

INTRODUCTION

The Domestic Violence Act is an important marker in the history of Women's in India. The Domestic Violence is also known as violence against women. It is common knowledge that a woman has already been subject to atrocities and cruelty. The dowry is allegedly one of the most significant factor responsible for cruelty and ill-treatment of a bride in her matrimonial abode. The phenomenon of domestic violence in India is widely prevalent but has remained invisible in public domain. The Civil Law does not address this phenomenon in its entirety. Presently, where a woman is subject to cruelty by her husband or his relatives, it is an offence u/s. 498-A of IPC. In order to provide a remedy in the Civil Law for the protection of women being victims of domestic violence and to prevent its occurrence in the Society, to protect women from domestic violence, Bill was introduced in the Parliament.

Accordingly, "The Protection of Women from Domestic Violence Act, 2005" has come into force since 26th October 2006 and for the first time, the term 'Domestic Violence' has been widened in the meaningful manner to recognize domestic abuse as punishable offence. The Domestic Violence Act, 2005 for the first time, formally recognises a woman's right to a violence free home. This Law is the first step towards bringing women's human rights into the sphere of the "home" which has been an important site of violence.

Q. 1. What is the aim and object of the Act?

Ans. The main object of the Act is to provide more effective protection to the constitutional rights of women and to protect them against violence of any kind occurring within the family. It provides civil remedy for enforcement of rights of a woman e.g. Right to residence, Maintenance, Custody, Protection and compensation.

Q.2. What does the phrase “Domestic Violence” actually mean ?

Ans. The term Domestic Violence has been widely defined under Section 3 of the Act. Any act, omission or conduct which harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person, constitutes domestic violence. Even harassment, threat or coercion to meet any unlawful demand for any dowry or other property or valuable security is covered under it. Thus, domestic violence would include everything which harms or tends to cause any mental, physical, emotional, sexual or economical harm/injury to the aggrieved woman.

Q.3. Who can be a complainant under the Act?

Ans. Any woman who is, or has been in a domestic or family relationship with the respondent and who has been subjected to domestic violence, can file a complaint under the Protection of Women from Domestic Violence, Act, 2005 for redressal of her grievance.

Q.4. What is domestic relationship?

Ans. “Domestic relationship” means a relationship between two persons who live or have lived, together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.

Q.5. Is a woman living with a man entitled to protection under the Act, even if she is not married to the man?

Ans. Yes, the Act protects even a woman in a live-in relationship i.e. a woman living in a relationship in the nature of marriage.

Q.6. What is a shared household?

Ans. A shared household is a household where the aggrieved person lives or has ever lived in a domestic relationship. It includes allotted, tenanted or joint family property in which the complainant or the respondent has any right. The Supreme Court has recently, by a judgment delivered on 15th December, 2006 clarified that shared-household does not include the self acquired property of mother-in-law of the aggrieved person.

Q7. Does the protection extend to female members living in a joint family?

Ans. Yes, the Act protects even those females who are sisters, widows or mothers, living together as a joint family with the respondent in a shared household.

Q8. Who is respondent under the Act?

Ans. A respondent means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought relief under the Act.

Q9. Can a male also seek protection under the provisions of the Act?

Ans. No, the Act seeks to protect and safeguard the interest of women only. Aggrieved person as defined in the Act is any woman in domestic relationship with the respondent.

Q. 10. What are the authorities appointed / set up for the protection of victims of domestic violence?

Ans. The Act provides for appointment of Protection Officers and NGOs

(Non-Government Organizations) as service providers for assisting the victims. Magistrates & Police Officers will assist the aggrieved woman as provided under the Act.

Q11. Who is a Protection Officer and what are her/his duties?

Ans. A Protection Officer is an officer, preferably a woman, appointed & notified by the State Government in notified area for discharge her duties under the Act. A Protection Officer has a very significant role to play in cases of domestic violence. She is the key person to ensure protection and relief for a victim of domestic violence. Amongst her duties are :

- Assist the Magistrate in the discharge of his functions under the Act;
- Make a report of incident of domestic violence to the Magistrate;
- Make an application to the Magistrate seeking protection order for the aggrieved;
- Ensure legal aid for the aggrieved under the Legal Services Authorities Act, 1987;
- Maintain a list of service providers;
- Arrange safe shelter for the aggrieved, if desired;
- Get the aggrieved person medically examined if she has sustained injuries.
- Ensure that an order granting monetary relief made by a magistrate is complied with and duly executed

Q12. Who are service providers?

Ans. The Act provides that any voluntary association registered under the Societies Registration Act, 1860 or a company registered under the

Companies Act, 1956 may register itself with the State Government as a Service Provider; their object should be to protect the rights and interests of women by lawful means including providing counselling, medical, financial, conveyance, shelter and other assistance.

Q13. What are the powers of a service provider?

Ans. A service provider has the power to prepare incident of domestic violence; to get the aggrieved person medically examined, if needed and ensure safe shelter if required.

Q14. What is the procedure for obtaining relief protection, under the Act?

