

DOMESTIC VIOLENCE

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

[Act, No. 43 of 2005]

PREAMBLE

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

Section 1 - Short title, extent and commencement

- (1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.¹

- 1. Enforcement date for the Act as per the notification No: S.O. 1776(E) issued by the Ministry of Women and Child Development is 26.10.2006.

Section 2 - Definitions

In this Act, unless the context otherwise requires,-

- (a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

- (b) "child" means any person below the age of eighteen years and includes any adopted, step or foster child;
- (c) "compensation order" means an order granted in terms of section 22;
- (d) "custody order" means an order granted in terms of section 21;
- (e) "domestic incident report" means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;
- (f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;
- (g) "domestic violence" has the same meaning as assigned to it in section 3;
- (h) "dowry" shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961;
- (i) "Magistrate" means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973 in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;
- (j) "medical facility" means such facility as may be notified by the State Government to be a medical facility for the purposes of this Act;
- (k) "monetary relief" means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;
- (l) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;
- (m) "prescribed" means prescribed by rules made under this Act;

(n) "Protection Officer" means an officer appointed by the State Government under sub-section (1) of section 8;

(o) "protection order" means an order made in terms of section 18;

(p) "residence order" means an order granted in terms of sub-section (1) of section 19;

(q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.

(r) "service provider" means an entity registered under sub-section (1) of section 10;

(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.

(t) "shelter home" means any shelter home as may be notified by the State Government to be a shelter home for the purposes of this Act.

Section 3 - Definition of domestic violence

For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

- (b) harasses, harms, Injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
- (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.--For the purposes of this section,--

- (i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;
- (ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;
- (iii) "verbal and emotional abuse" includes-
 - (a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and
 - (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
- (iv) "economic abuse" includes-
 - (a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;
 - (b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved

person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II.--For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration.

Section 4 - Information to Protection Officer and exclusion of liability of Informant

(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

Section 5 - Duties of police officers, service providers and Magistrate

A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person-

- (a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;
- (b) of the availability of services of service providers;
- (c) of the availability of services of the Protection Officers;
- (d) of her right to free legal services under the Legal Services Authorities Act, 1987;

(e) of her right to file a complaint under section 498A of the Indian Penal Code, wherever relevant;

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

Section 6 - Duties of shelter homes

If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

Section 7 - Duties of medical facilities

If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

Section 8 - Appointment of Protection Officers

(1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed,

Section 9 - Duties and functions of Protection Officers

(1) It shall be the duty of the Protection Officer-

- (a) to assist the Magistrate in the discharge of his functions under this Act;
- (b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;
- (c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;
- (d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987(39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;
- (e) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;
- (f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;
- (g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;
- (h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973(2 of 1974);
- (i) to perform such other duties as may be prescribed.

(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

Section 10 - Service providers

(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860(21 of 1860) or a company registered under the Companies Act, 1956 or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

(2) A service provider registered under sub-section (1) shall have the power to-

(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

Section 11 - Duties of Government

The Central Government and every State Government, shall take all measures to ensure that-

- (a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;
- (b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;
- (c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;
- (d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

Section 12 - Application to Magistrate

(1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908(5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

- (3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.
- (4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.
- (5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

Section 13 - Service of notice

- (1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.
- (2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

Section 14 - Counseling

- (1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counseling with any member of a service provider who possess such qualifications and experience in counseling as may be prescribed.

(2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

Section 15 - Assistance of welfare expert

In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

Section 16 - Proceedings to be held in camera

If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act in camera.

Section 17 - Right to reside in a shared household

(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

Section 18 - Protection orders

The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from-

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;
- (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;
- (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;
- (f) causing violence to the dependents, other relatives or any person who give the aggrieved person assistance from domestic violence;
- (g) committing any other act as specified in the protection order.

