

GAHC010278262023



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/7104/2023**

X  
X

VERSUS

THE STATE OF ASSAM AND 2 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY OF THE GOVT.  
OF ASSAM, HEALTH DEPARTMENT, DISPUR, GUWAHATI-6

2:GUWAHATI MEDICAL COLLEGE AND HOSPITAL  
REPRESENTED BY ITS SUPERINTENDENT  
BHANGAGARH  
GUWAHATI-781005

3:OFFICER-IN-CHARGE OF KHETRI P.S.  
KAMRUP (METRO

**Advocate for the Petitioner : MR. B PHUKAN**

**Advocate for the Respondent : SC, HEALTH**

**BEFORE  
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

**JUDGMENT & ORDER (ORAL)**

**Date : 12-12-2023**

Heard Mr. B. Khakhlary, learned counsel for the petitioner and Mr. D. Nath, learned Senior Government Advocate for the State respondents.

2. This writ petition is instituted under an unfortunate circumstance where a minor girl aged about 10 years was subjected to sexual assault resulting in impregnation and the minor delivered a girl child at the age of about 11 years. The minor victim is presently aged about 16 years and the girl child that was delivered is aged about 4 to 5 years. The writ petition was initially instituted by the father of the victim mother claiming for compensation as regards the child that was born out of the sexual offence but unfortunately, the father died during the pendency of the writ petition. The victim mother under the law had been provided certain compensations and the perpetrator of the offence had also been convicted in the meantime and is undergoing his sentence.

3. We are presently concerned with the fate of the child who was born out of the aforementioned offence who has nobody to effectively look after her. The victim mother itself is still a minor who also does not have any income of her nor had appropriate education as because the alleged offence put her life in disarray.

4. We see no fault on the part of the child that was born who is presently aged about 4 to 5 years. We are of the view that it is the bounded duty of the society as well as the State to take care of the child and by taking care, we do not mean to take custody of the child, put her in a care home or shelter home or any other Government establishment because the child still has the mother

with her as well as the grandmother and from such point of view, has some kind of a family to be around with. However, what is to be seriously taken note of is that the circumstance in which the child was born and in the meantime the father of the child is also serving his sentence on being convicted, the mother herself is a minor who cannot look after the child or at least take care of the day to day needs of the child, we see no reason as to why the child will not have a legal right, as far as possible to have proper education and to have somebody to take care of the daily needs.

5. The State in their endeavour had also given an extended meaning of the word 'victim' to also include the child that was born out of the aforesaid offence and accordingly are providing certain monetary compensation under the victim compensation scheme.

6. Mr. D. Nath, learned Senior Government Advocate states that as per our earlier orders, an amount of Rs. 4,000/- per month is being deposited in the appropriate account for the benefit of both the victim mother and her child. We are not expressing any view on the adequacy of the amount. It is stated that another sum of Rs. 3,00,000/- under the victim compensation scheme had been provided to the victim mother, but if such authorities are of the view that the victim child who was born out of the aforesaid offence is also a victim, a similar amount under the victim compensation scheme may also be paid in the name of the child, over and above Rs. 4,000/- per month that had already been allotted to both the mother and the child.

7. However, considering the predicament that the child would have to face, the State awarded compensation as indicated above appears to be grossly inadequate and we have also been told that the State does not have any further scheme for the purpose other than what is indicated above. In the circumstance

when the matter was heard on an earlier date, Mr. S.C. Keyal, learned counsel who practices in this Court, on a voluntarily basis, came forward and made a statement that he would take care of the educational needs of the child from his personal expenses. We appreciate the generous gesture of Mr. S.C. Keyal. Upon an interaction with the family of the child, Mr. S.C. Keyal had been informed that the family intends to admit the child to a particular school where the yearly expenses is like to be about Rs. 13,500/- and Mr. S.C. Keyal undertakes to pay the said amount for the welfare of the child.

8. As the child is presently about 4 to 5 years old, the present expense of education would be at the primary level. But once the child grows up and enters education in the secondary or higher education level, definitely the educational expenses would be much more. We are not expecting some exceptionally high amount to be made available for the welfare of the child, but what we propose is that had the child been born in a normal circumstance, the kind of attention that the child may have got, an endeavour should be made to provide the child with such facilities.

9. Mr. S.C. Keyal with further magnanimity states that he undertakes to arrange the financial requirements of the child from other voluntary sources who are agreeable for the purpose so that the education of the child at the higher education levels can also be adequately addressed. We appreciate and accept the offer of Mr. S.C. Keyal, learned counsel.

10. Let the educational requirements of the child be taken care of by Mr. S.C. Keyal as indicated above and we also leave it to the discretion of Mr. S.C. Keyal to provide any further benefit that the child may be otherwise need. The learned counsel for the petitioner shall coordinate the matter with the family of the child as well as with Mr. S.C. Keyal so that regular interaction can take place

and the needs of the child can be adequately addressed.

Writ petition stands disposed of with the above observation.

**JUDGE**

**Comparing Assistant**