Ans. An aggrieved person or a protection officer, or any other person on behalf of the aggrieved person may present an application to the Magistrate for relief and protection. After hearing the aggrieved person and the respondent, the Magistrate may pass any of the following orders:

- (i) Protection Order.
- (ii) Residence order.
- (iii) Order providing monetary relief e.g. for loss of earnings, medical expenses, loss or destruction of property, maintenance.
- (iv) Interim custody order.
- (v) Compensation order, i.e. damages for injuries including mental torture and emotional distress caused to the aggrieved.

15. To what other relief is an aggrieved person entitled under the Act?

Ans. The aggrieved person is entitled to reside in a shared household whether or not she has any right, title or beneficial interest in the same. She cannot be evicted except in accordance with procedure established by law. Besides, if an aggrieved person or any service provider on her behalf, requests the person in charge of a shelter home for shelter, such shelter will be provided to her. Apart from that, she will be provided medical facilities if she seeks them from the person in charge of the same.

16. Does the Act penalize breach of protection orders?

Ans. Yes, Breach of protection order is a Cognizable and Non-bailable offence punishable with fine upto Rs. 20,000/- or imprisonment upto one year or with both.

17. What is the role of the Maharashtra State Legal Services Authority (MSLSA) in protecting and providing relief to victims of domestic violence?

Ans. The MSLSA, which has been setup under the Legal Service Authorities Act., 1987. It provides free legal services to women. An aggrieved woman is entitled to free legal aid under Section 9(d) of the Domestic Violence Act, 2005.



PROCEDURE TO BE APPLIED IN CASES OF DOMESTIC VIOLENCE AND FOR ENFORCEMENT OF COURT'S ORDERS.

Stage - 1 : The Complaint

The aggrieved person may approach the Protection Officer (P.O.) or Service Provider (S.P.) with a complaint of domestic violence, which is to be recorded in a Domestic Incident Report (DIR). Thereafter, its copies shall be forwarded to the concerned Magistrate, Local Police Station and Service Provider (S.P.)

Stage - 2 : The Application

In case the aggrieved person is desirous to initiate legal proceedings, the application to that effect accompanying with D.I.R. be filed in the court by P.O.. In cases, where aggrieved person approached the Court directly, the Court may direct the P.O. to record and file D.I.R. after the application is received. The affidavit seeking immediate interim or ex-parte reliefs may also be filed alongwith application. The proceedings under the Domestic Violence Act are to be filed in the Court of Judicial Magistrate, First Class or Metropolitan Magistrate within whose local limits either party resides or gainfully employed or where the domestic violence has allegedly been committed. The procedure prescribed for the cases u/s. 125 of Cr.P.C. is, generally, to be applied while dealing with the applications under Domestic Violence Act.

Stage - 3 : Service of Notice

After receipt of application, the Courts shall issue notice to the

Respondents for appearance and the responsibility is upon the P.O. to ensure that the notice is to be served within two days from the date of filing.

Stage - 4 : Trial

Once the notice is served, the trial commenced with the first hearing and evidence may be adduced through affidavit by the parties, after giving opportunity to respondent for filing a written statement. The court may summon the party-witness for the purpose of examination or cross-examination. If the Respondent fails to appear, the court may pass ex-parte order against him. The interim order can be passed at any stage of proceedings. The court may also direct the parties to avail counselling u/s. 14 of the Act.

Stage - 5 : The Order

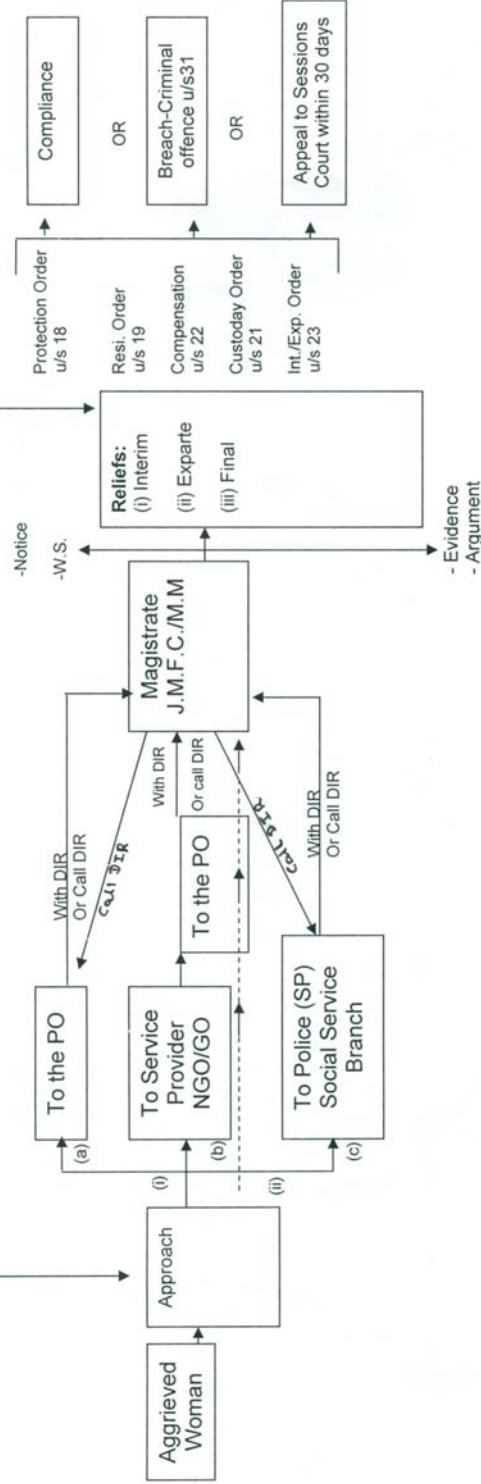
After all the evidence have been recorded, the court grants final order which can be enforced in any part of India. The court may also direct the Protection Officer and Police for assistance in ensuring the enforcement of orders.

