

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition (PIL) No. 158 of 2018**

“In the Matter of Incidence of Gang Rape in a Boarding School, situated in Bhauwala, District Dehradun”.

(Suo Motto)  
...Petitioner

Vs.

State of Uttarakhand and Others.

...Respondents

**Present:**

Mr. Arvind Vashisht, Learned Senior Counsel (Amicus Curiae).

Mr. S.S. Chauhan, Additional Chief Standing Counsel for the State of Uttarakhand.

Mr. Sudhir Kumar and Mr. Mohit Martolia, Learned Counsel for the Intervenors.

Dated: 7<sup>th</sup> December, 2018

**Coram: Hon'ble Ramesh Ranganathan, C.J.**

**Hon'ble R.C. Khulbe, J.**

**Ramesh Ranganathan, C.J. (Oral)**

This Court treated the contents, of a news item published in ‘Amar Ujala’ on 18.09.2018 and in ‘Hindustan Times’ on 19.09.2018 regarding a gang rape in a Boarding School situated at Bhauwala, District Dehradun, as a writ petition; and issued notices to the respondents.

2. A counter affidavit has been filed by the Secretary, Ministry of Electronics & Information Technology, Government of India on 22.10.2018 wherein a reference is made to the order of this Court dated 27.09.2018 directing all Internet Service License Holders to punctually obey the Notification dated 31.07.2015, and to block the publication or transmission of obscene material in any electronic form, transmitting of material containing sexually explicit act or conduct, and also publishing or transmitting material depicting children in sexually explicit acts or conduct forthwith; and in directing the fourth respondent to suspend the licenses of the Internet License Holders under Section 25 of the

Information Technology Act, 2000, if the Notification dated 31.07.2015 was not complied with.

3. It is stated, in the counter affidavit, that a copy of the order of this Court dated 27.09.2018 was conveyed to the answering respondent only on 08.10.2018; this Court had, by its order dated 11.10.2018, directed the Registry to issue show cause notice to the Secretary, Ministry of Electronics & Information Technology as to why contempt proceedings be not drawn against him for willful disobedience of the order dated 27.09.2018, by not blocking publication or transmission of obscene material in any electronic form, transmitting any material containing sexually explicit act or conduct, and also publishing or transmitting of material depicting children in sexually explicit act or conduct forthwith.

4. The respondents would further state that the issue regarding blocking of online pornography, child pornography and sexually explicit content, etc. was pending before the Supreme Court in WP (Civil) No.177/2013 *Kamlesh Vaswani Vs. Union of India & Ors* which is listed in the month of January, 2019; a list of 857 websites were tendered in the said writ petition which were alleged to be pornographic websites; the answering respondent had requested the Department of Telecommunications (DoT), vide letter dated 30.07.2015, to block the said 857 websites under Section 79(3) (b) of the Information Technology Act, 2000 as the content, hosted on these websites, related to morality and decency as given under Article 19(2) of the Constitution of India; the Department of Telecommunications (DoT) had issued an order dated 31.07.2015 notifying the Intermediaries (Internet Service Providers (ISPs)) to disable the said 857 websites; the answering respondent, taking into account the public and media outcry, had, vide letter dated 04.08.2015, requested the Department of Telecommunications to communicate to all Intermediaries (ISPs) that they were free not to disable any one of 857 URLs as given in the list, which did not have child pornographic content; the said letter was conveyed to the Intermediaries and was also brought to the notice of Supreme Court; and the Central Government has taken initiatives / measures to curb this

menace. The counter affidavit explained in detail the steps taken by the Central Government to block pornographic websites.

5. As it appears from the counter affidavit filed on behalf of the Government of India, that steps have already been taken to block 857 pornographic websites; and as it is stated by Shri Shailendra Singh Chauhan, the learned Deputy Advocate General that FIR No. 390 of 2018 dated 17.09.2018 has been registered against the alleged offenders of the gang rape; the cause in the writ petition no longer survives necessitating any further adjudication by this Court.

6. While applications are filed to intervene in the present writ petition by those who claim that streaming of objectionable material in certain other channels should also be prohibited, and by certain others contending that not all the Service Providers have been included in the list of Service Providers whose websites are blocked, we see no reason to entertain these applications as it is always open to them to file independent writ petitions as the cause which they espouse varies, albeit slightly, with the issues which arises for consideration in the present writ petition which was treated as a *suo motto* public interest litigation based on certain newspaper items.

7. In the light of the detailed counter affidavit filed on behalf of the Union Government, from which it is evident that efforts have been taken by them to block several websites which display pornographic material, more particularly child pornography material, we see no reason to keep this writ petition pending on the file of this Court.

8. Leaving it upon to those, seeking permission to intervene in the present writ petition, to avail their legal remedies, the writ petition is disposed of. However, without costs.

**(R.C. Khulbe, J.)**  
07.12.2018

**(Ramesh Ranganathan, C.J.)**  
07.12.2018