility to infections. It is well known that following acid attacks, bodies are highly prone to infections. Besides, a lapse in delivering justice immediately has created a sense of leniency in the public minds. Without a doubt in cases such as these, justice delayed is justice denied. The judgments have also been noteworthy for their insensitiveness towards the implications of acid attacks on the lives, livelihood and selfhood of the victims.

4. The State has failed in fulfilling its obligation towards rehabilitation of the victim.

5. The State has also failed to prevent such occurrences of violence by not exercising its control over production, distribution, sale and storage of toxic acids.

6. In spite of writing to the Chief Minister, Health Minister and Home Secretary, there has been no change in the condition of these cases or any action has been taken towards reducing the violence against women.

13. CSAAAW has two objectives – to seek justice for the survivors while simultaneously looking to fight sustained battles

to ensure acid attacks as a form of violence are erased – all its campaign strategies are geared towards this. In all these ten years of its existence, CSAAAW has covered significant ground, by working tirelessly. One of the impact of the work of CSAAAW has been to bring the plight of the victim to the forefront of discussions in the mainstream media and to remove the prejudice and wrong concept that the victim could be partly responsible for her grave injury.

14. In our interactions with the State, we have confronted them directly, taking the struggle to the streets amongst the people whose voices strengthened and supported our struggle. We have had several protests, demonstrations, rasta rokos as we demanded that the State recognize this issue and take action. At every step, we have pressurized the State and its agencies to accept our memorandums, listen to our demands and take action based on these. Annexed are the copies of the our report , International report and campaign pamphlets. (reports are already given)

15. CSAAAW had its first public hearing held on 4 January 2004 in Bangalore. The hearing brought together various high ranking government officials. Acid attack survivors deposed before this panel – sharing explicit details of their struggles within

government medical hospitals, police stations, at courtrooms with public prosecutors and judges. The public hearing was instrumental in highlighting the fact that every single step of the journey towards justice was punctuated by insensitive officials and a system determined to brush aside legitimate demands. Thus through the Public Hearing organized by CSAAAW, the government was forced to recognize acid attacks as a serious problem.

16. Another significant milestone in CSAAAW's struggled journey was the High Court judgment in Criminal Appeal Nos1065, 1066 and 1239/2004 delivered in August 2006. The judgment awarded the accused a sentence of life imprisonment and also increased the compensation amount. It successfully set a precedent for other cases in the lower courts. Around the same time, in an attempt to make the State to accept its responsibilities in providing acid attack survivors with medical and other rehabilitation safety nets and to seek a control on the sale of concentrated acid, CSAAAW filed a PIL no: 11523/2006 in the High Court of Karnataka in August 2006, with the following prayers:

a. Issue a Writ of Mandamus or any other appropriate Writ or Order directing the Chief Secretaries and the Director General Police to:-

- Ensure that no Police Officer less than the post of Sub Inspector of Police to investigate into the crime. That the SP of the Police Station will be answerable to any kind of lapse in the investigation.
- Issue instructions to the effect that the SP should go to the spot immediately and personally collect evidence and that the place should be cordoned off from public accession.
- Issue directions to all police stations that in instances of acid attack on women, cases should be primarily booked under IPC S. 326 and other relevant provisions under Indian Penal Code.
- Make arrangements for deploying mobile forensic service to be pressed by the State to gauge and collect the details of the crime

especially in rural areas where medical services are difficult to access.

. appoint Special Police sensitive to gender to be deployed for investigating acid attack cases on women.

b. Issue a Writ, Order or Direction directing the Respondent States to provide:-

- Immediate and emergent medical facilities to be made available to victims irrespective of religion, caste or financial status of the victim.
- If facilities are not available in public health institutions the same should be made available through private medical institutions.
- Public hospitals should be equipped with all the facilities required to treat acid attack cases. Doctors and medical staff should also be trained to deal with these cases adequately.
- Awareness programmes to be arranged widely through various mediums on the

methods and modes of first aid and medical treatments for acid victims.

