**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**PUBLIC INTEREST LITIGATION (PIL) No. - 2751 of 2025**

In Re Framing Of Guidelines For Sensitizing All Concerned In Cases Of Termination Of Pregnancies

.....Petitioner(s)

Versus

State of U.P.

.....Respondent(s)

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Counsel for Petitioner(s) : Mahima Maurya Kushwaha, In Person
Counsel for Respondent(s) : C.S.C.

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**Along with :**

1. **Writ - C No. 28317 of 2025:**
   Ab (D)

   Versus

   State of U.P. and another

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**Court No. - 3**

**HON'BLE SAUMITRA DAYAL SINGH, J.**
**HON'BLE INDRAJEET SHUKLA, J.**

1. Heard Ms. Mahima Maurya Kushwaha, learned *Amicus Curiae*, Shri Rajiv Gupta, learned Additional Chief Standing Counsel for the State-respondents and Shri Mohd. Samiullah, learned counsel for the original petitioner in Writ-C No. 28317 of 2025.

2. We have perused the order-sheet of the said writ petition and further orders passed upon registration of this Public Interest Litigation. We have also perused the Personal Affidavit of the Chief Secretary, Government of U.P. and also we have been taken through the Written Submission submitted by Ms. Mahima Maurya Kushwaha.

3. Primarily, the Public Interest Litigation has been registered to address the concern of the society with respect to care required to be taken of the victims of rape and also with respect to the other persons who may be faced with unwanted pregnancy.

4. Provision exists in law as may allow for actions to be taken to address

the concerned and vulnerable persons. Thus, Section 357-C of the Cr.P.C. and now Section 397 of B.N.S.S. provide for rights of the victim of rape to be provided first-aid or medical treatment, free of cost, by any government or private hospital. Scheme for compensation for rape victims also exists in terms of Section 357-A of the Cr.P.C. and Section 396 of the B.N.S.S. To tackle the issue of unwanted pregnancy that may arise, amongst others on occurrence of rape, the Protection of Children From Sexual Offices Act, 2012 read with the Rules framed thereunder, Rule 6 (4)(d) obligates the medical practitioners who may render medical care to the victim child to attend to the needs of such unfortunate child, amongst others with respect to possible pregnancy and emergency contraception that may be administered to a pubertal child.

5. Also, directions have been issued by the Courts, from time to time to implement the statutory and precedential laws for the benefit of the vulnerable, especially the victims of rape.

6. Then, the Medical Termination of Pregnancy Act, 1971 not only provides for a statutory framework to allow for medical termination of pregnancy up to 20-24 weeks but it creates a statutory presumption that pregnancy caused by rape may *ipso facto* constitute grave injury to mental health of a hapless victim.

7. In the context of the above statutory and precedential law that exists, including that referred to above, the State Government of Uttar Pradesh appears to have framed Standard Operating Procedure (hereinafter referred to as the 'SOP'). It has been annexed to the Personal Affidavit of the Chief Secretary by way of Annexure-9.

8. We have perused the SOP. On the face of it, it does indicate the State's willingness to comply with the law. Thus, it recognizes the rights of the victim of rape to seek medical termination of pregnancy. It also refers to different categories of girls/women according to their age (who may need help in such matters). It also refers to constitution of State Medical Board and District Level Committee.

9. Without making any adverse observation, the concern of the Court as voiced in the earlier orders remains; often, petitions are filed before this

Court, almost by way of a regular trickle by individual petitioners seeking permission of the Court to terminate such unwanted pregnancies.

10. Since law permits termination of such pregnancies up to 20 and not more than 24 weeks, arising from the peculiar and unfortunate circumstances arising from a heinous occurrence of rape, often knowledge of pregnancy is gained/disclosed late and sometimes perhaps due to lack of understanding and knowledge of the laws and the procedures, precious time is lost to the victims and their families. They turn up late. Wherever time permits, the Court has regularly provided urgent measures to grant appropriate relief or to pass appropriate orders in such petitions. However, despite the SOP being put in place, the flow of petitions has not come to an end.

11. Learned Additional Chief Standing Counsel would submit that complexity arises partly because of Court procedures. Once an offence of rape is reported, the medical practitioners who may otherwise exercise their discretion in accordance with the law, act hesitant because of the involvement of the police investigation as also the Courts. He would therefore submit that appropriate directions may be issued to all Courts to ensure that medical practitioners may exercise their discretion, without fear.

12. While we may accede to the request made, we find that measure may not be enough. At present, the SOP does not appear to lay down a comprehensive policy providing for exact doable measures to be adopted by all agencies who may be involved in taking care of such persons especially victims of rape. Thus, commonly, on allegation of rape being reported, though F.I.R. may be registered promptly and the victim offered medical examination, the police authorities only look at the concerns of a successful prosecution and may lose sight of the human aspect or the need to take care of the victim or to protect her rights especially with medical prevention or termination of pregnancy.

13. Second, where the victim may choose to carry the pregnancy to full term or where for any other circumstance, pregnancy may not be terminated and therefore carried to full term, the welfare State may not

become a by-stander. The coverage of the welfare scheme both to take care of the child/person/lady who may experience unwanted motherhood and therefore require medical care and to bear child birth as also further care for the period following such child birth, both with respect to her health and the health of the child born, may also require to be brought in and monitored under the comprehensive SOP.

14. Third, where the child is to be given in adoption, that too must form part of the same comprehensive SOP.

15. Fourth, where medical termination of pregnancy is carried out, the provision of preservation of fetus for evidentiary value at the criminal trial or a civil proceeding may also be required to be brought in.

16. In short, while at present, we are not proposing any specific new measure to be adopted by the State-either to provide for enhanced compensation etc., we do feel that the State must have a comprehensive policy, complete with procedural details and effective monitoring at all levels, to be applied from the point of the rape being first reported or unwanted pregnancy being first reported to the point of medical termination of pregnancy is offered and/or the victim treated for the same.

17. Alternatively, where unwarranted pregnancy results in child birth, the measures may be provided for the same. All other terms of payment of compensation etc. be woven into such SOP as may allow the victim to be truly taken care of in the spirit of welfare, with necessary compassion and not as a matter of a legal claim.

18. Unless nodal authorities are provided in conjunction with other professionals and officers and agency such as an expert Counselor who may counsel the victim as also her family, if required as to the options available with respect to termination of pregnancy etc. as also the probationary officers and medical experts, from the point of the occurrence of rape being reported, the desire of the State to take care of such unfortunate citizens, may remain unfulfilled.

19. Here, we may observe, to avoid any delay in the right to terminate

medical pregnancy being exercised by the unfortunate victim of rape, within the outside limit prescribed by law being 24 weeks, it may be necessary to provide for above measures together with further measures to ensure regular option given to the victim to obtain regular pregnancy tests, during the period of vulnerability such that the outside limit of 24 weeks is not breached, should she desire to exercise her right to terminate such unwanted pregnancy.

20. With that in view, we require the State to file a further affidavit through the Principal Secretary, Medical Health and Family Welfare, U.P. which department takes care of Women and Child Health. Such affidavit may be filed within a period of three weeks.

21. Put up this matter on 13.03.2026.

**(Indrajeet Shukla,J.)  (Saumitra Dayal Singh,J.)**

**February 6, 2026**
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