

Madras High Court

The Director vs State Of Tamil Nadu Rep.By The on 31 October, 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2006

C O R A M :

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE  
AND  
THE HONOURABLE MR.JUSTICE K.CHANDRU

W.P.No.36807 of 2006

The Director,  
Tamil Nadu State Judicial Academy,  
R.A.Puram,  
Chennai-28.

... Petitioner

-VS-

1. State of Tamil Nadu rep.by the  
Secretary to Government,  
Home Department,  
Fort St.George,  
Chennai-9.
2. The Chief Metropolitan Magistrate,  
Egmore,  
Chennai-8.
3. The Commissioner of Police,  
Egmore,  
Chennai-8.
4. The Superintendent (Government

Vigilance Home/Government  
Protective Home), Arasinar Magalir  
Kappagam, Mylapore, Chennai-4.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance

For petitioner :: M/s.S.Vimala

For respondents :: Mr.Raja Kalifulla, GP asstd.by  
Mr.V.R.Thangavelu, GA

#### O R D E R

(ORDER OF THE COURT WAS MADE BY THE HONOURABLE THE CHIEF JUSTICE) A report dated 20.09.2006 submitted by Smt.S.Vimala, the Director of the Tamil Nadu State Judicial Academy, based on her visit to the Government Vigilance Home (Arasinar Magalir Kappagam) situated at Mylapore, Chennai, is taken up as a suo motu writ petition.

2. The Director, Tamil Nadu State Judicial Academy, visited the Vigilance Home on 05.9.2006 and during her visit she found that four categories of persons have been placed in the same Home, viz.,

i) 42 Victims of trafficking;

ii) 2 Accused/Convicted persons under the Immoral Traffic in Persons (Prevention) Act, 1986;

iii) 4 Women seeking voluntary admission; and

iv) 2 Unwed mothers.

The Director has reported that several victims of trafficking expressed their grievance that no steps have been taken for their reintegration and rehabilitation. The Director has also reported that according to the representation made by the inmates, the procedure prescribed under the Immoral Traffic in Persons (Prevention) Act, 1986 (for short 'TTP Act') is not at all followed and they are kept in continued detention without any enquiry and without any basis.

3. In pursuance of the notice issued by this Court, the Secretary to the Government of Tamil Nadu, Social Welfare and Nutritious Meal Programme Department has filed a report, dated 09.10.2006. As per the report the Government Vigilance Home, Chennai is classified as Rescue Shelter, Vigilance Home, Strisadana and Unmarried Mother's Home and all the four units are functioning in the same premises at Mylapore, Chennai. It is stated that all the four units are separately maintained, and rescued women and other persons are kept in separate enclosures without any connection or

intimacy between the different categories admitted in the Home. It is stated that the Home has adequate infrastructural facilities for accommodating the inmates and all the inmates are provided with necessary clothing and bedding, nutritious food as per the scale of diet stipulated under the Rules. It is further stated that the Welfare Officer of the Department conducts periodical enquiry, contact the family members through letters and over phone and facilitate the visit of their family members so as to reintegrate them with the family. Apart from this, counselling services are also provided by the Welfare Officers and through Non-Governmental Organisations (NGOs) to the family members to accept the girls and women to keep them within their family. It is further stated that the Government of Tamil Nadu has created Tamil Nadu Social Defence Welfare Fund for Women and Children vide G.O.Ms.No.114, Social Welfare and Nutritious Meal Programme Department, dated 26.7.2002. Among others, the fund provides for material assistance to the tune of Rs.10,000/- and a cash assistance of Rs.5,000/- for the rehabilitation of the discharged inmates of the Home. A reference is also made to certain initiatives taken by the Government in respect of the Vigilance Home at Mylapore, Chennai.

4. By the order of this Court, dated 12.10.2006, the Tamil Nadu State Legal Services Authority was directed to open a Legal Aid Cell in the Government Vigilance Home, Mylapore, Chennai and the Member Secretary was directed to appoint a panel of lawyers for looking into the grievances of the inmates of the Home and to make a report to this Court by 19.10.2006. As per the said directions, the Tamil Nadu State Legal Services Authority opened a Legal Aid Cell in the Vigilance Home and a panel of women lawyers was nominated to look into the grievances of the inmates of the Home and based upon the interviews with the inmates, the Member Secretary has submitted his report.

