

ITEM NO.302

COURT NO.9

SECTION PIL

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s).95/2012

DEVIKA BISWAS

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(With appln.(s) for directions and exemption from filing O.T. and impleadment and permission to file additional documents and permission to submit additional documents and office report)  
(For final disposal)

Date : 20/03/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

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Puducherry	Mr. V.G. Pragasam, Adv. Mr. S.J. Aristotle, Adv. Mr. Prabu Ramasubramanian, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Subsequent to our order dated 30th January, 2015, the State of Chhattisgarh has filed an affidavit dated 19th February, 2015. We have gone through the affidavit and find that there are several details that have not been mentioned in the affidavit, viz., the allegations made in the FIRs have not been indicated; the progress in the investigations has also not been indicated; the date of appointment of the Commission headed by Mrs. Anita Jha, Retired District Judge has not been indicated; the terms of reference of the Commission headed by Mrs. Anita Jha, Retired District Judge have been referred to but the actual terms of reference have not been stated.

We have also been taken through IA Nos.4,5 and 6 filed by the petitioner, particularly the report that has been prepared by the Population Foundation of India which suggests that the sterilizations were conducted in unhygienic conditions and that the antibiotic which the State of Chhattisgarh claims to be responsible for the tragedy is not factually correct. The report given by the Population Foundation of India was prepared in December, 2014 and it is not clear whether that was taken into account by the State of Chhattisgarh when the affidavit was filed on 19th February, 2015.

We have also been shown the other reports filed by the petitioner including a report filed by the National Alliance for Maternal Health and Human Rights.

The State of Chhattisgarh will take all these facts into consideration as well as the observations made and file a proper and detailed affidavit well in time before the next date of hearing, i.e., 17th April, 2015.

We make it clear that the State of Chhattisgarh shall file sample FIRs that we have mentioned above including some sample post-mortem reports and, if any charge sheet has been filed in the meanwhile, sample copies of charge sheet should also be placed on record.

We have also been taken through the Family Planning Indemnity Scheme, 2013 and it has been pointed out that there are several requirements under the Scheme including an audit and monitoring of the functioning of the Scheme.

Learned Solicitor General will take detailed instructions in this regard and let us know whether the Scheme requires any review/reconsideration and the steps that have been taken by the Central Government for the implementation of the Scheme including setting up of various bodies and authorities under the Scheme.

Learned Solicitor General has also taken us through the affidavit filed by the Ministry of Health and Family Welfare which gives an indication of the funds approved under the Family Planning Indemnity Scheme and the

expenditure incurred by the State Governments for the years 2013-14 and 2014-15. It is not clear from the affidavit the manner of utilization of funds.

Learned Solicitor General assures us that he will get full details in this regard and also have an audit conducted to ensure that the funds are utilized for the purpose for which they have been given by the Central Government to the State Governments.

We expect all these details in the affidavit to be filed by the Union of India well before the next date of hearing, i.e, 17th April, 2015.

(SANJAY KUMAR-I)  
COURT MASTER

(JASWINDER KAUR)  
COURT MASTER