



प्रियंक कानूनगो
Priyank Kanoongo
अध्यक्ष
Chairperson

भारत सरकार
GOVERNMENT OF INDIA
राष्ट्रीय बाल अधिकार संरक्षण आयोग
NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

नई दिल्ली-110 001
New Delhi - 110 001



F.No. 32-364/2021/NCPCR/LC | 229206
Date-24.11.2021

To,
Chief Secretary
Government of Uttar Pradesh
Email: csup@nic.in

Subject- "Criminal Appeal No.5415 of 2018 in the matter of Sonu Kushwaha v. State of UP before the Hon'ble High Court at Allahabad"

Sir,

The National Commission for Protection of Child Rights (hereinafter referred to as 'the Commission') has been constituted under Section 3 of the Commissions for Protection of Child Rights Act, 2005 by the Government of India, as a statutory body, for dealing with protection of child rights and other related matters. NCPCR is also mandated under Section 109 of JJ Act, 2015 and Section 44 of POCSO Act, 2012 to monitor the proper and effective implementation of the respective Acts.

2. The Commission is assigned with the functions under Section 13(1)(j) of CPC Act, 2005 to inquire into complaints and take suo-moto notice of matter relating to deprivation and violation of child rights, non-implementation of laws providing for protection and development of children, non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such or take up such issues arising out of such with appropriate authorities.

3. It is pertinent to note that as the offences related to children were not being specifically addressed to or dealt with adequately, the Government of India decided to formulate a law specifically for the children explicitly defining the offences countering it through commensurate penalties as an effective deterrence and formulated the POCSO Act, 2012. The POCSO Act is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography, while safeguarding the interest and well-being of the children at every stage of judicial process.

4. In the present matter regarding judgement dated 18.11.2021 pronounced by the Hon'ble High Court at Allahabad in **Criminal Appeal No.5415 of 2018 in the matter of Sonu Kushwaha v. State of UP before the Hon'ble High Court at Allahabad (Copy of judgement enclosed for ready reference)**, it has been observed by the Commission that the observations of the Hon'ble High Court in the present matter for commutation of sentence of the accused from 10 years to 7 years and the offence from Aggravated Penetrative Sexual Assault (Section 5 and 6) to Penetrative Sexual Assault (Section 3 and 4) seems to be not as per the letter and spirit of the POCSO Act, 2012. The commutation of sentence of the accused in the present case, wherein the accused has been convicted for committing a serious violation of penetrating his penis in the mouth of the child, is observed by the Commission to be prejudicial to the justice delivered to the victim in this case and the Commission feels that such necessary steps in the matter to file an urgent appeal against the aforesaid Judgement of Hon'ble High Court must be taken by the State.

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5. Therefore, in view of the above and considering the seriousness of the issue, the Commission being the monitoring body under Section 44 of the POCSO Act, 2012 requests you to take necessary steps in the matter and file an urgent Appeal against Judgement of Hon'ble High Court. You are further requested to provide details of the minor (maintaining strict confidentiality) so that the Commission can provide help such as legal aid, etc. in the best interest of the child.

Encl. as above.

Yours sincerely,



(Priyank Kanoongo)
Chairperson