Stage - 6 : Post - Order

The breach of protection order is cognizable and non-bailable offence u/s. 31 of the Domestic Violence Act, 2005 and warrants procedure contemplated under Cr. P.C. has to be applied in case of breach.

PWDV Act-2005 AT A GLANCE.

Disposal of matter within 60 days.



Note: (i) Application with Domestic Incident Report.

(ii) Final Order under act is not Resjudicata u/s 11 CPC

(iii) Woman can file complaint against any adult male perpetrator of violence. In case of marital status She can file Application against male/female relatives of husband/male partner who have perpetrated violence.

(iv) Adjourment should be 3 days normally in matter.

(v) Order under this act can discharge on deciding matter before appropriate Court have jurisdiction.

• P.O. = Protection Officer

• DIR = Domestic Incident Report

By **B. L. Waghmare**
Chief Metropolitan Magistrate,
Mumbai

ਮਾਈ ਅੰਗਰਾ

पु स्तावना

घरगुती हिंसाचार अधिनियम हे भारतातील स्त्रियांच्या इतिहासातील एक महत्वाचा टप्पा होय. 'घरगुती हिंसाचार' हा स्त्रियांविरुद्ध हिंसाचार असेही ओळखले जाते. ही गोष्ट सर्व सामान्य पणे सर्वाना ज्ञात आहे, की स्त्री वर अत्याचार व क्रूरता होत आली आहे.

विवाहीत स्त्रीच्या सासरी हुंडा ही बाब कथितपणे सर्वात महत्वाची बाब तिच्या विरुद्ध क्रूरता व अत्याचाराकरीता ठरली आहे. घरगुती हिंसाचारच्या घटना भारतात सार्वत्रिक असे आहे, परंतु त्या घटना सार्वजनिक दृष्ट्या अदृश्य राहिल्या. दिवाणी कायद्यात अशा घटनेबाबत व्यापकपणे भाष्य केले गेले नाही. सध्या एकादया स्त्री विरुद्ध तिच्या पतीने किंवा त्याच्या नातेवाईकांनी क्रूरतेचे कृत्य केल्यास, भा.दं. वि. च्या कलम ४९८ नुसार असे कृत्य गुन्हेगारी कृत्य ठरते.

घरगुती हिंसाचाराचे बळी ठरणान्या स्त्रियांना संरक्षण देण्याकरीता व अशा घटना समाजात घडण्यापासून टाळण्याकरीता, तसेच स्त्रियांना घरगुती हिंसाचारापासून संरक्षणा करीता, दिवाणी कायद्यात उपायांची तरतुद करण्यासाठी संसदेत विधेयक मांडण्यात आले.

त्यानुसार, "घरगुती हिंसाचारापासून स्त्रियांचे संरक्षण अधिनियम, २००५" दिनांक २६ ऑक्टोबर २००६ पासून अंमलात आला आणि प्रथमच, घरगुती हिंसाचार या संज्ञेची व्याप्ती खऱ्या अर्थाने वाढली आणि त्यानुसार 'घरगुती हिंसा' हे दंडनिय अपराध आहे. यांस मान्यता मिळाली. घरगुती हिंसाचार अधिनियम २००५ नुसार प्रथमच 'हिंसाचार मुक्त घर' स्त्रियांच्या, या हक्कास अधिकृतपणे मान्यता मिळाली. हा कायदा म्हणजे स्त्रियांच्या मानवी हक्कांना, 'घर' जेथे हिंसाचाराचे प्रमुख स्थान राहिले आहे, त्या आवाक्यात आणण्यासाठी टाकलेले पहिले पाऊल होय.

प्र. १ ला. या अधिनियमाचे ध्येय व उद्दीष्ट काय आहे ?