Section 19 - Residence orders

- (1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order -
 - (a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;
 - (b) directing the respondent to remove himself from the shared household;
 - (c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;
 - (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;
 - (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or

(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

Provided that no order under clause (b) shall be passed against any person who is a woman.

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973(2 of 1974) and shall be dealt with accordingly.

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

Section 20 - Monetary reliefs

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and

losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include but is not limited to-

- (a) the loss of earnings;
- (b) the medical expenses;
- (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and
- (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Section 21 - Custody orders

Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any

other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent:

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

Section 22 - Compensation orders

In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent,

Section 23 - Power to grant interim and ex parte orders

- (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.
- (2) If the Magistrate is satisfied that an application *prima facie* discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

Section 24 - Court to give copies of order free of cost

The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the

Jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

Section 25 - Duration and alteration of orders

- (1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.
- (2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

Section 26 - Relief in other suits and legal proceedings

- (1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.
- (2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.
- (3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

Section 27 - Jurisdiction

- (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- (b) the respondent resides or carries on business or is employed; or
- (c) the cause of action has arisen,

shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.

Section 28 - Procedure

- (1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973(2 of 1974).
- (2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

Section 29 - Appeal

There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

Section 30 - Protection Officers and members of service providers to be public servants

The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made there under shall be deemed to be public servants within the meaning of section 21(45 of 1860) of the Indian Penal Code.

Section 31 - Penalty for breach of protection order by respondent

- (1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.
- (2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.
- (3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A (45 of 1860) of the Indian Penal Code or any other provision of that Code or the Dowry Prohibition Act, 1961(28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions.

Section 32 - Cognizance and proof

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.
- (2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.

Section 33 - Penalty for not discharging duty by Protection Officer

If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

Section 34 - Cognizance of offence committed by Protection Officer

No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf.

Section 35 - Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made there under.

Section 36 - Act not in derogation of any other law

The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

Section 37 - Power of Central Government to make rules

- (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--
 - (a) the qualifications and experience which a Protection Officer shall possess under sub-section (2) of section 8;
 - (b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of section 8;
 - (c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9;

- (d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9;
- (e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9;
- (f) the other duties to be performed by the Protection Officer under clause (i) of sub-section (1) of section 9;
- (g) the rules regulating registration of service providers under sub-section (1) of section 10;
- (h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section;
- (i) the means of serving notices under sub-section (1) of section 13;
- (j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13;
- (k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14;
- (l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23;
- (m) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Protection of Women from Domestic Violence Rules, 2006

1. Short title and commencement.--

- (1) These rules may be called the Protection of Women from Domestic Violence Rules, 2006.
- (2) They shall come into force on the 26th day of October, 2006.

2. Definitions.--

In these rules, unless the context otherwise requires, -

- (a) "Act means the Protection of Women from Domestic Violence Act, 2005 (43 of 2005);
- (b) "complaint" means any allegation made orally or in writing by any person to the Protection Officer;
- (c) "Counselor" means a member of a service provider competent to give counseling under sub-section (1) of section 14;
- (d) "Form" means a form appended to these rules;
- (e) "section' means a section of the Act;
- (f) words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Qualifications and experience of Protection Officers.--

- (1) The Protection Officers appointed by the State Government may be of the Government or members of nongovernmental organizations:
Provided that preference shall be given to women.
- (2) Every person appointed as Protection Officer under the Act shall have at least three years experience in social sector.
- (3) The tenure of a Protection Officer shall be a minimum period of three years.
- (4) The State Government shall provide necessary office assistance to the Protection Officer for the efficient discharge of his or her functions under the Act and these rules.

4. Information to Protection Officers.--

- (1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed may give information about it to the Protection Officer having jurisdiction in the area either orally or in writing.
- (2) In case the information is given to the Protection Officer under sub-rule (1) orally, he or she shall cause it to be reduced to in writing and shall ensure that the same is signed by the person giving such information and in case the informant is not in a position to furnish written information the Protection Officer shall satisfy and keep a record of the identity of the person giving such information.
- (3) The Protection Officer shall give a copy of the information recorded by him immediately to the informant free of cost.