5. As per the report submitted by the Member Secretary, Tamil Nadu State Legal Services Authority, apart from 39 inmates, who are victims of trafficking, there are two juveniles found in conflict with law, who have been detained for three years by the Juvenile Justice Board, Tiruchirapalli. They were produced before the Juvenile Justice Board under section 8(B) of the ITP Act for the offence of soliciting and the Juvenile Justice Board passed orders under section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter be referred to as 'the Juvenile Justice Act' for short), detaining them in the Vigilance Home, Mylapore for a period of three years. One of them, who will be referred to as Miss X for the sake of confidentiality, has a six months old child and the other juvenile, hereafter referred to as Miss. Y, is infected with HIV/AIDS. The Member Secretary has reported that there is no reason for the detention of the said two juveniles who cannot be strictly treated as accused under any of the provisions of the ITP Act. A recognized NGO, viz., CHES has given a letter of undertaking to take care of the juvenile Miss Y under its custody for treatment and rehabilitation. It is seen that she is having a one month old child, who is also infected with HIV/AIDS. The other Juvenile viz., Miss. X has shown her readiness and willingness to undergo rehabilitation training for her livelihood and her child is now under the care and protection of Bala Mandir and she is having a periodical visit to the said institution. The Member Secretary has informed us that an NGO by name MANUSHYA is willing to accommodate the juvenile Miss X in their rehabilitation centre and take all necessary steps for her rehabilitation. The letters issued by the NGOs, viz., CHES and MANUSHYA are taken on record.

6. The Member Secretary has further reported that victims of trafficking are hailing from various States. There are three victim girls originally belonged to Calcutta, but residents of Bangalore, whereas nine victim girls are from Bangalore, eleven are from Andhra Pradesh and six are from Tamil Nadu. The Member Secretary has reported that the victims from other States have expressed their willingness to go back to their parents or relatives and he has contacted the Member Secretaries of the Legal Services Authorities of the other States and they have also assured to extend their full co-operation for the reintegration and rehabilitation of those victim girls. The Member Secretary has reported that all the Magistrates are informed about the existence of the Legal Aid Cell in the Home and are requested to advise the victims whenever they are produced before them to avail the legal assistance. The Member Secretary has reported that in majority of the cases, the victims or their parents or guardians are in need of free legal aid. Therefore, free legal assistance is necessary for the victims right from the entry stage till their restoration or rehabilitation. The Member Secretary has suggested that similar Legal Aid Cells should be opened in all the Government Vigilance Homes in major cities and duty counsel should be nominated for the concerned courts. He has suggested that a list of recognised NGOs, who are working in the field, should be exchanged between the concerned State Legal Service Authorities for better networking between them. He has also suggested that where the victim girls are to be restored to their parents within the State or outside the State, they should be accompanied by a woman panel lawyer and the police should also go with them in plain clothes to avoid social stigma.

7. The Member Secretary has further reported that the main building of the Vigilance Home, Chennai, especially the kitchen and toilets require urgent repairs. As far as rehabilitation is concerned, the Member Secretary has reported that the NGOs are taking active part in teaching some skills to the victims. At present, power sewing machines are made available to them for learning tailoring. The Member Secretary has made the following recommendations: -

Infrastructures should be developed.

Development of skills in the area of computer, language, sewing (to get job in export companies), driving etc. should be made available;

Expert counselors from the recognized NGOs should be appointed;

Food ration and quality should be improved;

Kitchen, dining room, bed rooms, toilets - hygiene to be maintained.

The Member Secretary has reported that the delay in inquiry as to the correctness of the information received relating to the age, character and antecedents of the victims and the suitability of parents, husbands or guardians and lack of legal assistance are the main causes for the prolonged detention of the victims in the Home.