उत्तर - या अधिनियमाचा प्रमुख उद्देश म्हणजे स्त्रियांना विविध अधिकारांना प्रभावीपणे अंमलात आणणे आणि कुटुंबात होणाऱ्या कोणत्याही तऱ्हेच्या हिंसाचारा पासून संरक्षण प्रदान करणे हे होय. स्त्रीस घरात रहाण्याचा अधिकार भरणपोषणाचा अधिकार, मुलांची अभिरक्षा, आर्थिक भरपाई इत्यादी अनुतोष या कायद्यांतर्गत दिलेली आहे.

प्र. २ रा 'घरगुती हिंसाचार' या शब्द प्रयोगाचा खरा अर्थ काय?

उत्तर - घरगुती हिंसाचाराची व्याख्या अधिनियमाच्या कलम ३ मध्ये विस्तृत पणे करण्यात आले आहे, या अधिनियमाच्या अंतर्गत कोणतेही कृत्य किंवा कोणतेही वर्तन ज्यामुळे पिडीत महिलेस शारीरिक तसेच मानसिक रित्या नुकसान किंवा इजा पोहोचेल किंवा ज्यामुळे तिच्या जिवास आणि आरोग्याच्या सुरक्षिततेस धोका निर्माण करणारी असेल, असे कृत्य किंवा वर्तन घरगुती हिंसाचाराच्या अंतर्गत येते, ज्यात क्लेश, धमकी, अनाचार, हुंडा किंवा संपत्तीची अयोग्य (अनुसूचितपणे) मागणी आणि पीडीत व्यक्तींच्या सुरक्षिततेस धोका यांचा ही समावेश आहे. शारीरिक शोषण, मानसिक शोषण, आर्थिक शोषण, भावनात्मक शोषण आणि लैंगिक शोषण या अंतर्गत येतात.

प्र. ३रा या अधिनियमांतर्गत फिर्यादी किंवा बळी (पीडीत व्यक्ती) कोण?

उत्तर - कोणतीही अशी स्त्री जि घरगुती हिंसाचाराने व्यथित आहे आणि अन्य व्यक्ति जिच्याकडे घरगुती हिंसाचारा संबंधी माहिती आहे अशी व्यक्ति.

प्र. ४था घरगुती नाते (संबंध) म्हणजे काय?

उत्तर - घरगुती नात्याचा अर्थ समगोत्रता विवाह, विवाहाच्या स्वरूपाने नाते, दत्तक संबंध अथवा संयुक्त परिवार असा आहे, जेथे दोन्ही पक्ष घरांत एकत्र रहातात.

प्र ५वा या अधिनियमांतर्गत, एक स्त्री जिचे पुरुषाशी विवाह झाले नाही, परंतु ती त्याच्या सोबत रहात असेल तर ती, संरक्षणाकरीता पात्र आहे का?

उत्तर - हा अधिनियम, अशी स्त्री जि दुसऱ्या पक्षा (व्यक्ति) सोबत विवाह स्वरूप समान नात्याने संबंधित असेल, अशा स्त्रीला या अधिनियमांतर्गत संरक्षण प्राप्त आहे.

प्र. ६. सामाईक (एकत्र) घर म्हणजे काय?

उत्तर - सामाईक घर म्हणजे ज्यांत पिडीत महिला दुसऱ्या पक्षा सोबत घरगुती संबंधा मुळे रहात आहे किंवा रहात होती. यांत भाडेतत्वावरील किंवा स्वतःचे घर किंवा सामाईक मिळकत ज्यात पीडीत किंवा प्रतिवादीचा कोणताही अधिकार असेल अशाचा ही समावेश आहे. नुकतेच डीसेंबर २००६ मध्ये सर्वोच्च न्यायलयाने एक निर्णय दिला आहे. ज्यानुसार सामाईक घराच्या व्याख्येत कोणत्याही महिलेच्या सासू व्दारा अर्जित (प्राप्त/संपादित)

वैयक्तिक मिळकतीचा समावेश होत नाही.

प्र.७ . एकत्र कुटुंबात राहणाऱ्या महिला सदस्यांना संरक्षण देता येते का?

उत्तर- एकत्र कुटुंबात राहणाऱ्या महिला-बहिण,विधवा आणि आईला सुध्दा या अधिनियमांतर्गत संरक्षण प्रदान करता येईल.

प्र. ८. अधिनियम अंतर्गत प्रतिवादी कोण आहे?

उत्तर - प्रतिवादीच्या अर्थाचा संबंध कोणत्याही अशा प्रौढ पुरुष व्यक्तिशी आहे ज्याच्या पीडीत महिलेशी कौटुंबिक नातेवाईकांतर्गत घरगुती नाते आहे, आणि ज्यांच्या विरुद्ध पीडा निवारण दाद (अनुतोष) मिळविण्यासाठी या अधिनियमांतर्गत निवेदन (अर्ज) करण्यात आले आहे अशी व्यक्ति.

प्र.९. संरक्षण नियमांतर्गत, पुरुषांच्या सुरक्षितते करीता सुध्दा कोणता विकल्प आहे का?