5. Domestic incident reports.--

- (1) Upon receipt of a complaint of domestic violence, the Protection Officer shall prepare a domestic incident report in Form I and submit the same to the Magistrate and forward copies thereof to the police officer in charge of the police station within the local limits of jurisdiction of which the domestic violence alleged to have been committed has taken place and to the service providers in that area.
- (2) Upon a request of any aggrieved person, a service provider may record a domestic incident report in Form I and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence is alleged to have taken place.

6. Applications to the Magistrate.--

- (1) Every application of the aggrieved person under section 12 shall be in Form II or as nearly as possible thereto.
- (2) An aggrieved person may seek the assistance of the Protection Officer in preparing her application under sub-rule (1) and forwarding the same to the concerned Magistrate.
- (3) In case the aggrieved person is illiterate, the Protection Officer shall read over the application and explain to her the contents thereof.
- (4) The affidavit to be filed under sub-section (2) of section 23 shall be filed in Form III.
- (5) The applications under section 12 shall be dealt with and the orders enforced in the

same manner laid down under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974).

7. Affidavit for obtaining ex-parte, orders of Magistrate.--

Every affidavit for obtaining ex-parte order under sub-section (2) of section 23 shall be filed in Form III.

8. Duties and functions of Protection Officers.--

(1) It shall be the duty of the Protection Officer -

- (i) to assist the aggrieved person in making a complaint under the Act, if the aggrieved person so desires;
- (ii) to provide her information on the rights of aggrieved persons under the Act as given in Form IV which shall be in English or in a vernacular local language;
- (iii) to assist the person in making any application under section 12, or sub-section (2) of section 23 or any other provision of the Act or the rules made thereunder;
- (iv) to prepare a "Safety Plan" including measures to prevent further domestic violence to the aggrieved person, in consultation with the aggrieved person in Form V , after making an assessment of the dangers involved in the situation and on an application being moved under section 12;
- (v) to provide legal aid to the aggrieved person, through the State Legal Aid Services Authority;
- (vi) to assist the aggrieved person and any child in obtaining medical aid at a medical facility including providing transportation to get the medical facility;
- (vii) to assist in obtaining transportation for the aggrieved person and any child to the shelter;
- (viii) to inform the service providers registered under the Act that their services may be required in the proceedings under the Act and to invite applications from service providers seeking particulars of their members to be appointed as Counsellors in proceedings under the Act under sub-section (1) of section 14 or Welfare Experts under section 15;
- (ix) to scrutinise the applications for appointment as Counsellors and forward a

list of available Counsellors to the Magistrate;

(x) to revise once in three years the list of available Counsellors by inviting fresh applications and forward a revised list of Counsellors on the basis thereof to the concerned Magistrate;

(xi) to maintain a record and copies of the report and documents forwarded under sections 9, 12, 20, 21, 22, 23 or any other provisions of the Act or these rules;

(xii) to provide all possible assistance to the aggrieved person and the children to ensure that the aggrieved person is not victimized or pressurized as a consequence of reporting the incidence of domestic violence;

(xiii) to liaise between the aggrieved person or persons, police and service provider in the manner provided under the Act and these rules;

(xiv) to maintain proper records of the service providers, medical facility and shelter homes in the area of his jurisdiction.

(2) In addition to the duties and functions assigned to a Protection Officer under clauses

(a) to (h) of sub-section (1) of section 9, it shall be the duty of every Protection Officer-

(a) to protect the aggrieved persons from domestic violence, in accordance with the provisions of the Act and these rules;

(b) to take all reasonable measures to prevent recurrence of domestic violence against the aggrieved person, in accordance with the provisions of the Act and these rules.

