

Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31165 of 2021

Applicant :- Rajesh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Surendra Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

The Court is finding that except in an odd case or two, the CWCs have failed to comply with the directions of this Court in (Junaid Vs State of U.P. and another) and have not implemented the mandate of provisions of the POCSO Act, 2012 read with POCSO Rules, 2020. The Principal Secretary, Department of Women & Child Development, Government of U.P. and Director General of Police, Government of U.P. Lucknow have been directed to file their affidavits by order dated 04.01.2022.

The affidavits have not been filed today.

M.C.Chaturvedi, learned Additional Advocate General prays for and is granted two weeks and no more time to file counter affidavits in this regard.

At this stage, the Court would like to record its concern regarding non-implementation of POCSO Act, 2012 read with POCSO Rules, 2020 and also **Junaid (supra)** of this Court by the CWCs in all districts of U.P. Despite directions to the Principal Secretary, Department of Women & Child

WWW.LIVELAW.IN
Development, Government of U.P., no improvement is evident in the functioning of the CWCs. It has been contended on behalf of the State that the CWCs are failing to implement the POCSO Act read with POCSO Rules and directions of this Court in Junaid (supra). Prima facie, this reflects an abject failure on part of the higher authorities of the State under the POCSO Act, 2012 read with POCSO Rules, 2020 to get the law implemented.

The State Government needs to ensure that the officers of proven administrative ability, possessing deep empathy for child victims and having unimpeachable commitment to the rule of law are appointed at such high and sensitive positions.

The Court notices that the Principal Secretary, Department of Women & Child Development, Government of U.P. Lucknow has failed to comply with the order dated 08.12.2021 passed by this Court. The Registrar General has informed me in Chamber that no compliance affidavit has been filed by the Principal Secretary, Department of Women & Child Development, Government of U.P. in compliance of the order dated 08.12.2021 passed by this Court. This is in contrast to the Director General of Police, Government of U.P.

Lucknow, who has duly filed a compliance affidavit.

From the aforesaid facts, this Court is of the tentative view that the Principal Secretary, Department of Women & Child Development, Government of U.P. Lucknow is not complying with the orders passed by this Court and is unable to get the mandate of the legislature implemented. The failure to implement directions of this Court in **Junaid (supra)** is impeding the day to day functioning of the Court. The Court has to satisfy itself in every case whether the CWC and other State authorities have discharged their duties towards the victim as contemplated in the POCSO Act read with POCSO Rules and as directed in **Junaid (supra)**.

Accordingly, this Court deems it appropriate to direct the Principal Secretary, Department of Women & Child Development, Government of U.P. Lucknow to respond to the above prima facie observations in her personal affidavit.

Put up this matter on 10.02.2022 in the list of fresh cases for further hearing along with Criminal Misc. Bail Application No.34116 of 2021 (Shahzad Vs. State of U.P. and another).

Order Date :- 21.1.2022/Ashish Tripathi