उत्तर- नाही,ज्या अर्थी या अधिनियमाचे शीर्षक असे सुचवित आहे कि, हा अधिनियम केवळ महिलांना घरगुती हिंसाचार पासून संरक्षण प्राप्त करून देतो. पति/ पुरुष सहकारी ज्याच्यावर अन्य पुरुष किंवा महिला सदस्य व्दारा कोणत्याही स्वरूपाने नुकसान, हानि किंवा सत्तावणी करण्याचा आरोप आहे. त्याला अधिनियमांतर्गत कोणत्याही प्रकाराची सुरक्षितता प्रदान करण्यात आली नाही.

प्र. १०. घरगुती हिंसाचारपासून सुरक्षितते करीता कोणकोणते अधिकारी नियुक्त करण्यात आले आहेत?

उत्तर - घरगुती हिंसाचारपासून पीडीतांना सेवा प्रदान करण्यासाठी सुरक्षा अधिकारी आणि अशासकिय संस्था यांची नियुक्ती करण्यात आली आहे.

प्र.११ सुरक्षा अधिकारी कोण? आणि त्याचे कर्तव्य कोणते?

उत्तर - सुरक्षा अधिकारी म्हणजे असा अधिकारी ज्याची नियुक्ती या अधिनियमाच्या अंतर्गत प्रत्येक जिल्हयात राज्य शासना व्दारे करण्यात आली आहे. सुरक्षा अधिकाऱ्यांची संख्या ज्या त्या क्षेत्राच्या आवश्यकतेवर अवलंबून आहे. सुरक्षा अधिकारी घगुती हिंसाचाराच्या प्रकरणात एक महत्वपूर्ण भूमिका निभावू शकतो.घरगुती हिंसाचारापासून पीडीत सर्व स्त्रियांना संरक्षण व पीडा निवारणाची खात्री देण्याकरीता सुरक्षा अधिकारीच मुख्य व्यक्ति आहे.त्याचे कर्तव्य खालील प्रमाणे आहे.

- या अधिनियमांतर्गत न्याय दंडाधिकारीच्या आदेशांचे अनुपालन करणे आणि त्या आदेशांच्या अंमलबजावणी करीता पीडीत महीलेस सहाय्य करणे.
- घरगुती हिंसाचारच्या घटनेचा अहवाल दंडधिकारीस सादर करणे.
- पीडीत महिलेस अर्ज तयार करण्यास मदत करणे.
- विधी सेवा प्राधिकरण अधिनियम १९८७ अंतर्गत पीडीत महिलेस विधी सेवा उपलब्ध करून देणे.
- जर पीडीत व्यक्तिस इजा झाल्यास, तिची वैदयकीय तपासणी करवून घेणे.
- सेवा प्रदान करणाऱ्या संस्थांची सूची तयार करणे.
- आवश्यक असल्यास , पीडीत महिलेकरीता सुरक्षित आश्रयाची व्यवस्था करणे.
- जर दंडाधिकारी व्दारा पीडीत महिलेस आर्थिक अनुतोष मंजुर करण्यात आल्यास, त्या बदलची अंमलबजावणी करवून घेणे.

प्र. १२ सेवा प्रदान करणाऱ्या संस्था कोणत्या?

उत्तर अधिनियमातील तरतुदी नुसार कोणतीही स्वेच्छा संघटना जि ‘ ‘संस्था नोंदणी अधिनियम , १९६० अंतर्गत नोंदणी कृत आहे. किंवा कोणतीही कंपनी, जि ‘ कंपनी अधिनियम १८५६ अंतर्गत नोंदणीकृत आहे. अशी स्वेच्छा संघटना राज्य सरकार समक्ष संस्थेच्या स्वरूपात सेवा प्रदान करण्यासाठी,स्वतःला नोंदणी कृत करू शकते, अशा संस्थेचा उद्देश महिलांचे हित आणि अधिकार यांचे रक्षण करणे, असे असणे आवश्यक आहे, ज्यात विधिसेवा, वैदयकिय,आर्थिक व इतर सहाय्य व सेवा यांचा समावेश आहे

प्र. १३ सेवा प्रदान करणाऱ्यांना कोणकोणते अधिकार प्रदान करण्यात आले आहेत?

उत्तर- सेवा प्रदान करणाऱ्यांनी , घरगुती हिंसाचाराच्या घटनेचा तपशील ठेवणे, तसेच आवश्यक वाटल्यास, पीडीत व्यक्तीची वैद्यकीय तपासणी करवून घेणे आणि आवश्यक असल्यास तिच्या सुरक्षित आश्रयाची खात्री करून देणे असे अधिकार प्रदान करण्यात आले आहे.

प्र. १४ अधिनियमांतर्गत सुरक्षा अनुतोष प्राप्त करण्यासाठी काय प्रक्रिया आहे?

उत्तर- पीडीत व्यक्ति सुरक्षा अधिकारी अथवा पीडीत व्यक्तीच्या आधारावर कोणतीही अन्य व्यक्ति दंडाधिकार्या समक्ष पीडा निवारणा करीता आणि संरक्षण प्राप्त करण्या करिता आवेदन (अर्ज) करू शकते. पीडीत व्यक्ति आणि प्रगतिवादीची सुनावणी केल्यानंतर दंडाधिकारी या बाबत योग्य आदेश परित करू शकतात.