8. It is highly deplorable and heartrending to note that many poverty stricken children and girls in the prime of youth are taken to flesh market and forcibly pushed into the flesh trade , which is

being carried on in utter violation of all canons of morality, decency and dignity of humankind. There has been an alarming increase in human trafficking not only in this country but also all over the world and today it is the third largest form of transnational illegal trade after arms and drugs. It is estimated that in India about 200 girls and women are either inducted into or enter the trade everyday and approximately, 75,000 girls and women enter the trade every year and 80% of them do it out of situational compulsions. Human trafficking is a multi-dimensional threat. It deprives people of their human rights and freedoms. It is a global health risk and it fuels the growth of organized crime. Human trafficking has a devastating impact on individual victims, who often suffer physical and emotional abuse, rape, and threats against self and family and even death. Child trafficking is the worst of all forms of trafficking. Many unfortunate teenage children are being sold in various parts of the country for paltry sums even by their parents finding themselves unable to maintain their children on account of poverty and unbearable miseries and hoping that the children would be engaged in household duties or manual labour. But those who are acting as pimps or brokers in the flesh trade and brothel keepers who hunt for these teenaged children and young girls to make money either purchase or kidnap them by deceitful means and unjustly and forcibly inveigle them into flesh trade. Once these unfortunate victims are taken to the dens of prostitutes and sold to brothel keepers, they are shockingly and brutally treated and confined in complete seclusion in a tiny claustrophobic room for several days without food until they succumb to the vicious desires of the brothel keepers and enter into the unethical and squalid business of prostitution.

9. The right against exploitation is a fundamental right guaranteed by the Constitution of India under Article 23. Trafficking in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. Article 39, which relates to Directive Principles of State Policy under Part IV of the Constitution, particularizes certain objectives. One of the objectives under Clause (e) of Article 39 is that the State should, in particular, direct its policy towards securing that the tender age children are not abused. One of the objectives under clause (f) is that the State should, in particular, direct its policy towards securing that childhood and youth are protected against exploitation and against moral and material abandonment. These objectives reflect the great anxiety of the Constitution makers to protect and safeguard the interests and welfare of the children of our country.

10. In pursuance of these constitutional provisions the Parliament has enacted Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA), which is renamed in the year 1986 as Immoral Traffic in Persons (Prevention) Act, 1986 (ITPA). ITPA supplemented by the Indian Penal Code prohibits trafficking in human beings including children and lays down severe penalties. The Juvenile Justice (Care and Protection of Children) Act, 2000 provides for care, protection, treatment and rehabilitation of neglected and delinquent juveniles including girls. The enforcement of ITPA, IPC and the Juvenile Justice Act is the responsibility of the State Government.

11. It will be apposite to make reference to one of the principles, namely, principle No. (9) formulated by the Declaration of the Rights of the Child adopted by the General Assembly of the United Nations on November 20, 1959. The said principle reads thus: -

The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.

12. In Vishal Jeet -vs- Union of India (1990) 3 SCC 318), the Supreme Court, while dealing with Public Interest Litigation against forced prostitution of girls, Devadasis and Joginis and for their rehabilitation, observed that despite stringent and rehabilitative provisions under the various Acts, results were not as desired and, therefore, called for evaluation of the measures by the Central and State Governments to ensure their implementation. The Court called for severe and speedy legal action against exploiters, such as, pimps, brokers and brothel keepers and several directives were issued by the Court, which inter alia, included setting up of separate Zonal Advisory Committees for providing rehabilitative Homes effectively dealing with the Devadasi system, Jogin tradition, etc.

13. In Gaurav Jain -vs- Union of India (1997) 8 SCC 114), the Supreme Court upon considering Mahajan Committee's report passed an order, directing inter alia to make an in-depth study of the problem of prostitution, child prostitutes and children of prostitutes and to evolve suitable schemes for their rescue and rehabilitation. Taking note of the fact that 'children of prostitutes should, however, not be permitted to live in the inferno and the undesirable surroundings of prostitute homes', the Court issued directions to ensure the protection of human rights of such persons. The Court also desired that the ground realities should be tapped with meaningful action imperatives apart from the administrative action which aims at arresting immoral traffic of women under the ITP Act through Inter-state or Interpol arrangements and nodal agency like CBI is charged to investigate and prevent such crimes.

