

**HIGH COURT OF TRIPURA
AGARTALA.**

No.F.42(13) –HC/2017/16045

Dated, Agartala, the 8th September, 2017

ORDER

WHEREAS, Hon'ble the Supreme Court of India in the judgment dated 27.07.2017 in Criminal Appeal No.1265 of 2017 arising out of Special Leave Petition (Crl.) No.2013 of 2017 [Rajesh Sharma & Ors. Vs. State of U.P & Anr] has given the following directions:

" 19.....

(i) (a) In every district one or more Family Welfare Committees be constituted by the District Legal Services Authorities preferably comprising of three members. The constitution and working of such committees may be reviewed from time to time and at least once in a year by the District & Sessions Judge of the district who is also the Chairman of the District Legal Services Authority.

(b) The Committees may be constituted out of para legal volunteers/social workers/retired persons/wives of working officers/other citizens who may be found suitable and willing.

(c) The committee members will not be called as witnesses.

(d) Every complaint under Section 498-A received by the police or the Magistrate be referred to and looked into by such committee. Such committee may have interaction with the parties personally or by means of telephone or any other mode of communication including electronic communication.

(e) Report of such committee be given to the Authority by whom the complaint is referred to it latest within one month from the date of receipt of complaint.

(f) The committee may give its brief report about the factual aspects and its opinion in the matter.

(g) Till report of the committee is received, no arrest should normally be effected.

(h) The report may be then considered by the Investigating Officer or the Magistrate on its own merit.

(i) Members of the Committee may be given such basic minimum training as may be considered necessary by the Legal Services Authority from time to time.

(j) The Members of the Committee may be given such honorarium as may be considered viable.

(k) It will be open to the District & Sessions Judge to utilize the cost fund wherever considered necessary and proper.

(ii) Complaints under Section 498-A and other connected offences may be investigated only by a designated Investigating Officer of the area. Such designations may be made within one month from today. Such designated officer may be required to undergo training for such duration (not less than one week) as may be considered appropriate. The training may be completed within four months from today;

(iii) In cases where a settlement is reached, it will be open to the District & Sessions Judge or any other senior Judicial Officer nominated by him in the district to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord;

(iv) If a bail application is filed with at least one clear day's notice to the Public Prosecutor/complainant, the same may be decided as far as possible on the same day. Recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matters, individual roles, prima facie truth of the allegations, requirement of further arrest/custody and interest of justice must be carefully weighed.

(v) In respect of persons ordinarily residing out of India impounding of passports or issuance of Red Corner Notice should not be a routine;

(vi) It will be open to the District Judge or a designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view is taken by the Court to whom all such cases are entrusted; and

(vii) Personal appearance of all family members and particularly outstation members may not be required and the trial court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting progress of the trial.

(viii) These directions will not apply to the offences involving tangible physical injuries or death."

Now therefore, the Hon'ble High Court has been pleased to issue the following guidelines for strict adherence by the District Legal Services Authorities in respect of the constitution and functioning of the Family Welfare Committees:

GUIDELINES

(i) There shall be 1(one) Family Welfare Committee in every Court premises for effectively and impartially discharging the functions assigned to such committee under the above directions of the Hon'ble Supreme Court.

(ii) The District Legal Services Authority (DLSA) shall constitute the Family Welfare Committees within their respective jurisdiction of the concerned DLSA by issuing notification in the name of the DLSA. The Family Welfare Committee consisting of the Chairman and two other members in terms of the direction of the Hon'ble Supreme Court in paragraph 19.i)(a) shall be constituted initially for a term of 1(one) year. The wives of the working Judicial Officers and Police Officers shall not be nominated for such Committee. The District & Sessions Judge being the Chairman of the District Legal Services Authority shall undertake an effective review of the working of the Family Welfare Committees

of his/her District periodically and at least once in a year. The first of such Review Reports must reach the High Court and the Tripura State Legal Services Authority on or before **28th February, 2018**. The Family Welfare Committee shall be accommodated in the District Mediation Centre or in the room allotted for this purpose in the sub-divisional Court complex, as the case may be, until alternative arrangement is made.

(iii) Each of the District Legal Services Authorities shall constitute the Family Welfare Committees in every Court within their respective District within a period of 7 days and the members of the Committees shall be selected for nomination with due regard to their competence keeping in mind the objects of constitution of such Committee. In the event of any difficulty, the Chairman of the District Legal Services Authority may inform the Member Secretary who in turn will approach the competent authority for necessary direction.

(iv) The District & Sessions Judge being the Chairman of the District Legal Services Authority shall monitor the activities of such Family Welfare Committees within his jurisdiction in order to build capacity in delivering quality performance.

