

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Writ Miscellaneous Application No.198/2024

In

D.B. Civil Writ Petition (PIL) No.3341/2014

Suo Motu

----Petitioner

Versus

State Of Rajasthan & Others

----Respondents

For Petitioner(s)	:	Mr. Pankaj Gupta, Amicus Curiae with Mr. Yatharth Agarwal Mr. Sudhir Jain, Amicus Curiae with Mr. Saurabh Jain
For Respondent(s)	:	Mr. Bharat Vyas, AAG assisted by Ms. Aditi Vats

HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

04/09/2024

1. We have gone through the order passed by learned Single Judge while deciding the bail application, written submissions of learned Amicus as also the affidavit filed by the Officials of the Government.
2. This Court had earlier disposed off D.B. Civil Writ Petition (PIL) No. 3341/2014 a Suo Moto PIL with the observations that taking into consideration the state of affairs, which were in existence in so far as functioning of State Forensic Labs in 2014 in comparison to the improvement which have so far been made in these eight years, Suo Moto Petition can be disposed off, however, with liberty to revive in case it is found that various projects and

process of appointment despite lapse of reasonable period has not been completed.

3. The affidavit, which has been filed by the State Officials in the bail application (since disposed off), discloses that for carrying out DNA test of sample, no standard time has been set and so far as the question of average time taken for DNA testing of a sample is concerned, an average time of 5 to 7 working days is being taken by the Scientists in all the Forensic Science Laboratories (for short 'FSLs'). In the said affidavit, it is stated that DNA samples of testing received have been made. It is also stated that Laboratories gave utmost priority to heinous offences, such as those alleged under the POCSO Act, wherein the age of victims is 0 to 12 years and in such cases, the requisite reports are furnished within an upper time limit of 10 days.

4. Further statement made in the affidavit is that in order to speed up the process, a total of 50 contractual employees have been engaged in various FSLs and the procedure for filling up the vacant posts in FSLs through Rajasthan Public Service Commission, Ajmer and Sardar Patel University, Jodhpur, is under process. The statements have been made on the basis of the report of the Director, FSL Rajasthan, Jaipur which has also been annexed along with the affidavit.

5. The report of the Director, FSL refers to pending cases. As on 01.04.2024, 18,282 cases were pending in various FSLs of the State. As per the report, there are as many as six regional FSLs situated in Rajasthan and one State FSL situated at Jaipur. The report further states that recruitment on two posts of Assistant Director, three posts of Senior Scientist are pending with the

Rajasthan Public Service Commission, whereas, recruitment on two posts of Senior Scientist Assistant and one post of Junior Scientist Assistant is pending with Sardar Patel University, Jodhpur. A comparative chart showing disposal of cases per unit has also been submitted. The efforts made in the last five years for disposal of DNA cases and the action plan is also contained in the affidavit.

6. Learned Amicus Curiae would submit that it is in the interest of the efficient criminal justice, delivery system and fair trial that the FSL reports are prepared within a reasonable time.

7. The material on record of the disposed off bail application does not reflect any micro analysis on any empirical data so as to reach to a conclusion one way or other as to how much time is being taken for disposal of cases in FSL with reference to the date of receipt of forensic evidence collected and dispatch of report, though, in the affidavit of the Additional Chief Secretary, Home Department, Rajasthan, it has been stated that 5 to 7 working days are consumed in DNA testing of a sample and 10 days are consumed in completing DNA testing of samples in heinous offences such as those offences alleged in POCSO Act.

8. Learned Amicus Curiae would submit that in many cases, DNA reports are not being prepared by the FSL in time, which results in delay. This statement of learned Amicus Curiae is without any basis.

9. However, taking into consideration that the new regime of law under Bharatiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') emphasises need for timely preparation of testing of

samples received in various labs, we direct the State in the Department of Home to submit following details:-

(a) Since 01.01.2024 till 31.08.2024 in how many cases, the DNA sampling was completed in the FSL after more than ten days of receipt of the report in the FSL.

(b) Whether the State has prepared any action plan to increase the number of Forensic Labs and trained experts human resources in view of new regime of law under the BNSS.

(c) What is the period of pendency of FSL cases, area- wise out of 18,282 cases stated to be pending as on 01.04.2024 as per the report of the Director FSL (Annexed as R/1 along with affidavit) submitted by Additional Chief Secretary, Home Department, Rajasthan.

10. Mr. Bharat Vyas, learned Additional Advocate General assisted by Ms. Aditi Vats, learned counsel is directed to file appropriate and detailed affidavit of the competent authority before this Court within a period of four weeks from today.

11. The Registrar (Judicial) shall prepare a paper book containing the following documents :

(i) copy of order dated 23.05.2024 passed by learned Single Judge in S.B. Criminal Miscellaneous 2nd Bail Application No.1820/2024,

(ii) affidavit of the Additional Chief Secretary, Home Department, Rajasthan,

(iii) report of the Director, FSL Rajasthan (appended as Annexure-R1 along with the affidavit),

(iv) written submissions/written notes submitted by learned Amicus Curiae - Mr. Pankaj Gupta, along with all annexures,

(v) written submissions of Mr. Prem Chand Dewanda, Adv. and associate advocates along with documents.

12. The paper book shall be prepared in five sets. One set would be collected by Mr. Pankaj Gupta, learned Amicus Curiae and the other set shall be collected by Ms. Aditi Vats assisting Mr. Bharat Vyas, learned Additional Advocate General within one week.

13. List this case on 08.10.2024.

(ASHUTOSH KUMAR),J (MANINDRA MOHAN SHRIVASTAVA),CJ