14. The Central Government, pursuant to the directions issued by the Supreme Court in Gaurav Jain's case constituted a "Committee on Prostitution, Child Prostitutes and Children of Prostitutes and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children." In 1998, in a report containing an action plan which highlighted the problems in addressing issues of commercial sexual exploitation, detailed recommendations were made with a view to arrest the systematic problem, including issues relating to law enforcement and legal reforms. A State Level Co-ordination Committee has been constituted by the State of Tamil Nadu to combat trafficking and sexual exploitation of women and children vide G.O.Ms.No.82, Social Welfare and Nutritious Meal Programme (SW-8) Department, dated 01.8.2006 and we are informed that the Committee has not met so far.

15. It is distressing to note that there has been a consistent failure to implement the various laws enacted to combat immoral trafficking in women and children, which has caused and continued to cause serious prejudice to the victims of trafficking. In December 2002, India became a signatory to the "UN Convention against Transnational Organised Crime (UNTOC)", which includes the Protocol to prevent, suppress and punish trafficking in persons, especially women and children. By becoming a participant in the convention, a global instrument which advocates international and national action against organised crime, the Government of India has given a clear mandate to confront the evils of trafficking of women and children. State Governments also have a responsibility to provide protection to trafficked persons and to accept the responsibility and discharge their duty as mandated by law.

16. We have gone through the orders passed by the Juvenile Justice Board, Tiruchirapalli. We are constrained to observe that the Board has directed detention of the two juveniles in question without any application of mind. Section 15 provides that where a Board is satisfied on inquiry that a juvenile has committed an offence, then, notwithstanding anything to the contrary contained in any other law for the time being in force, the Board can issue various directions as enumerated in Clauses (a) to (g). Under Clause (f), the Board can direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well being of the juvenile for any period not exceeding three years. Under Clause (g), the Board can make an order directing the juvenile to be sent to a special home, - (i) in the case of juvenile, over seventeen years but less than eighteen years of age, for a period of not less than two years; (ii) in the case of any other juvenile for the period until he ceases to be a juvenile. The juvenile Miss X was 15 years of age at the time of passing of the order and under Section 15 (1) (g), clause (ii), she could be detained only for the period until she ceases to be a juvenile. In the case of juvenile Miss Y, she has already reached the age of 17, and as per clause (i) of Section 15(1)(g), her detention could be for a period of not less than two years. She has been ordered to be detained in the Vigilance Home without reference to any provision. Therefore, we set aside the orders of the Board and direct that the juvenile Miss Y should be sent to the NGO, viz., CHES, which has given a letter of undertaking to take her custody and for her treatment and rehabilitation and the other juvenile Miss X may be sent to the NGO, viz., MANUSHYA, which has also given a similar undertaking to take her custody and for her treatment and rehabilitation. The juvenile Miss X shall remain in custody of the NGO initially for a period of six months and further orders in respect of the said juvenile will be passed after receipt of the report from the said NGO.

17. It is seen from the report of the Member Secretary that the Vigilance Home at Chennai requires urgent repairs. Therefore, we direct the authorities to immediately undertake the repairs and renovation of the kitchen and toilets. As far as the inmates from outside States are concerned, we direct the Member Secretary to take all necessary steps to co-ordinate with the State Legal Services Authority of Andhra Pradesh, Karnataka and Maharashtra in order to ensure their repatriation to their respective States. The State Legal Services Authority shall provide free legal assistance to all the trafficked victims as well as their parents and guardians from the stage of rescue till their restoration and rehabilitation.

