

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION***

***SUO MOTO PUBLIC INTEREST LITIGATION NO. 1 OF 2024***

High Court on its Own Motion

*Versus*

The State of Maharashtra

... Respondent

Dr. Birendra Saraf, Advocate General a/w Mr. Hiten S. Venegavkar, Public Prosecutor and Mrs. P. P. Shinde, A.P.P for the Respondent-State

Special I.G. Mrs. Aarti Singh, SIT Chief, Maharashtra State is present in Court

Mr. Sudhakar Pathare, DCP, Ulhasnagar 2 and 4, is present in Court

**CORAM : REVATI MOHITE DERE &  
PRITHVIRAJ K. CHAVAN, JJ.  
TUESDAY, 27<sup>th</sup> AUGUST 2024**

**P.C :**

1 Dr. Saraf, learned Advocate General states that the SIT which is constituted, is investigating the case diligently and will leave no stone unturned in the investigation. He has placed on record the timeline of investigation carried out from 16<sup>th</sup>

August 2024, till date. The same is taken on record. We have perused the same. The same to be kept in a sealed cover, until further orders.

2 Dr. Saraf, learned Advocate General has also tendered the steps taken by the School Education and Sports Department i.e. various G. Rs. issued by the Maharashtra Government from time to time. The same is also taken on record.

3 We have noticed certain disturbing facts with respect to investigation done by Badlapur Police Station i.e. (i) that the victims were required to go to the police station, in breach of Section 24 of the Prevention of Children from Sexual Offences Act ('POCSO Act'), and (ii) the victims were examined by male doctors, in breach of Section 27(2) of the POCSO Act.

4 Dr. Saraf, when asked whether the blood samples were sent to the Forensic Science Laboratory ('FSL'), answers in the affirmative. We hope and trust that the FSL examines the said

samples expeditiously. When we confronted Dr. Saraf that we had in several cases, in particular, POCSO and rape cases, seen that FSL reports were not produced in time, thus delaying the trial, Dr. Saraf submitted that appropriate steps will be taken in that direction i.e. for appointment of persons in the FSLs and for appointment of a few officers specifically for examining samples pertaining to sexual assault cases, on priority basis.

5 We have also found that some media channels/social sites have been naming the institute where the incident has happened, which is completely contrary to the mandate of Section 23(2) of the POCSO Act. The said section provides for punishment, if there is contravention of the same. Section 23 reads thus :

***“23. Procedure for media.- (1) No person shall make any report or present comments on any child from any form of media or studio or photographic facilities without having complete and authentic information, which may have the effect of lowering his reputation or infringing upon his privacy.***

*(2) No reports in any media shall disclose, the identity of a child including his name, address, photograph, family details, school, neighbourhood or any other particulars which may lead to disclosure of identity of the child:*

*Provided that for reasons to be recorded in writing, the Special Court, competent to try the case under the Act, may permit such disclosure, if in its opinion such disclosure is in the interest of the child.*

*(3) The publisher or owner of the media or studio or photographic facilities shall be jointly and severally liable for the acts and omissions of his employee.*

*(4) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be liable to be punished with imprisonment of either description for a period which shall not be less than six months but which may extend to one year or with fine or with both.*

6 We make it clear that if there is any contravention of the aforesaid provision i.e. Section 23 of the POCSO Act, we will be constrained to direct the police to take appropriate steps/action against the concerned persons. The whole purpose of enacting Section 23(2) is to ensure that the disclosure does not, in any way, infringe upon the victim's privacy and does not have

the effect of lowering the victim's reputation. The object is to ensure that the victim is not further victimized and therefore the object of the Act, cannot be allowed to be frustrated. Similarly, media cannot be oblivious to the fact, that there are other students studying in the said school.

7           We have also suggested to Dr. Saraf that a Committee of eminent persons be appointed to suggest guidelines for the safety and security of children, irrespective of gender, in Schools. Dr. Saraf states that such a Committee has already been formed. Dr. Saraf states that the State will have no objection to the suggestion made by the Court, to appoint eminent persons from different fields to the said Committee, which is already constituted. He states that the scope of the G.R can also be expanded to include `children' studying in Schools, and not only girls, as in the present G.R.

8           Dr. Saraf also assures us that an experienced senior

lady Prosecutor will be appointed to assist the Special Public Prosecutor, already appointed in this matter.

9 Dr. Saraf seeks time, as investigation is still in progress. He states that test identification parade is still to be held. On his request, stand over to **3<sup>rd</sup> September 2024**. To be listed at 2:30 p.m.

10 All concerned to act on the authenticated copy of this order.

**PRITHVIRAJ K. CHAVAN, J.**

**REVATI MOHITE DERE, J.**