

ITEM NO.41

COURT NO.8

SECTION PIL

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

Writ Petition(s)(Civil)

No(s). 491/2012

LOKNITI FOUNDATION

Petitioner(s)

VERSUS

U.O.I. & ORS.

Respondent(s)

(with office report)

Date : 22/09/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s)

Dr. Ashok Dhamija, Adv.
Ms. Sonia Dhamija, Adv.
Dr. Kailash Chand, Adv.

For Respondent(s)

Mr. N.K. Kaul, ASG
Ms. Ranjana Narain, Adv.
Ms. V. Mohana, Adv.
Mr. S.K. Bajwa, Adv.
Mr. S.N. Terdal, Adv.
Ms. Sushma Suri, Adv.
Mr. B. Krishna Prasad, Adv.

Ms. Pinki Anand, ASG
Mr. Syed Tanweer Ahmad, Adv.
Mr. Gaurav Sharma, Adv.
Mr. B. V. Balaram Das, Adv.

Mr. D. S. Mahra, Adv.UPON hearing the counsel the Court made the following
O R D E R

Signature Not Verified

Digitally signed by

In pursuance of order dated 14th July, 2014, an

Usha Rani Bhardwaj

Date: 2014.09.26

16:00:46 IST

Reason:

affidavit has been filed by the Department of Biotechnology,
Ministry of Science & Technology, Government of India stating,
2inter alia, that the department is piloting human DNA
profiling Bill, the objectives of which is to establish a
National DNA Data Bank, a DNA Profiling Board and the use of
DNA profiles for specified purposes and for matters connected
therewith or incidental thereto. The affidavit includes the

seminal features of the Bill a part of which is reproduced

below:

"To establish and maintain a national DNA Data bank, administered by a national DNA Data Bank Manager. The National DNA Data Bank is envisaged to maintain following indices for various categories of data, namely:

- I. a crime scene index;
- II. a suspects' index;
- III. an offenders' index;
- IV. a missing persons' index;
- V. unknown deceased persons' index
- VI. a volunteers' index; and
- VII. such other DNA indices as may be specified by regulations made by the Board.

An index would need to be created of DNA profiles of individuals whose relatives have reportedly gone missing. This index would be created on a voluntary basis to help the relatives of missing persons help themselves, and it would be distinct from the index of volunteers whose DNA profiles are determined to further our knowledge of marker allele frequencies in different Indian sub-populations. The first index is of volunteers for the specific purpose of identifying missing individuals, and unidentified dead bodies. The second index is of volunteers for the research

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underlying the effective application of DNA profiling technology. The exercise of creating such an index will need legal sanction through legislation as envisaged under the draft DNA Profiling Bill."

It is also put forth in the affidavit that expert committee has been meeting quite frequently to examine number of aspects including the fact because the cross-matching of DNA profiling data in the databank requires specialised software, and the CDFD, Hyderabad is in the process of acquiring the same from the Federal Bureau of Investigation (FBI), USA.

At this juncture Dr. Ashok Dhamija submitted that the said Bill, which has been stated to be introduced as an Act has not seen the light of the day for last seven years and there is no fathomable reason for a Bill of the present nature had not been enacted. Mr. N.K. Kaul, learned Additional Solicitor General would submit that the said Bill is a complex one and involves many a facet.

At this juncture without getting into the nuance of the Bill, which is being thought of, we will desire Mr. Kaul to obtain instructions with regard to two aspects : (1) Whether

pending the Bill coming into force the concerned Department can constitute a Data Bank in respect of dead persons who are not identifiable; and (2) when there are missing reports in respect

of persons to collect the DNA from the permissible sources like siblings or others so that in case any unidentified dead body is

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found to match the DNA to arrive at the conclusion about the missing persons who are dead; or as an ancillary the missing person who is a victim of the crime of kidnapping or where any child, who is not able to find out his parents, can be in a position to find out through the DNA.

Let Mr. Kaul obtain instructions in this regard within four weeks. Needless to say, the instructions have to be brought on record by way of an affidavit of the competent authority.

List after four weeks.

(NEELAM GULATI)
COURT MASTER

(RENUKA SADANA)
COURT MASTER