18. The matter is one of great importance warranting a comprehensive and searching analysis and requiring a humanistic rather than a purely legalistic approach from different angles. In spite of the stringent and rehabilitative provisions of law under various Acts, it cannot be said that the desired result has been achieved. The most difficult task is to re-integrate the sexually abused children or trafficked children into their own families. Such families are reluctant to accept the victimized girl and regular visits by social worker and trained counsellor will be required for family counselling. The Social Welfare Department shall prepare a panel of social workers and trained counsellors for each District and the City of Chennai within a period of two months. Similarly, a panel of lawyers shall be nominated by the State Legal Services Authority for each District and the City of Chennai for visiting the Court and pursuing the individual cases in different Courts. Such lawyers will also assist the Public Prosecutor whenever necessary and will also get in touch with Police Investigating Officer concerned whenever required. It will help in quick delivery of justice and such lawyers can

work as friends of the Court (*amicus curiae*).

19. In our opinion, it will be appropriate if certain directions are given to the various law enforcement authorities in this regard. Accordingly, we make the following directions: -

**DIRECTIONS FOR POLICE:**

Every rescued victim who is taken into custody at the time of search shall be produced before the legally competent authority within 24 hours.

The members of the official machinery who carry out the rescue operations shall not dispose of the rescued victims, whether minor or major, at their own discretion.

All victims, apparently or suspected to be minors, should be kept at a special home for juveniles in need of care and protection and must be produced before the competent authority within 24 hours.

A member of the competent authority constituted under the Juvenile Justice System shall be consulted by the Police Officer while deciding whether the rescued person should be brought before the Juvenile Justice System or before a Magistrate, depending upon the apparent age of the person.

Victims should be treated with compassion and respect for their dignity and have access to mechanisms of justice and prompt redress for the harm that they have suffered, as provided for by law.

Efforts must be made in assisting the victim to develop and keep contact with her child/children unless directed otherwise by any legally competent authority.

The members of the official machinery who carry out the rescue operations and the members of voluntary organisations who facilitate the rescue, shall take complete precaution to ensure that the facial and other identity of the rescued victim is not revealed to anyone except those who are legally competent to know the same. Particular care shall be taken to protect the identity of the rescued victims from publicity through media and victims shall be protected against their being used by the media for its own commercial end.

It should be ensured that the victim is immediately taken to a certified place of safety after the raid. The victim should never be kept overnight in the police station, except All Women Police Station.

It is to be ensured as far as possible that a social worker or a support person, preferably a female, is present when the girls are being interviewed by police officers after the rescue.

The services for socio-psychological well being shall start immediately. On rescue or at the first helping, contact with the victims is necessary, which also includes counselling for therapeutic intervention. The list of psychological counsellors for each district shall be prepared by the Social Welfare Department within a period of two months from today.

Medical examination of all rescued victims and accused/other persons taken into custody by the police shall be conducted within 48 hours of rescue of a victim or arrest of the accused.

The rescued victims must be freely and unconditionally provided with professional, medical (physical and mental) assistance and professional counselling immediately after the rescue. The list of medical personnel for each district shall be prepared by the Social Welfare Department.

The rescued victims shall be freely and unconditionally provided with legal assistance by the Tamil Nadu State Legal Services Authority immediately after the rescue.

The age and other tests of the rescued victims should also be done as far as possible in the presence of child-supporting individuals and preferably within 48 hours from the rescue.

Questioning should be done mostly by women police officers. The mental health aspects of the children have to be kept in mind. There should not be too much pressure on the child to speak all the details of the traumatic incident.

Adopting a multi-disciplinary approach to the crime should be attempted by co-adopting additional members into the investigating team so as to include doctors, social workers, co-opting mental health experts, counsellors or anyone who would be useful in the overall rehabilitation of the child.

Investigation should necessarily be conducted into the trafficking angle in all cases of missing persons, procurement of minor girls, buying and selling, child marriages, and all cases of kidnapping and abduction.

The State and Police must focus on increasing the number of trafficking victims rescue and number of prosecutions and convictions of traffickers.

Separation of victims from offenders is necessary at the initial stage to avoid the dependency of the victims on offenders.

Access to victims must be under the supervision of the Child Welfare Committee or the Organisation or any other competent authority dealing with the issues of women and/or children.

Child victims may be identified by the use of decoy customers. N.G.Os. and social workers must be involved in this regard.

Rescue operations to be more humanely and sensitively carried out along with a rehabilitation plan, protecting the human rights of the prostitutes.