9. Action to be taken in cases of emergency.--

If the Protection Officer or a service provider receives reliable information through e-mail or a telephone call or the like either from the aggrieved person or from any person who has reason to believe that an act of domestic violence is being or is likely to be committed and in a such an emergency situation, the Protection Officer or the service provider, as the case may be, shall seek immediate assistance of the police who shall accompany the Protection Officer or the service provider, as the case may be, to the place of occurrence and record the domestic incident report and present the same to the Magistrate without any delay for seeking appropriate orders under the Act.

10. Certain other duties of the Protection Officers.--

(1) The Protection Officer, if directed to do so in writing, by the Magistrate shall--

- (a) conduct a home visit of the shared household premises and make preliminary enquiry if the court requires clarification, in regard to granting ex parte interim relief to the aggrieved person under the Act and pass an order for such home visit;
- (b) after making appropriate inquiry, file a report on the emoluments, assets, bank accounts or any other documents as may be directed by the court;
- (c) restore the possession of the personal effects including gifts and jewellery of the aggrieved person and the shared household to the aggrieved person;
- (d) assist the aggrieved person to regain custody of children and secure rights to visit them under his supervision as may be directed by the court;
- (e) assist the court in enforcement of orders in the proceedings under the Act in the manner directed by the Magistrate, including orders under section 12, section 18, section 19, section 20, section 21 or section 23 in such manner as may be directed by the court.
- (f) take the assistance of the police, if required, in confiscating any weapon involved in the alleged domestic violence.

(2) The Protection Officer shall also perform such other duties as may be assigned to him by the State Government or the Magistrate in giving effect to the provisions of the Act and these rules from time to time.

(3) The Magistrate may, in addition to the orders for effective relief in any case, also issue directions relating general practice for better handling of the cases, to the Protection Officers within his jurisdiction and the Protection Officers shall be bound to carry out the same.

11. Registration of service providers.--

(1) Any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance and desirous of providing service as a service provider under the Act shall make an application under sub-section (1) of section 10 for registration as service

provider in Form VI to the State Government.

(2) The State Government shall, after making such enquiry as it may consider necessary and after satisfying itself about the suitability of the applicant, register it as a service provider and issue a certificate of such registration:

Provided that no such application shall be rejected without giving the applicant an opportunity of being heard.

(3) Every association or company seeking registration under sub-section (1) of section 10 shall possess the following eligibility criteria, namely:-

(a) It should have been rendering the kind of services it is offering under the Act for at least three years before the date of application for registration under the Apt and these rules as a service provider.

(b) In case an applicant for registration is running a medical facility, or a psychiatric counseling centre, or a vocational training institution, the State Government shall ensure that the applicant fulfils the requirements for running such a facility or institution laid down by the respective regulatory authorities regulating the respective professions or institutions.

(c) In case an applicant for registration is running a shelter home, the State Government shall, through an officer or any authority or agency authorised by it, inspect the shelter home, prepare a report and record its finding on the report, detailing that -

(i) the maximum capacity of such shelter home for intake of persons seeking shelter;

(ii) the place is secure for running a shelter home for women and that adequate security arrangements can be put in place for the shelter home;

(iii) the shelter home has a record of maintaining a functional telephone connection or other communication media for the use of the inmates;

(4) The State Government shall provide a list of service providers in the various localities to the concerned Protection Officers and also publish such list of newspapers or on its website.

(5) The Protection Officer shall maintain proper records by way of maintenance of

registers duly indexed, containing the details of the service providers.

12. Means of service of notices.--

(1) The notices for appearance in respect of the proceedings under the Act shall contain the names of the person alleged to have committed domestic violence, the nature of domestic violence and such other details which may facilitate the identification of person concerned.

(2) The service of notices shall be made in the following manner, namely: -

(a) The notices in respect of the proceedings under the Act shall be served by the Protection Officer or any other person directed by him to serve the notice, on behalf of the Protection Officer, at the address where the respondent is stated to be ordinarily residing in India by the complainant or aggrieved person or where the respondent is stated to be gainfully employed by the complainant or aggrieved person, as the case may be.

