

News

The decision to hire retired prosecutors on a contract rather than through open recruitment is being stayed by the Delhi High Court.



A lawyer petitioned the High Court, claiming that the action encourages favoritism and gives preferred, chosen retired public prosecutors a backdoor access mechanism.

A notice asking retired prosecutors to apply for nearly 200 contractual positions as public prosecutors was halted by the Delhi High Court on Monday [**Vikas Verma v Director of Prosecutions & Ors**].

The interim decision was issued by Justice **Sachin Datta**, who also requested that the government decide the representation opposing the action that was sent to it.

Additionally, the Court sent notices to the Union Public Service Commission, the Principal Secretary (Home), the Chief Secretary of the Delhi government, and the Director of Prosecutions.

Advocate Vikas Verma filed a lawsuit in court contesting the Government of National Capital Territory of Delhi's (GNCTD) Director of Prosecution's announcement that only retired prosecutors were invited to serve as public prosecutors in the Directorate of Prosecution.

Verma contended that the August 22 advertising is being used to fill 196 positions in total, eschewing the UPSC or other appropriate bodies' established recruiting procedure.

"The contested advertising violates Articles 14, 16, 19(1)(g), and 21 of the Indian Constitution and is arbitrary, unlawful, and outside the bounds of the law. For the Director of Prosecution, GNCTD,'s favorite former public prosecutors, it is essentially a backdoor access mechanism," the plea said.

It said that the action violates reservation laws, limits equal opportunity in public employment, disqualifies thousands of young advocates—including those from marginalized groups—from applying, and compromises merit, justice, and openness in public employment.

"It also imposes a dual financial burden on the State by providing pension as well as contractual remuneration to retired personnel," the proposal was made.

Petitioner Vikas Verma was represented by Senior Advocate Mohit Mathur, as well as advocates Amit Saxena, **Nitika** Gupta, and Prachi Gupta.

Delhi High Court The Public Prosecutors Justice of the Delhi Government **"System that lets rapists walk free": Sachin Datta** News The Supreme Court upholds the conviction of the men who sexually assaulted a 12-year-old

According to the Court, when sexual criminals use procedural flaws to evade punishment, the legal system fails.

On Monday, the Supreme Court upheld two men's convictions for the rape of a 12-year-old girl under the Protection of Children from Sexual Offenses Act (POCSO Act) and the Indian Penal Code (IPC).

A Patna High Court decision that had cleared the two men was overturned by a bench of Justices Sanjay Kumar and Satish Chandra Sharma, who decided that small procedural flaws could not be permitted to overrule consistent victim testimony and medical evidence.

The Court began its decision by highlighting the systemic failure that happens when people convicted of horrible sexual offenses are freed due to procedural flaws.

"When a perpetrator, especially of a serious sexual offense, escapes punishment by entangling the victim in improper procedural rules without the victim's knowledge or control, it is always a matter of utter failure for the system as a whole," the Bench stated.

The case started when the victim was discovered to be three months pregnant, leading to a complaint being filed in Bhojpur, Bihar, in 2016. She told her parents that the respondents had raped her several times and threatened to murder her if she notified them about the attacks. Both individuals were found guilty by a trial court and given life sentences of harsh imprisonment.

The accused was exonerated by the Patna High Court after an appeal. It discovered flaws in the prosecution's case, such as the two men's joint trial under Section 223 of the Code of Criminal Procedure, mistakes in the charge formulation, and the lack of exact evidence of the victim's age. The victim's father took the case to the highest court as a result.

The High Court's opinion was not shared by the Supreme Court. Particularly where the victim's evidence was consistent throughout her police statement, her deposition before the magistrate, and her testimony in court, it was decided that slight differences in documentation and testimony were normal and could not be exaggerated to the point of reasonable doubt.

According to the Court, these discrepancies need to be evaluated with consideration for the circumstances faced by victims from marginalized and rural communities.

The Court stated, "Discrepancies in educational and identification documents are not unknown in rural regions, and in such circumstances, the Courts must be sensitive to the ground realities of society so that the protections created by the legislature reach the intended persons in their right spirit and the intent of the law is not suppressed."

Regarding the victim's age, the Court observed that both oral and written testimony, none of which was contested during cross-examination, indicated that the victim was between the ages of 12 and 15.

The Court further concluded that the victim's revelation of many attacks starting in 2016 was supported by the medical reports and abortion records. It dismissed the High Court's skepticism as unfounded.

The Bench cautioned against viewing little errors in charge framing or trial joinder as grounds for conviction.

While warning trial judges and prosecutors to exercise caution, the Court emphasized that appeal courts must consider whether a true breakdown of justice happened. "**Not every mistake is fatal**," the Court observed.

It also criticized a society that demands flawless proof in cases involving sexual offenses.

The Court declared, "There is no such thing as perfect evidence in a court of law, and in fact, perfection is frequently suggestive of tutoring and manufacturing of evidence."

The ruling brought to light how women and children who are the victims of sexual offenses suffer twice: once from the crime itself, and again from the callous or excessively technical implementation of the law.

There are different stages of development in the fight for awareness of crimes against women, children, and other oppressed groups. The victims are sometimes up against a system full of unsympathetic parties, and other times they are up against the procedural complexities of the laws that are in place," the bench noted.

Advocates Daksha Kumar, **Tanishq Mehta**, Deepak Kumar, Ankita **Baluni**, Sonakshi Monga, and Aftab Ali Khan represented the appellant.

Advocates Talib Mustafa, Raksha Agrawal, **Divyansh Mishra**, Kumar Saurav, **Lzafeer Ahmad BF**, and Manish Kumar represented the respondents.