(v) It must be clearly mentioned in the notification constituting the Family Welfare Committee that the members of the Committee shall have to undergo basic minimum training as would be imparted by the State Legal Services Authority in coordination with Tripura Judicial Academy. The members of the Family Welfare Committee must also attend further training programmes as may be organized from time to time.

(vi) The Family Welfare Committees may utilise the infrastructure including the telephone facilities available with the Sub-Divisional Legal Services Committees [SDLSC] until alternative arrangements are made for this purpose.

(vii) The District Secretary, District Legal Services Authority will be responsible to meet the requirements of the Family Welfare Committees.

(viii) The costs imposed by Courts in proceedings and awarded for the purpose of meeting the expenses of the Family Welfare Committees shall be received by the District Legal Services Authority or the Sub-Divisional Legal Services Committee, as the case may be, and the cost fund, as received, shall be deposited in the designated bank account within 24 hours. Such amount may be utilised for paying the monthly honorarium of the members and meeting other expenses of the Family Welfare Committees. The Courts awarding such cost fund to the DLSAs and SDLSCs shall furnish a monthly report on or before the 10th day of the succeeding month to the District & Sessions Judge of the respective districts for his information and necessary action.

(ix) The District & Sessions Judges being the Chairman of the District Legal Services Authorities shall immediately arrange a meeting with all Judicial Officers of their respective district for their sensitisation about the directions of the Hon'ble Supreme Court issued in the Judgment dated 27.07.2017 in **Rajesh Sharma vs. State of U.P and another (supra)** to ensure strict compliance of the directions of the Hon'ble Supreme Court.

(x) The Chairpersons of the District Legal Services Authorities shall formally send a copy of the said Judgment of the Hon'ble Supreme Court to the Superintendents of Police of their respective Districts with a request to circulate the same to all the Officer In-charge of the Police Stations and Investigating Officers.

(xi) The members of the Family Welfare Committee shall be given monthly honorarium in terms of the direction in paragraph 19(i)(j) of the Hon'ble Supreme Court of India at the following rate:

(a) The Chairman of the Committee: Rs.6,000/-;

(b) Each of the members of the Committee: Rs.5,000/-;

Such honorarium shall be paid by the District Legal Services Authority or the Sub-Divisional Legal Services Committee, as the case may be. The required amount for this purpose shall be debited from the State fund lying with the District Legal Services Authorities and Sub-Divisional Legal Services Committees until any earmarked fund is provided by the National Legal Services Authority for this purpose.

This is issued with the approval of the Hon'ble Patron-in-Chief and Hon'ble the Chairman of Tripura State Legal Services Authority.

By order

Sd/-
(S.G.Chattopadhyay)
Registrar General

Memo. No.F.42(13) –HC/2016/16046-86 Dated, Agartala, the 8th September, 2017

Copy to:-

1. The Secretary General, Supreme Court of India, New Delhi
2. The LR & Secretary, Law Department, Government of Tripura, Agartala.
3. The Registrar (Vigilance), High Court of Tripura, Agartala.
4. The Registrar (Judicial), High Court of Tripura, Agartala.
5. The District & Sessions Judge, South Tripura Judicial District, Belonia/ West Tripura Judicial District, Agartala/ Unakoti Judicial District, Kailashahar / North Tripura Judicial District, Dharm anagar / Gomati Judicial District, Udaipur with a direction to circulate the same among the Judicial Officers of their district.
6. The Judge, Family Court, Agartala, West Tripura Judicial District/ Udaipur, Gomati Judicial District / Kailashahar, Unakoti Judicial District with a direction to circulate the same among the Judicial Officers of their judgeship.
7. The Director, Tripura Judicial Academy, Agartala.
8. The Member Secretary, TSLSA, Agartala.
9. The Secretary, High Court Legal Services Committee, High Court of Tripura, Agartala.
10. The Principal Secretary to the Hon'ble Chief Justice, High Court of Tripura, Agartala.
11. The Registrar (Admn.), High Court of Tripura, Agartala.
12. All Chief Judicial Magistrates, Tripura.
13. The Joint Registrar, High Court of Tripura, Agartala.
14. All Deputy Registrars, High Court of Tripura, Agartala.
15. The Secretaries to the Hon'ble Judges, High Court of Tripura, Agartala.
16. The Secretary to the Registrar General, High Court of Tripura, Agartala.
17. The System Analyst, Computer Section, High Court of Tripura, Agartala for uploading the same in the official website of the High Court of Tripura.


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REGISTRAR GENERAL