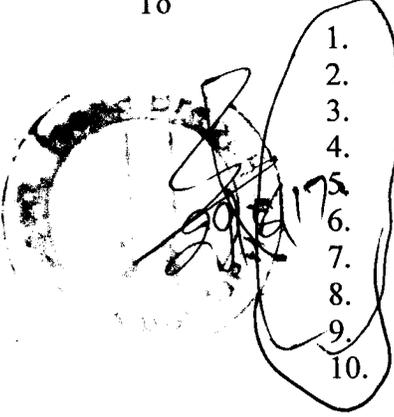


No. 02/173/2016-1HG-IV

From

The Additional Chief Secretary to Government,  
Haryana, Home Department.

To

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1. The Director General of Police, Haryana.
  2. The Registrar General, Punjab & Haryana High Court.
  3. The Secretary, Haryana Legal Service Authority.
  4. The Director General, Health Services, Haryana.
  5. All the Commissioners of Police in Haryana.
  6. All the Deputy Commissioners in Haryana.
  7. All the Superintendents of Police in Haryana.
  8. All the Civil Surgeons in Haryana.
  9. All the District Attorneys in Haryana.
  10. All the District Bar Associations, Haryana.

Dated the, 28.08.2017

**Subject: CWP No. 6733 of 2016-R (name withheld) & Another Vs State of Haryana and Others- Compliance of directions dated 30.05.2016.**

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I am directed to refer to the subject noted above and to say that in the afore said case, the Hon'ble Punjab and Haryana High Court has taken cognizance of the issue of late termination of pregnancy resulting from the alleged rape and other ancillary issues. The Hon'ble High Court has made elaborate discussion and has issued certain directions vide detailed judgement dated 30.05.2016. It has come to the notice of the Government that the said directions of the Hon'ble High Court are not been complied with in letter and spirit. The Government have taken a serious view and it has been decided as under:-

- i) It shall be ensured that the victim of rape who becomes pregnant does not lose time by applying from court to court. The Medical Termination of Pregnancy Act does not contemplate such a procedure at all. The scheme of the MTP Act can be summed up as under:
  1. **Reasons to seek termination of pregnancy** should be as mentioned under section 3 of MTP Act. If those reasons are not present, no pregnancy can be legally terminated.
  2. **Length of pregnancy** is a vital factor to give green signal for termination.
  3. **Pre-requisites of doctor's opinion** to declare fit for termination as per law. The length of pregnancy determines the need for opinion one or more doctors.
  4. **Consent of women** or her guardian (minor and mentally ill) is mandatory.
  5. **To save life of woman, section 5 lifts the embargo of termination** on post of 20-weeks pregnancy and requirement of more that one doctor's opinion. But the language used is "immediately".
  6. **No provision stipulates judicial authorization of MTP** in any case including those necessitating termination on account of mental anguish in women due to rape committed on her.
- ii) A rape victim shall not be further traumatized by putting through a needless process of approaching Courts for taking permission. The medical personnel before whom the person shows up is bound to respond to an information regarding complaint of rape and if evidence is available that the person is a

- victim of rape, the medical personnel will take decision regarding the termination of pregnancy and carry out the procedure. If a plea for termination of pregnancy is made that should be dealt with such sensitivity as the occasion demands.
- iii) In every case where a complaint of rape is lodged and the victim is found to have become pregnant and she does not want to retain the foetus, the pregnancy itself shall be treated as involving grave mental injury and the medical assistance shall be secured to the rape victim at the nearest Government hospital with a request through the rape victim or the guardian depending on whether the person is a minor or not to take an opinion from competent medical personnel about the feasibility of termination of pregnancy and carry out the procedure without wasting any time.
- iv) The police officers who register cases of rape and who come by information that the victim has become pregnant shall render all assistance to secure appropriate medical opinions and also provide assistance for admission in Government hospitals and render medical assistance as a measure of support to the traumatized victim. The need to apply to the court for permission would arise only in a situation where there is a conflict of whether the pregnancy must be terminated or not or when the opinions of two medical practitioners themselves differ.
- v) Seminars for investigation agencies, doctors, lawyers and judicial officers who have occasion to deal with such cases shall be organized periodically at State level as well as District level. They shall be sensitized about the urgency and immediate need of counselling and other medical assistance required to a rape victim. The respective departments having control over these agencies shall regularly update its officers/officials about the legal provisions and settled law on the subject. *The Haryana State Legal Services Authorities shall be the nodal agency to conduct such Seminars at State level and the District Legal Services Authorities shall be the nodal agencies to conduct the Seminars in the respective districts.* The process shall be started immediately, if not started already.
- vi) The refresher Courses for the members of the Superior and Subordinate Judiciary of the States Haryana shall be held to make them aware of the provisions of the MTP Act and urgency in such cases. In order to ensure that if any case is brought before the gestation period reaches 20 weeks, victim be informed about her choice to seek termination at the earliest. The Registrar General, Punjab and Haryana High Court shall take up the matter with the Authorities of Judicial Academy, at Chandigarh to conduct such refresher courses.
- vii) All other directions as contained in the judgement dated 30.05.2016 including the directions passed in the cases mentioned in the said judgement as well as the directions issued in the cases on the similar issue shall be complied with meticulously. The copy of the judgement dated 30.05.2016 may be downloaded from the official website of Punjab and Haryana High Court.
2. These instructions be brought to the notice of all the concerned for strict compliance. Any lapse on part of the concerned person shall be viewed seriously and action will be taken against the erring officers/officials.

  
Superintendent, Home-IV,

o/c for Additional Chief Secretary to Government,  
Haryana, Home Department.