

Legal Current affairs-

The Orissa High Court orders the woman who became pregnant despite having undergone sterilisation to get compensation.

The Orissa High Court has mandated compensation for a lady who became pregnant despite receiving government sterilisation.

A Single Bench of Justice Arindam Sinha noted while condemning the Government for not complying with the correct procedures:

"State not having itself followed the procedure to the letter cannot turn around and say that petitioner had omitted to act as per undertaking given by her, to report that she missed menstrual cycle after the operation. As aforesaid analysis of pleadings in paragraphs 4 and 6, respectively of the petition and counter, do not support this contention of State."

Short facts:

On January 2, 2014, the State-organized sterilisation treatments were performed on the petitioner. She continued to skip her monthly periods even after that. She then realised she was pregnant. She had gone to the High Court asking for compensation from the State after being harmed by the aforementioned carelessness and being unable to afford the costs of raising the kid.

Petitioner's contentions:

Even though his client underwent a sterilisation operation carried out by the State, M. Arjuna Chandra Behera, lawyer standing on behalf of the petitioner, claimed that she conceived and delivered a child. Additionally, he said that she has filed for compensation because she is unable to pay the child's costs owing to her precarious financial situation.

He had previously referred to the "Standards for Female and Male Sterilization Services issued in October, 2006" by the Research Studies and Standards Division of the Ministry of Health and Family Welfare of India. Subheading 1.4.2 of the Standards for Female Sterilization describes the clinical examination and client screening that must be done before the procedure. Entry-v of clause-b under the subheading reads as under.

"Menstrual history: Date of last menstrual period and current pregnancy status."

He emphasised that this process had to be followed in advance of the operation. The State cannot claim that the kid was delivered at full term after failing to comply with that requirement in order to refute his client's claim that she was pregnant at the time the sterilisation procedure was performed.

He also referred to the family planning indemnity scheme handbook published in October 2013 by the Ministry of Health and Family Welfare of India, which describes the available benefits and includes a Rs. 30,000/- insurance for sterilisation failure.

State's contention-

On behalf of the State, Mr. Sailaza Nandan Das, Additional Standing Counsel, stated that the petitioner's clinical evaluation and screening indicated that her last menstrual period occurred on December 22, 2013. On January 2, 2014, the sterilising procedure was carried out. He responded that, as of the date of the sterilisation procedure, there was no record of the current pregnant status in response to the Court's inquiry.

Furthermore, he made note of the petitioner's lack of follow-up following the sterilisation procedure. She had promised to notify the clinic and request a medical termination of pregnancy(MTP) if she missed her period right after the surgery if she did not report to the clinic.

He stated that since the petitioner hasn't done so, she is no longer able to claim that the process failed or to seek compensation.

Observations of the Court

The Court observed that it appears the State neglected to inquire about the petitioner's current pregnant status before performing the sterilisation procedure. The Bench further concluded that the State had not expressly refuted the petitioner's claims in its counterclaim. It was mentioned that the Chief District Medical Officer had attested to the counter as an affidavit. It was determined that the doctor's evasive denial is inadequate to convince the court to doubt the petitioner's claims to that effect.

The Court came to the conclusion that the sterilisation procedure had failed to stop the petitioner's pregnancy. As a result, it decided that she is entitled to compensation equal to the Rs. 30,000 indemnity cap specified before, and the State was also ordered to pay Rs. 20,000 toward

the costs. Within three weeks of the order's notification, the compensation and fees were to be paid.