

HC decriminalises begging

Says underlying causes of the problem not being addressed by Delhi authorities

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Criminalising begging is a wrong approach to deal with the underlying causes of the problem, the Delhi High Court said on Wednesday as it quashed provisions in the law that made begging a punishable offence.

The act of begging in the national Capital was made a criminal offence after the Bombay Prevention of Begging Act, 1959, was extended to Delhi by a Central government amendment in 1960.

The law prescribes a penalty of three years of detention in beggar homes in case of first conviction for begging and the person can be ordered to be detained for 10 years in subsequent conviction.

In India, 20 States and two Union Territories have either enacted their own legislations or adopted the legislations enacted by other States.

'For survival'

"The State simply cannot fail to do its duty to provide a decent life to its citizens and add insult to injury by arresting, detaining and, if necessary, imprisoning persons who beg in search for essentials of bare survival," a Bench of Acting Chief Justice Gita Mittal and Justice C. Hari Shankar noted.

The Bench declared 25 different sections of the

Humane approach

The following arguments were put forth in the pleas to strike provisions under the Bombay Prevention of Begging Act, 1959, which criminalised begging in Delhi:



74% of persons arrested for begging were from the informal labour sector such as those employed in small hotels, markets and construction, and **45%** were homeless

- It imposes unreasonable restrictions on soliciting, expressing poverty and vulnerability



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- The Act also violates the Right to Life as it takes away the right to beg to survive

- It unjustly restricts the movement of beggars



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DELHI HIGH COURT

Bombay Prevention of Begging Act as "unconstitutional" and struck them down. It said that the law does not make any distinction between types of begging: voluntary or involuntary.

The court, however, did not touch the provisions in the Act that deals with penalty for employing or caus-

ing persons to solicit or receive alms.

It also noted that the city government was always at liberty to bring in alternative legislation to curb any racket of forced begging after undertaking an empirical examination on the sociological and economic aspects of the matter.

Arresting beggars

The Central government had during the course of the hearing in November last year said that begging should not be a crime if it is done because of poverty. It, however, had sought to protect the provision in the law that allows police to arrest a beggar without a warrant.

The Centre had argued

that it was necessary to detain a person in order to ascertain whether the person was begging out of poverty or has been forced into begging.

The Bench remarked that this explanation violated the rights of such persons accorded under Article 21 of the Constitution of India. It said that the act of lodging and detaining beggars in beggar homes was an exercise in "futility" and a wastage of public funds.

The court order came on two petitions filed by Harsh Mander and Karnika Sawhney, who had sought basic human and fundamental rights for beggars in Delhi, and for decriminalising of begging in the city.