(b) The notice shall be delivered to any person in charge of such place at the moment and in case of such delivery not being possible it shall be pasted at a conspicuous place on the premises.

(c) For serving the notices under section 13 or any other provision of the Act, the provisions under Order V of the Civil Procedure Code, 1908 (5 of 1908) or the provisions under Chapter VI of the Code of Criminal Procedure, 1973 (2 of 1974)- as far as practicable may be adopted.

(d) Any order passed for such service of notices shall entail the same consequences, as an order passed under Order V of the Civil Procedure Code, 1908 or Chapter VI of the Code of Criminal Procedure, 1973 respectively, depending upon the procedure found efficacious for making an order for such service under section 13 or any other provision of the Act and in addition to the procedure prescribed under the Order V or Chapter VI, the court may direct any other steps necessary with a view to expediting the proceedings to adhere to the time limit provided in the Act.

(3) On a statement on the date fixed for appearance of the respondent, or a report of the person authorized to serve the notices under the Act, that service has been effected appropriate orders shall be passed by the court on any pending application for interim relief, after hearing the complainant or the respondent, or both.

(4) When a protection order is passed restraining the respondent from entering the

shared household or the respondent is ordered to stay away or not to contact the petitioner, no action of the aggrieved person including an invitation by the aggrieved person shall be considered as waiving the restraint imposed on the respondent, by the order of the court, unless such protection order is duly modified in accordance with the provisions of sub-section (2) of section 25.

13. Appointment of Counselors.--

- (1) A person from the list of available Counselors forwarded by the Protection Officer, shall be appointed as a Counselor, under intimation to the aggrieved person.
- (2) The following persons shall not be eligible to be appointed as Counselors in any proceedings, namely:-
 - (i) any person who is interested or connected with the subject matter of the dispute or is related to any one of the parties or to those who represent them unless such objection is waived by all the parties in writing.
 - (ii) any legal practitioner who has appeared for the respondent in the case or any other suit or proceedings connected therewith.
- (3) The Counsellors shall as far as possible be women.

14. Procedure to be followed by Counsellors.--

- (1) The Counselor shall work under the general supervision of the court or the Protection Officer or both:
- (2) The Counselor shall convene a meeting at a place convenient to the aggrieved person or both the parties.
- (3) The factors warranting counseling shall include the factor that the respondent shall furnish an undertaking that he would refrain from causing such domestic violence as complained by the complainant and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, electronic mail or through any medium except in the counselling proceedings before the counselor or as permissibly by law or order of a court of competent jurisdiction.
- (4) The Counselor shall conduct the counseling proceedings bearing in mind that that the counseling shall be in the nature of getting an assurance, that the incidence of domestic violence shall not get repeated.
- (5) The respondent shall not be allowed to plead any counter justification for the

alleged act of domestic violence in counseling the fact that and any justification for the act of domestic violence by the respondent is not allowed to be a part of the Counseling proceeding should be made known to the respondent, before the proceedings begin.

(6) The respondent shall furnish an undertaking to the Counselor that he would refrain from causing such domestic violence as complained by the aggrieved person and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, e-mail, or through any other medium except in the counseling proceedings before the Counselor.

(7) If the aggrieved person so desires, the Counselor shall make efforts of arriving at a settlement of the matter.

(8) The limited scope of the efforts of the Counselor shall be to arrive at the understanding of the grievances of the aggrieved person and the best possible redressal of her grievances and the efforts shall be to focus on evolving remedies or measures for such redressal.

(9) The Counselor shall strive to arrive at a settlement of the dispute by suggesting measures for redressal of grievances of the aggrieved person by taking into account the measures or remedies suggested by the parties for counseling and reformulating the terms for the settlement, wherever required.