Examination of the victim/witnesses should be in the presence of social workers/women police/parents or others who have the trust or confidence of the child. Examinations should also be done in a victim-friendly atmosphere and not in police stations.

State and Police must focus on increasing the number of trafficking victims rescue and number of prosecutions and convictions of traffickers.

After rescue operation, the police authorities shall intimate the State Legal Services Authority as early as possible so that immediate legal aid may be provided.

#### **DIRECTIONS FOR MAGISTRATES/JUVENILE JUSTICE BOARD/LEGAL SERVICES AUTHORITY:**

The Magistrate/Juvenile Justice Board shall handle all cases involving sexual abuse of children within a stipulated time frame preferably within a period of six months. On production of the rescued traffic victims, the concerned Magistrate/Board shall ensure that medical examination is conducted in order to check sexual abuse and/or rape.

The Magistrate/Board shall issue appropriate directions to conduct enquiry to find out who is the parent or guardian and whether they are responsible for the trafficking of the child and if need be, to appoint a guardian ad litem to protect the interests of the child.

The custody of the rescued child should not be handed over to parent/guardian without involving the Probation Officer/Social Worker and if necessary the Magistrate/Board may make an order for the child's intermediate custody in a safe place.

If the child has objection to go back, the Magistrate/Board should try to determine the reasons for it and take a decision which will serve the best interest of the child rather than giving her custody to the claimers such as parents or relatives.

Trials of cases of trafficking should generally be In-Camera and the Magistrate/Board should avoid disclosing the name of the prosecutrix and their orders, to save embarrassment to the victim and anonymity of the victim of the crime should be maintained throughout.

While holding the trial of a child sex abuse or rape cases, the courts should ensure that -

- i. A screen or some such arrangements are made where the victim or witnesses (who
  - ii. The victims of child abuse or rape cases, while giving testimony in court, should
  - iii. The questions put in cross-examination on behalf of the accused, in so
- Orders sending victims to Homes must be made with their consent after providing them legal
- Children rescued from streets should be located in a shelter home or in a protected place,

The State Legal Services Authority shall form a Legal Aid Clinic in every vigilance home/shelter home, so that, if the victims need recourse to law, either under the criminal jurisprudence or under the civil jurisprudence, steps can be taken without delay.

Judicial officers and Juvenile Board Members need to be sensitized on the issue of trafficking and sexual exploitation of children.

To prevent secondary victimization during interrogation/examination by investigating agencies as well as during court procedure, where a child is made to recall minute details of the sexual acts and experience, and is grilled for getting proof, a model code of conduct should be evolved.

To check what offences have been committed against the trafficked victim.

To check who has committed these offences and whether they have been booked under appropriate sections of law; if not, direct the police to do so.

To check if the appropriate sections of IPC, ITP Act and Juvenile Justice Act against the traffickers have been stated in the Charge Sheet and refer the matter to the concerned Court.

Ensure that the evidence of the child is taken in-Camera, as per Section 327 of the Cr.P.C. and arrange for translators, if the child is from another State and does not speak the local language.

Ensure that the Special Courts/Boards have a child friendly and supportive atmosphere while taking the child's evidence. Preferably, an elder woman who inspires the confidence of the child may be present.

**DIRECTIONS FOR STATE GOVERNMENT: -**

The State is directed to establish more shelter homes in all the districts at the district level. The shelter homes should have all basic amenities and the environment there should be clean, pollution free and well ventilated.

Each home shall have facilities for periodical health checkups by the Government approved panel of doctors.

The needs of trafficked victims who are drug addicts or alcoholics must also be addressed. For this purpose, the help of a de-addiction expert must be obtained. The State Government must prepare a list of de-addiction centres across the State.

Every victim and their minor dependants shall be helped in every possible way to obtain formal education free of cost, which includes free supply of text books, uniforms, transport and scholarships to victims and their school going children. Where such education is not possible for certain unavoidable circumstances, as well as in addition to the formal education, life skills education shall be provided. The State Government is directed to frame new schemes for training of the inmates of the Home and traffic victims in computers, languages and related fields.

