

Supreme Court of India
Laxmi vs Union Of India & Ors on 10 April, 2015
Bench: Madan B. Lokur, Uday Umesh Lalit

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C)NO.129 OF 2006

LAXMI

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

O R D E R

Pursuant to our order dated 06.02.2015, the Ministry of Home Affairs has filed an affidavit dated 8th April, 2015.

We have heard learned counsel for the parties in considerable detail. A meeting was convened by the Secretary in the Ministry of Home Affairs, Government of India and the Secretary in the Ministry of Health and Family Welfare, Government of India with all the Chief Secretaries/their counterparts in the States/Union Territories on 14.03.2015.

From the affidavit, the provisional figures for 2014 indicate that there were 282 acid attacks in all the States. The majority of acid attacks were in the States of Uttar Pradesh (185), Madhya Pradesh (53) and Gujarat (11).

As far as the Union Territories are concerned, Delhi is the only Union Territory where acid attacks have taken place and the total number of such attacks in the year 2014 provisionally is 27.

In all, therefore, 309 acid attacks are said to have taken place provisionally in the year 2014.

As mentioned in our order dated 06.02.2015, with the amendment to the Indian Penal Code, nothing survives in the first prayer made by the petitioner.

The second and third prayers relate to the cost of treatment of the acid attack victims and application of Section 357C of the Code of Criminal Procedure, 1973, which was inserted by an Amendment Act in 2013 with effect from 03.02.2013.

In the meeting convened by the Secretary in the Ministry of Home Affairs and the Secretary in the Ministry of Health and Family Welfare on 14.03.2015, it has been noted that a Victim Compensation Scheme has already been notified in almost all the States and Union Territories. However, we are

told today that the Victim Compensation Scheme has been notified in all States and Union Territories.

We have gone through the chart annexed along with the affidavit filed by the Ministry of Home Affairs and we find that despite the directions given by this Court in Laxmi Vs. Union of India [(2014) 4 SCC 427], the minimum compensation of Rs.3,00,000/- (Rupees three lakhs only) per acid attack victim has not been fixed in some of the States/Union Territories. In our opinion, it will be appropriate if the Member Secretary of the State Legal Services Authority takes up the issue with the State Government so that the orders passed by this Court are complied with and a minimum of Rs.3,00,000/- (Rupees three lakhs only) is made available to each victim of acid attack.

From the figures given above, we find that the amount will not be burdensome so far as the State Governments/Union Territories are concerned and, therefore, we do not see any reason why the directions given by this Court should not be accepted by the State Governments/Union Territories since they do not involve any serious financial implication.

We also direct the Member Secretary of the State Legal Services Authority to obtain a copy of the Victim Compensation Scheme from the concerned State/Union Territory and to give it wide and adequate publicity in the State/Union Territory so that each acid attack victim in the States/Union Territories can take the benefit of the Victim Compensation Scheme.

Insofar as the proper treatment, aftercare and rehabilitation of the victims of acid attack is concerned, the meeting convened on 14.03.2015 notes unanimously that full medical assistance should be provided to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims. It is noted that there may perhaps be some reluctance on the part of some private hospitals to provide free medical treatment and, therefore, the concerned officers in the State Governments should take up the matter with the private hospitals so that they are also required to provide free medical treatment to the victims of acid attack.

The decisions taken in the meeting read as follows: The States/UTs will take a serious note of the directions of the Supreme Court with regard to treatment and payment of compensation to acid attack victims and to implement these directions through the issue of requisite orders/notifications.

The private hospitals will also be brought on board for compliance and the States/UTs will use necessary means in this regard. No hospital/clinic should refuse treatment citing lack of specialized facilities.

First-aid must be administered to the victim and after stabilization, the victim/patient could be shifted to a specialized facility for further treatment, wherever required.

Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973.

We expect the authorities to comply with these decisions. Although it is not made clear in the meeting held on 14.03.2015, what we understand by free medical treatment is not only provision of physical treatment to the victim of acid attack but also availability of medicines, bed and food in the concerned hospital.

We, therefore, issue a direction that the State Governments/Union Territories should seriously discuss and take up the matter with all the private hospitals in their respective State/Union Territory to the effect that the private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries.

We also issue a direction that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of an acid attack. This certificate may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

In the event of any specific complaint against any private hospital or government hospital, the acid attack victim will, of course, be at liberty to take further action.

With regard to the banning of sale of acid across the counter, we direct the Secretary in the Ministry of Home Affairs and Secretary in the Ministry of Health and Family Welfare to take up the matter with the State Governments/Union Territories to ensure that an appropriate notification to this effect is issued within a period of three months from today. It appears that some States/Union Territories have already issued such a notification, but, in our opinion, all States and Union Territories must issue such a notification at the earliest.

The final issue is with regard to the setting up of a Criminal Injuries Compensation Board. In the meeting held on 14.03.2015, the unanimous view was that since the District Legal Services Authority is already constituted in every district and is involved in providing appropriate assistance relating to acid attack victims, perhaps it may not be necessary to set up a separate Criminal Injuries Compensation Board. In other words, a multiplicity of authorities need not be created.

In our opinion, this view is quite reasonable. Therefore, in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes.

A copy of this order be sent to learned counsel appearing for the Secretary in the Ministry of Home Affairs and the Secretary in the Ministry of Health and Family Welfare for onward transmission and compliance to the Chief Secretary or their counterparts in all the States and Union Territories.

The Chief Secretary will ensure that the order is sent to all the District Magistrates and due publicity is given to the order of this Court. A copy of this order should also be sent to the Member Secretary of NALSA for onward transmission and compliance to the Member Secretary of the State Legal Services Authority in all the States and Union Territories. The Member Secretary of the State Legal Services Authority will ensure that it is forwarded to the Member Secretary of each District Legal Services Authority who will ensure that due publicity is given to the order of this Court.

The writ petition is disposed of in the above terms.

.....J.

(MADAN B. LOKUR)J.

(UDAY UMESH LALIT) NEW DELHI APRIL 10, 2015