(10) The Counselor shall not be bound by the provisions of the Indian Evidence Act, 1872 or the Code of Civil Procedure, 1908, or the Code of Criminal Procedure, 1973, and his action shall be guided by the principles of fairness and justice and aimed at finding way to bring an end to domestic violence to the satisfaction of the aggrieved person and in making such an effort the Counselor shall give due regard to the wishes and sensibilities of the aggrieved person.

(11) The Counselor shall submit his report to the Magistrate as expeditiously as possible for appropriate action.

(12) In the event the Counselor arrives at a resolution of the dispute, he shall record the terms of settlement and get the same endorsed by the parties.

(13) The court may, on being satisfied about the efficacy of the solution and after making a preliminary enquiry from the parties and after, recording reasons for such satisfaction, which may include undertaking by the respondents to refrain from repeating acts of domestic violence, admitted to have been committed by the respondents, accept the terms with or without conditions.

(14) The court shall, on being so satisfied with the report of counseling, pass an order, recording the terms of the settlement or an order modifying the terms of the settlement on being so requested by the aggrieved person, with the consent of the parties.

(15) In cases, where a settlement cannot be arrived at in the counseling proceedings, the Counselor shall report the failure of such proceedings to the Court and the court shall proceed with the case in accordance with the provisions of the Act.

(16) The record of proceedings shall not be deemed to be material on record in the case on the basis of which any inference may be drawn or an order may be passed solely based on it.

(17) The Court shall pass an order under section 25, only after being satisfied that the application for such an order is not vitiated by force, fraud or coercion or any other factor and the reasons for such satisfaction shall be recorded in writing in the order, which may include any undertaking or surety given by the respondent.

15. Breach of Protection Orders.--

(1) An aggrieved person may report a breach of protection order or an interim protection order to the Protection Officer.

(2) Every report referred to in sub-rule (1) shall be in writing by the informant and duly signed by her.,

(3) The Protection Officer shall forward a copy of such complaint with a copy of the protection order of which a breach is alleged to have taken place to the concerned Magistrate for appropriate orders.

(4) The aggrieved person may, if she so desires, make a complaint of breach of protection order or interim protection order directly to the Magistrate or the Police, if she so chooses.

(5) If, at any time after a protection order has been breached, the aggrieved person seeks his assistance, the protection officer shall immediately rescue her by seeking help from the local police station and assist the aggrieved person to lodge a report to the local police authorities in appropriate cases.

(6) When charges are framed under section 31 or in respect of offences under section 498A of the Indian Penal Code, 1860 (45 of 1860), or any other offence not summarily triable, the Court may separate the proceedings for such offences to be tried in the manner prescribed under Code of Criminal Procedure, 1973 (2 of 1974) and proceed to

under the Act, for her not having lodged a domestic incident report, prior to the making of request for shelter in the shelter home.

(3) If the aggrieved person so desires, the shelter home shall not disclose the identity of the aggrieved person in the shelter home or communicate the same to the person complained against.

17. Medical Facility to the aggrieved person.--

(1) The aggrieved person or the Protection Officer or the service provider may make a request under section 7 to a person in charge of a medical facility in writing, clearly stating that the application is being made under section 7.

(2) When a Protection Officer makes such a request, it shall be accompanied by a copy of the domestic incident report:

Provided that the medical facility shall not refuse medical assistance to an aggrieved person under the Act, for her not having lodged a domestic incident report, prior to making a request for medical assistance or examination to the medical facility.

(3) If no domestic incident report has been made, the person-in-charge of the medical facility shall fill in Form I and forward the same to the local Protection Officer.

(4) The medical facility shall supply a copy of the medical examination report to the aggrieved person free of cost.