- सुरक्षा आदेश,
- निवास संबंधी आदेश,
- अन्य आर्थिक अनुतोष, जसे कि संपादन (उत्पन्न) संबंधी हमि, वैद्यकीय खर्च, संपत्तीचे नुकसान, भरण-पोषण इत्यादी कारणंकरिता आर्थिक अनुतोष.
- अंतिम अभिरक्षा आदेश
- क्षतिपूर्वी आदेश जसे कि इजे मुळे होणारे नुकसान ज्यांत मानसिक व भावनिक हानि जे पीडीत व्यक्ति च्या दुःखने कारण आहे. त्यांच्या सुध्दा समावेश आहे.

प्र. १५ अधिनियमाच्या अंतर्गत पीडीत व्यक्ति इतर कोण कोणते अनुतोष प्राप्त करू शकतो?

उत्तर- पीडीत व्यक्ति संयुक्त कुटुंबात रहाण्यास हक्कदार आहे. तिच्या कोणत्याही अधिकार असो वा नसो, मिळकत तिच्या नावावर असो वा नसो, अन्य कायदया अंतर्गत इतर आदेश होईपर्यंत तिला तेथून कोणीही काढू शकत नाही. या व्यतिरिक्त पीडीत व्यक्ति स्वतः किंवा त्या व्यक्तिलो सेवा प्रदान करणारी व्स्क्ति , आश्रय गृहाच्या प्रभारींना विनंती करून, पीडीत व्यक्तिस आश्रय उपलब्द करून दिले जाईल. जर आवश्यक असल्यास,

तिला वैदयकिय संबंधी सुविधा संबंधित प्रभारीकडून , तिच्या विनंतीवरून उपलब्ध करून दिले जाईल.

प्र. १६ **हया अधिनियमात संरक्षा आदेशाच्या अवमाना करीता शिक्षेची तरतुद आहे का?**

उत्तर - सुरक्षा आदेशाच्या अवमान केल्याच्या कारणावरून रूपसे २०,०००/- चा दंड आणि एक वर्षाचा तुरुंगवासाची शिक्षा होऊ शकते. सुरक्षा आदेश एक संज्ञेय आदेश असून त्या आदेशाचा अवमान बे-जमानती गुन्हा आहे.

प्र १७ **घरगुती हिंसाचाररपासून पीडीत व्याक्तिना संरक्षण व पीडा निवारण प्रदान करण्यात महाराष्ट्र राज्य विधी सेवा प्राधिकरणाची काय भूमिका आहे.**

उत्तर- महाराष्ट्र राज्य विधी सेवा प्राधिकरणाची रचना विधी सेवा अधिनियम, १९८७ च्या अंतर्गत करणात आली आहे.प्राधिकरण ज्या महिलांना संरक्षणची आवश्यकता आहे, त्यांना मोफत कायदेशीर सेवा सहाय्य प्राप्त करून देते. घरगुती हिंसाचार अधिनियमाच्या कलम ९ डी नुसार पीडीत महिलेस विधिसेवा प्राधिकरण अधिनियम अंतर्गत कायदेशीर सहाय्य मिळविण्याचा अधिकार आहे. महाराष्ट्र राज्य विधी सेवा प्राधिकरण घरगुती हिंसाचाराने पीडीत महिलांना निःशुल्क विधी सेवा प्रदान करीत आहे.



घरगुती हिंसाचारांच्या प्रकरणांत अवलंबिण्यात येणारी कार्यपध्दती आणि न्यायालयांच्या आदेशांची अंमलबजावणी

टप्पा १ : तक्रार

व्यथित व्यक्ति संरक्षण अधिकार (प्रोटेक्शन ऑफिसर/पी.ओ.) किंवा सेवा पुरविणारे (सर्व्हिस प्रोवाइडर/ एस.पी) यांच्याकडे घरगुती हिंसाचाराची तक्रार घेऊन जाऊ शकते जि तक्रार हिंसाचारासाठी तक्रार घेऊन जाऊ शकते जि तक्रार घटना अहवाल (डोमेस्टीक इन्सिडंट रिपोर्ट) या मध्ये नोंदविली जाते. त्यानंतर त्याच्या प्रती संबंधी न्यायदंडाधिकारी, स्थानिक पोलिस ठाणे आणि सेवा पुरविणारी (संस्था) (सर्व्हिस प्रोवाइडर) यांच्याकडे पाठविल्या जातात.