- Medical reimbursement of expenses incurred to be given to the victims by the State, retrospectively keeping in view the seriousness and intensity of the injury. The reimbursement should be given irrespective of whether treatment takes place in public or private health facilities.
- Directions to private hospitals to compulsorily provide treatment for acid attack cases irrespective of the victims financial condition.
- Rehabilitation schemes to be envisaged for the victims keeping in mind their livelihood and employment.
- Arrangements for the care and protection Compensation to be awarded similar to the motor vehicles act or as per accident claims.

c. Issue a Writ, Order or Direction to the Respondent

State:-

- To form a Consortium of chemical manufacturers who will take up the compensation of the injured (just like insurance)
- Control over production, distribution and storage of toxic acids must be strictly taken up by the State.

d. Issue a Writ of Mandamus or any other appropriate

Writ or Order Directing:-

- The judiciary for Speedy Trials
- to issue directions to process compensation for the victims
- Punishment to be proportionate to the injury caused.
- A minimum punishment to be awarded irrespective of the injury in similar lines to SC-ST atrocities act.

17. The said division bench however heard the PIL matter simultaneously and the State government was directed to form a

Committee to look into the matter of paying compensation and arrange rehabilitation. CSAAAW was asked to be an external interested agency. Copy of the scheme envisaged by the committee is annexed. The said PIL with the following remedies sought for, continues to be pending before the Hon'ble High Court of Karnataka.

18. To CSAAAW, the journey from the first public hearing in January 2004 till date, has been one that has only been characterized by the State's intermittent lukewarm responses when cornered. CSAAAW attempts to highlight the State's lack of consistency and sustained concern has taken on various forms – protests, dharnas at frequent intervals. During the journey it has witness to the death of several acid attack victims including Hemavathi, Hina Fathima, Sarojini Kalebaga, Parveena Bi and several others due to the medical apathy and neglect.

19. CSAAAW's identification of acid attacks on women as an extension of other forms of violence, one that takes place in conjunction with other forms such as dowry harassment, domestic violence, etc. necessitates a sustained struggle. We have regularly had detailed interactions with a cross-section of audience, from college students to lecturers to bank employees to working class men and women. Using the medium of film and other means of communication, we have taken the voices of the

survivors and the struggle exemplified by them into classrooms, lecture halls, slums, and auditoriums in our attempt to battle mindsets. Given the larger agenda of fighting violence on women, it is difficult to map immediate achievements. What is clear however is the increasing number of individuals and organizations who have stepped forward to identify with our struggle.

20. On another level, there is a specific need to unite all the voices which have risen against this heinous form of violence. Unless there is a united effort to fight against violence, there will no significant shift towards equal rights for women. We also recognize that such battles for equality need to be waged in every sphere where women face violence to even conceptualize a systemic change.

21. The Applicant continued their campaign by holding a second public hearing in July 2008 to highlight the following issues:

- The State has to recognize its responsibility to provide women with safety from all kinds of violence and provide assistance that is rightfully theirs. Acid attack survivors have the right to demand from the State the required medical treatment. Government agencies such as police departments, legal institutions, the judiciary or women's

commissions and ministries all have a crucial role to play in providing access to fair and equitable justice.

- While there has been some (though painfully slow) movement on other demands, the State has taken no action to curb easy availability of acid. Besides, CSAAAW's demand to address the regulation of concentration of acid has been sidestepped completely.
- Medical reimbursement of expenses incurred to be given to the victims by the State, retrospectively keeping in view the seriousness and intensity of the injury. Immediate and emergent medical facilities to be made available to victims.
- The public hearing also highlighted the State's laidback approach to framing and implementing policies to provide women with relief.

22. It is therefore imperative that CSAAAW may be allowed to implead as a necessary party in the above petition in the interest of justice and fairplay.

23. That this application is bonafide and is made in the interest of the justice.

PRAYER

In the facts and circumstances stated hereinabove, it is Most
Respectfully Prayed that this Hon'ble Court may be pleased to:-

- a) ALLOW the present application and direct that the proposed Applicant/Intervener be joined to the array of parties as respondent.
- b) PASS any other such order/direction as this Hon'ble Court may deem fit in the facts and circumstances of this case.
- c) For such further and other reliefs, orders and directions as the nature and circumstances of this case may require or justify or this Hon'ble Court may deem just and proper.

JYOTI MENDIRATTA

COUNSEL FOR THE INTERVENER/APPLICANT

Date:- October 2013

Place:- New Delhi