LANDMARK JUDGMENTS

- **Sou. Sandhya Manoj Wankhade –Vrs- Manoj Vimrao Wankhade 2011(II) SCALE-94.**

Section-2 (Q) of Domestic Violence Act includes relative of Husband or male partner within scope of complaint, which may be filed by aggrieved wife or female living a relationship in nature of marriage. Although Section-2 (Q) define Respondent to mean any adult male person who is or has been any domestic relationship with the aggrieved person, the proviso widens the scope of the said definition by including relative a husband or male partner within the scope of complainant, which may be filed by an aggrieved wife or female living in relationship in nature of marriage. There is no restrictive meaning given to expression “relative” nor had the said expression been specifically define in the Domestic Violence Act to make its specific to males only. Therefore legislature never intended to excludes female relative or husband or male person ambit of complain that could be made under the provisions of Domestic Violence Act.

- **S.R. Batra & Another –Vrs- Smt. Tarun Batra (2007) (2 SCC) (Crl-56)**

The definition of “shared household” in Section-2 (S) of the Domestic Violence Act is not very happily worded and appears to be result of clumsy drafting. The wife is only entitled to claim a residence in a “shared household” and “shared household” would only mean the house belonging to or taken or rent by the husband of the house which belongs to the joint family to which husband is a member.

- **D. Velusamy V. D. Patchaiammal, AIR 2011 SC 479: 2011 Cri L J 320: 173 (2010) DLT 1: (2010) DMC 677: (2010)10 SCC 469.**

A ‘relationship in the nature of marriage’ is akin to a common law marriage. Common law marriages require that although not being formally married:-

- a) The couple must hold themselves out to society as being akin to spouses.
- b) They must be of legal age to marry.
- c) They must be otherwise qualified to enter into a legal marriage, including being unmarried.
- d) They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time.

A ‘relationship in the nature of marriage’ under the 2005 Act must also fulfill the above requirements, and in addition the parties must have lived together in a ‘shared household’ as defined in Section 2 (s) of the Act. Merely spending weekends together or a one night stand would not make it a ‘domestic relationship’.

In Court’s opinion not all live in relationships will amount to a relationship in the nature of marriage to get the benefit of the Act of 2005. To get such benefit the conditions mentioned by us above must be satisfied, and this has to be proved by evidence. If a man has a ‘keep’ whom he maintains financially and uses mainly for sexual purpose and/or as a servant it would not, in our opinion, be a relationship in the nature of marriage’.

- **V.D. Bhanot Vrs. Savita Bhanot, AIR 2012 SC 965:**

It is not in dispute that, the Applicant herein has filed Criminal Miscellaneous Application under Section 12, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 before the Judicial Magistrate First-Class, at Aurangabad on 22nd July, 2011 and those proceedings are pending before the said Court. The Applicant therein has also filed proceedings being Petition No. E-153 of 2011 under Section 125 of the Criminal Procedure Code, which are also pending before the Family Court, at Aurangabad. It is also not in dispute that, those proceedings are filed by the Applicant before filing the petition for divorce by the Respondent at Panel. It is also not in dispute that, the Respondent has personally attended the proceedings in Criminal Miscellaneous Application and also in Petition at Aurangabad. Therefore, the Respondent is already attending the said proceedings, which are pending before the competent Courts at Aurangabad. It is true that, the Respondent has filed the application for transfer of those proceedings from Aurangabad to Mumbai, however, said application is yet pending at principal seat of this Court at Bombay, however, the Respondent has not invited any order staying aforesaid proceedings, which are pending before the competent Courts at Aurangabad.