The rescued persons shall be equipped with the knowledge and skills appropriate to their attitude and orientation, so that their economic rehabilitation becomes easier. The rescued person shall have the right to choose her own economic rehabilitation plan.

Vocational training and guidance shall also be given to such rescued persons. No rescued victim shall be sent back to the family without adequate assessment and without ensuring social acceptance and family support. State will ensure that rehabilitation is carried out depending on how safe and nurturing the family environment is for the victim.

Specialized centres of health shall be set up and maintained to cater to the needs of palliative care for the victims suffering from terminal states of HIV/AIDS. Specialized counselling shall be provided to victims of HIV/AIDS including pre-test, post-test and ongoing support.

Psycho-social interventions shall be conducted in a private and confidential setting and shall take into account the recipient's language, culture, age, sex, ethnicity, class and religion.

Upon discharge from the Home, each victim shall be provided with her educational records, medical records, legal documents and other means such as savings and personal belongings.

Daily allowance which is given for the inmates shall be increased from Rs.17.50 to Rs.20/- so as to facilitate variety in breakfast.

Police, B.S.F., B.D.R., Superintendents and Staff of Governments and non-government Home need to be oriented in Juvenile Justice, Rights of the child and on how to handle a child victim.

Documentation of each of the cases, developing a database on the individual victims and doing action research on the issues will help in handling these cases more scientifically and developing a policy on how to handle such cases efficiently.

Besides, specialists can provide the following assistance to victims:

- Information about available protections, especially against threats and
- Information about emergency medical and social services;
- Information about shelter options;
- Referrals to public and private programmes available to provide counselling;
- Information about a victim's rights and his or her role in the criminal justice
- General information about the status of an investigation and notice of important
- Information about how to apply for crime victim compensation through State
- Information about restitution; and
- Information about the right to individual privacy and confidentiality issues.

Creation of public awareness by generating public opinion and social pressure against trafficking and sexual exploitation of women and children. A strategy has to be evolved by the Social Defence Department with the help of N.G.Os.

The media, both electronic and print, may be deployed to achieve this end.

An exercise of sensitization of police, judicial officers and other local bodies shall be undertaken by the Tamil Nadu State Judicial Academy and Police Training Academy.

An Accreditation Council shall be constituted, consisting of officers to be nominated by the Social Welfare Department in order to identify the genuine N.G.Os.

The Government shall ensure that no birth of a child goes unregistered. There shall be a drive to achieve this goal and public awareness shall also be created to stress the importance of registration of births.

Similarly, it should be ensured that all deaths are registered. This is to avoid non-registration of the deaths of girl children which results in the disappearance of women, spoken of by leading economists. Both N.G.Os. and Social Welfare officers may be utilized to achieve this objective.

100% literacy among girl children should be made the immediate object of the State and for that, a program should be evolved. The provisions of the Tamil Nadu Compulsory Elementary Education Act, 1994 may be used to achieve this object.

Establishment of Help Booths at Railway Stations and Bus Stands, since these are the vulnerable areas from where women and girl children who abandon their families to towns and cities due to multiple factors are often picked up.

Establishment of a Women Help Desk at each police station would help women victims to express their grievance freely.

Voluntary or involuntary uprooting from the known community has its inherent dangers and it renders the girl children and women more vulnerable to sexual exploitation. These Help Booths will Help to identify such children and women and prevent them from being abused or exploited.

Keep a close vigil on the activities of suspected anti-social elements and prevent their operation.

Be run by N.G.Os. with the assistance of the Police Department and function round the clock. The personnel manning these Help Booths should be sensitized before they are put in charge of the Help Booths.

The State shall set up a Criminal Compensation Injuries Board for awarding compensation to the victims.

A database may be created on traffickers, brothel owners, decoy customers, which will be kept confidential.

Concerted effort should be made to gather data relating to high risk areas, source points, transit centers and destination, since, it is because this data is absent that intervention strategies are not as effective.