टप्पा : २ अर्ज

जर व्यथित व्यक्तिस कायदेशीर कार्यवाही सुरु करावयाची असेल तर त्यानुसार अर्ज व त्यासोबत घरगुती घटना अहवाल (डी.आय.आर.)संरक्षण अधिकारी (पी.ओ.) व्दारा न्यायालयात दाखल करण्यात येते. ज्या प्रकरणांत, व्यथित व्यक्ति थेट न्यायालयांत गेली असल्यास अशा प्रकरणात, न्यायालय, अर्ज प्राप्त झाल्यानंतर संरक्षण अधिकारी (पी.ओ.) घरगुती घटना अहवाल (डी.आय.आर.)ची नोंद करून ती दाखल करण्याचे निर्देश देते. त्वरित (तातडीचे) अंतरिम दाद किंवा एकतर्फी वादी (आदेश) मंजूर होण्याकरीता प्रतिज्ञापन अर्जासोबत दाखल करावे. घरगुती हिंसाचार अधिनियम अंतर्गत कार्यवाही न्यायिक दंडाधिकारी, प्रथम वर्ग किंवा महानगर दंडाधिकारी, ज्यांच्या स्थानिक हद्दीत, दोन्ही पैकी , कोणीही पक्षाकार रहात असेल किंवा लाभाकरीता (उत्पन्ना करीता) नोकरी करीत असेल किंवा जेथे घरगुती हिंसाचाराची कथित घटना घडली असेल, त्यांच्या न्यायालयात दाखल करण्यात यावे. फौ. प्र.सं. च्या कलम १२५ खालील प्रकरणां करीता जि पध्दती विहित केली आहे. सर्वसाधारण पणे, तीच पध्दती घरगुती हिंसाचार अधिनियमांतर्गत अर्ज करीता अवलंबविण्यात येते.

टप्पा. ३: नोटीस (सूचना) ची अंमलबजावणी

अर्ज प्राप्त झाल्यानंतर, न्यायालयानी उत्तरवादींना (विरुध्द पक्षकारांना) न्यायालयात हजर होण्याकरिता नोटीस निर्गमित करावे आणि संरक्षण अधिकारी (पी.ओ.) यांची जबाबदारी

अशी की त्यांनी खात्री करवी की अर्ज दाखल झाल्याच्या तारखेपासून दोन दिवसांच्या आत नोटीसची बजावणी होईल.

टप्पा ४: न्यायचौकशी

एकदा नोटीसची बजावणी झाली की न्यायचौकशीचा आरंभ प्रथम सुनावणीने होतो. उत्तरवादीस (विरुध्द पक्षकारास) कैफियत सादर करण्याची संधी दिल्यानंतर, शपथ पत्राव्दारे पक्षकार आपापले पुरावे सादर करू शकतात. न्यायालय, तपासणी व उलटतपासणी करीता पक्षकारांच्या साक्षीदारांस हजर राहण्यास फर्मावू शकते. जर उत्तरवादी हजर राहण्यास कसूर केल्यास, न्यायालय त्याच्या विरुध्द एकतर्फी निर्णय (आदेश) पारित करू शकेल. कार्यवाहीच्या कोणत्याही टप्प्यावर अंतरित आदेश पारित करता येईल. न्यायालया पक्षकारांना सादर अधिनियमचा कलम १४ अंतर्गत समुपदेशना करीता निर्देश देऊ शकेल.

टप्पा ५: आदेश

सर्व साक्षी पुरावे यांची नोंद झाल्या नंतर न्यायालय, अंतिम निकाल देते ज्याची अंमल बजावणी भारतातील कोणत्याही भागात करता येईल न्यायालया संरक्षण अधिकारी व पोलिस यांना आदेशाची अंमलबजावणी होण्याच्या दृष्टीने सहाय्य देण्यास निदेश देऊ शकेल.

टप्पा ६: आदेशोत्तर,

संरक्षण आदेशाच्या भंगाची कृती, दखलपात्र आणि अजामिन पात्र असा, घरगुती हिंसाचार अधिनियम, २००५ च्या कलम ३१ अंतर्गत गुन्हा आहे. आणि फौजदारी प्रक्रिया संहिते अंतर्गत अपेक्षित वॉरंट प्रोसिजर (अधिपत्र कार्यपध्दती), आदेशभंगाच्या प्रकरणात अनुसरण्यात यावी.



THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

NO. 43 OF 2005

[13th September, 2005.]

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.

1. Short title, extent and commencement.-(1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.

2. Definitions.-In this Act, unless the context otherwise requires,-

(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(b) "child" means any person below the age of eighteen years and includes any adopted, step or foster child;

(c) "compensation order" means an order granted in terms of section 22;

(d) "custody order" means an order granted in terms of section 21;

(e) "domestic incident report" means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;

(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(g) "domestic violence" has the same meaning as assigned to it in section 3;

(h) "dowry" shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961);

(i) "Magistrate" means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973 (2 of 1974) in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;

(j) "medical facility" means such facility as may be notified by the State Government to be a medical facility for the purposes of this Act;

(k) "monetary relief" means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;

(l) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "Protection Officer" means an officer appointed by the State Government under sub-section (1) of section 8;

(o) "protection order" means an order made in terms of section 18;

(p) "residence order" means an order granted in terms of sub-section (1) of section 19;

(q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;

(r) "service provider" means an entity registered under sub-section (1) of section 10;

(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;

(t) "shelter home" means any shelter home as may be notified by the State Government to be a shelter home for the purposes of this Act.