- **Shambhu Prasad Singh Vrs. Manjuri, 2012 (4) AD 538 (Delhi)**

Under Section 23, Domestic Violence Act the Magistrate has the power to pass such interim and ex parte orders as he deems just and proper. The Magistrate is empowered to pass ex parte orders on the basis of affidavits of the aggrieved person in such forms as may be prescribed under Section 18, 19, 20, 21, or as the case may be under Section 22

against the Respondent. A perusal of Rule 4 & 5 of the Domestic Violence Rules shows that the complainant is empowered to report the matter to the protection officer who on receipt of a complaint of domestic violence shall prepare a domestic incident report in Form-1 and submit the same to the Magistrate and forward copies thereof to the Police officer in-charge of the Police Station within the local limits of jurisdiction in which domestic violence alleged to have been committed, has taken place and to the service provider in that area. A conjoint reading of Section 12 & 23 of the Domestic Violence Act shows that the insistence to take into consideration the domestic incident report of the protection officer would not apply at the state in initiation of the enquiry under Section 12 of the Domestic Violence Act, because the Magistrate on the basis of an application supported by affidavit on being satisfied can even grant ex parte orders in favour of the aggrieved person under Section 18, 19, 20, 21 or 22 as the case may be.

- **Baiju Vrs. Latha, 2011 Cri LJ 4536.**

Section 29 of the Act provides that from any order that the Magistrate may pass, an appeal shall lie to the 'Court of Sessions'. It is relevant to note that the Act does not say what procedure the Court of Sessions it to follow while entertaining and hearing an appeal preferred under Section 29 of the Act. The provisions in the code regarding admission, hearing and disposal of the appeals must apply to an appeal preferred to the Court of Session under Section 29 of the Act. Under Section 29, appeal lies to the 'Court of Sessions' and not to the Sessions Judge. An appeal is provided to the Court of Sessions under Section 29 since the court of the Magistrate whose order is under challenge is a criminal court inferior to the Court of Sessions. The Magistrate exercising functions under the Act acts as a criminal court inferior to the Court of Sessions and the High Court.

- **Bhagwant Singh Vrs. Commissioner of Police, Delhi, AIR 1983 SC 826**

The expression 'dowry' in ancient times applied to that which a wife brought her husband in marriage, goods given in marriage or the marriage portion. May be, it was conceived of as a nest-egg or security for the wife in her matrimonial home, especially since, most of the systems regarded a married women as an addition to her husband's family. But in course of time, it assumed a different shape and degenerated into a subject of barter, acceptance of the woman as a wife depending on what her parents would pay as dowry, varying with the qualification and the status of the bridegroom's family.

Therefore, in addition to directing the respondents to implement all the interim directions which were issued in this case thus far we further direct the Union of India and the States to take more effective steps to implement the provisions of the Dowry Prohibition Act, 1961 with particular reference to Sections 3 and 4 thereof and the various Rules framed there under. In that process. They are also directed to activate the Dowry Provision Officers. We also direct the Central Government to frame Rules under Section 9(2)(b) of the Act if it has not already been framed. We direct the respondents to take steps to ensure that submitting of the list as contemplated by the Act and the Rules is strictly implemented. We direct the Union of India and the State Governments to consider whether appropriate Rules cannot be framed for compelling males, seeking Govt. employment, to furnish information on whether the same has been made over to the wife as contemplated by Section 6 of the Act, calling for such information also from those already in employment. Since, it is also necessary to arouse the conscience of the people against the demand and acceptance of dowry. We also direct the Union of India and the State Governments to take steps for the effective stepping up of Anti-Dowry Literacy among the people through Lok Adalats, Radio Broadcasts, Television, and Newspapers. These directions will be implemented and continue to be implemented rigorously by the respondents.

The conscience of the society needs to be fully awakened to the evils of the dowry system so that the demand for dowry itself should lead to loss of face in the society for those who demand it. We have no doubt that our young and enlightened women would rise to the occasion to fight the evil which tends to make them articles of commerce. We also hope that our educated young males would refuse to be sold in the marriage market and come forward to choose their partners in life in a fair manner.

The establishment of a committed and sincere machinery to implement the Act and the Rules can hasten the eradication of the evil. The Union of India and the State Governments are directed to devise means to create honest, efficient and committed machinery for the purpose of implementation of the Dowry Prohibition Act, 1961 and the various Rules framed there under.