Community vigilant groups may be formed to help in the rescue and rehabilitation of victims at the community level. It is easier to rehabilitate a woman or a girl child at the initial stage, but once they have engaged themselves in prostitution for some time, rehabilitation becomes more difficult and the issues relating to such women must be dealt with at a different level.

Improvement of inter-State co-ordination and sharing of information among the States may help reduce the incidence.

The State should identify the Homes or such places of safe custody, to which victims of trafficking shall be sent, as per the provisions of Section 17 of the I.T.P. Act.

The State shall form a panel of five respectable persons in every District for the purpose of Section 17 of the I.T.P. Act . The State shall also draw proper rules for identifying such panel of five respectable persons under Section 17 of the I.T.P. Act.

The Special Courts should be constituted to handle all cases involving sexual abuse of children within a stipulated time frame.

State Level Co-ordination Committee should also include Member Secretaries of State Legal Services Authority and N.G.Os and District Level Committees should also be formed consisting of Government and Police Officials, Member Secretaries of District Legal Services Authority, Doctors

and N.G.Os to ensure implementation of I.T.P Act and to guarantee protection to the trafficked women and children.

Effective prosecution is the fulfillment of an important need of the victim of a crime and of the need to belong to a society that is based on principles of fairness and is devoid of arbitrariness. Each home shall make efforts to facilitate prosecution so that the victim can enjoy a sense of justice.

Care shall be taken to ensure that prosecution does not come in the way of or delay rehabilitation. Every technical administrative measure shall be exhausted to ensure that prosecution is speeded up and the presence and travel by the victims is minimized.

The rescued persons shall be equipped with the knowledge and skills appropriate to her attitude and orientation so that her economic rehabilitation becomes easier.

The members of the professional and (preferably) voluntary sector organizations who have had some helping interaction with the victim shall be represented in the process of rehabilitation.

In case where women or child victims are from other States, the Department of Women and Child Development of the concerned States along with N.G.Os. would jointly and collaboratively take action to ensure proper shelter, travel arrangements, medical and psychological treatment and reintegration with humane treatment.

Government and local bodies would appropriately facilitate N.G.Os. to locate night shelters and Child Development or Care Centres in or near red light areas.

In cases where women and child victims are from foreign countries, a system of co-ordination through the Government of Indian and through inter-country N.G.O. networks would be set up so as to ensure safe passage, rehabilitation and reintegration in their community in their home countries.

Women s organization should be involved in monitoring of remand, protective and other homes.

Local communities, N.G.Os., and other interested individuals would be mobilized and encouraged to be involved in identification, rescue and rehabilitation of women and child victims.

All efforts should be made to persuade and motivate victims of trafficking and other forms of violence to be reintegrated and rehabilitated in society to lead a dignified life.

Outreach/support activities shall include counseling support visits to assist in counseling upon reintegration to the victims/family/relatives and local community people.

Every victim shall be gradually, systematically and professionally linked to a variety of support systems and given the skill and confidence to avail herself of these systems.

Positive intervention of the State may end with social reintegration. Thereafter the trafficked and rehabilitated person should be able, in case of need, to fall back on a support system established jointly by the government and voluntary sector organizations for that purpose.

20. The State in consultation with the State Level Co-ordination Committee should prepare a perspective policy note with regard to immoral trafficking, which ensures a coordinated, participatory, transparent, accountable approach and an integrative policy, and entrust the responsibilities across all branches of the Government.

21. The Member Secretary, Tamil Nadu State Legal Services Authority and the Director, Tamil Nadu State Judicial Academy shall jointly conduct inspection of all the vigilance homes/shelter homes/rescue homes in the State and submit a report as to the infrastructure and facilities provided in the said homes, within a period of two months from today.

22. Adjourned to 26.02.2007.

js/pv/sm To

1. The Secretary to Government, Home Department, Fort St.George, Chennai-9.
2. The Chief Metropolitan Magistrate, Egmore, Chennai-8.
3. The Commissioner of Police, Egmore, Chennai-8.
4. The Superintendent, (Government Vigilance Home/ Government Protective Home), Arasinar Magalir Kappagam, Mylapore, Chennai-4.

[SANT]