CHAPTER II DOMESTIC VIOLENCE

3. Definition of domestic violence.

3. Definition of domestic violence.-For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.-For the purposes of this section, -

(i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) "verbal and emotional abuse" includes-

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

(iv) "economic abuse" includes-

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II.-For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration.

CHAPTER III

POWERS AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, TC.

4. Information to Protection Officer and exclusion of liability of informant.

4. Information to Protection Officer and exclusion of liability of informant.-(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

5. Duties of police officers, service providers and Magistrate.

5. Duties of police officers, service providers and Magistrate.-A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person-

(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;

(b) of the availability of services of service providers;

(c) of the availability of services of the Protection Officers;

(d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);

(e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant:

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

6. Duties of shelter homes.

6. Duties of shelter homes.-If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such

person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

7. Duties of medical facilities.

7. Duties of medical facilities.-If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

8.Appointment of Protection Officers.

8. Appointment of Protection Officers.- (1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed.

9.Duties and functions of Protection Officers.

9. Duties and functions of Protection Officers.- (1) It shall be the duty of the Protection Officer-

(a) to assist the Magistrate in the discharge of his functions under this Act;

(b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;

(d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;

(e) to maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

(f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;

(g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;

(h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);

(i) to perform such other duties as may be prescribed.

(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

10. Service providers.

10. Service providers.-(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

(2) A service provider registered under sub-section (1) shall have the power to-

(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

11. Duties of Government.

11. Duties of Government.-The Central Government and every State Government, shall take all measures to ensure that-

(a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;

(b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;

(c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;

(d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

CHAPTER IV

PROCEDURE FOR OBTAINING ORDERS OF RELIEFS

12. Application to Magistrate.

12. Application to Magistrate.-(1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.

(5) The Magistrate shall Endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

13. Service of notice.

13. Service of notice.- (1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.

(2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

14. Counselling.

14. Counselling.-

(1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed.

(2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

15. Assistance of welfare expert.

15. Assistance of welfare expert.- In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

16. Proceedings to be held in camera.

16. Proceedings to be held in camera.- If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act in camera.

17. Right to reside in a shared household.

17. Right to reside in a shared household.- (1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

18. Protection orders.

18. Protection orders.- The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic

violence has taken place or is likely to take place, pass a protection order in favor of the aggrieved person and prohibit the respondent from-

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;
- (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;
- (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;
- (f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;
- (g) committing any other act as specified in the protection order.

19. Residence orders.

19. Residence orders.-(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order -

- (a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;
- (b) directing the respondent to remove himself from the shared household;
- (c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;
- (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;
- (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or
- (f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

Provided that no order under clause (b) shall be passed against any person who is a woman.

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

20. Monetary reliefs.

20. Monetary reliefs.-(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,-

(a) the loss of earnings;

(b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

21. Custody orders.

21. Custody orders.-Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent:

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

22.Compensation orders.

22. Compensation orders.-In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

23.Power to grant interim and ex parte orders.

23. Power to grant interim and ex parte orders.-(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

(2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

24.Court to give copies of order free of cost.

24. Court to give copies of order free of cost.-The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local

limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

25.Duration and alteration of orders.

25. Duration and alteration of orders.-(1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.

(2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

26.Relief in other suits and legal proceedings.

26. Relief in other suits and legal proceedings.-(1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

27. Jurisdiction.

27. Jurisdiction.-(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen,

shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.

28.Procedure.

28. Procedure.-(1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

29. Appeal.

29. Appeal.-There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

CHAPTER V

MISCELLANEOUS

30. Protection Officers and members of service providers to be public servants.

30. Protection Officers and members of service providers to be public servants.-The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

31. Penalty for breach of protection order by respondent.

31. Penalty for breach of protection order by respondent.-(1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

(2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.

(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions.

32. Cognizance and proof.

32. Cognizance and proof.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.

(2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.

33. Penalty for not discharging duty by Protection Officer.

33. Penalty for not discharging duty by Protection Officer.-If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which

may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

34.Cognizance of offence committed by Protection Officer.

34. Cognizance of offence committed by Protection Officer.-No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf.

35.Protection of action taken in good faith.

35. Protection of action taken in good faith.-No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

36. Act not in derogation of any other law.

36. Act not in derogation of any other law.-The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

37.Power of Central Government to make rules.

37. Power of Central Government to make rules.-(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the qualifications and experience which a Protection Officer shall possess under sub-section (2) of section 8;

(b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of section 8;

(c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9;

(d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9;

(e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9;

(f) the other duties to be performed by the Protection Officer under clause (i) of sub-section (1) of section 9;

(g) the rules regulating registration of service providers under sub-section (1) of section 10;

(h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section;

(i) the means of serving notices under sub-section (1) of section 13;

(j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13;

(k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14;

(l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23;

(m) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
