

# Why Government is not Willing to Protect Victims of Sexual Harassment and Question BJP MP?

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The Act, Protection of Children from Sexual Offences Act, 2012 was made, to protect children from offences of sexual assault, sexual harassment and Pornography and provide for establishment of Special Courts for trial of such offences. Even non-reporting of a sexual assault against a minor constitutes a serious crime. The law entails that trial should be completed within a year with the special court taking cognisance. Further, the burden of proof, after the trial begins and the prosecution has established the foundations of the charge, lies with the accused.

The sorry state of affairs continues like this: The protest began in January but was lifted within days with the assurance of an inquiry by the sports minister. Both the inquiry and the investigation started on the wrong foot. Violating clear directives of the POSH Act, WFI had no internal committee to look into the sexual harassment charges – a reason enough to dismiss the officials of WFI so that they do not exert any influence over future proceedings.

Yashovardhan Azad criticised “with such provisions underlining the intent of the lawmakers behind the POCSO Act, the laggard investigation is distressing and against all canons of justice. Forget POCSO, even the other case shows no progress. In such crimes, the first rule is to record the statements as early as possible before a magistrate. The wrestlers’ statements have been recorded, but – forget the demand for his arrest – the accused has not even been called for his statement”. Azad says: Amid the display of grandeur during the inauguration of the new Parliament House, two images stood out juxtaposed on TV screens – India’s champion women wrestlers pinned to the ground by security forces and a defiant Brij Bhushan Sharan Singh, MP, standing in the precincts of the House. He further said: The images vividly described the saga played out before the public since April 23 when the women wrestlers, driven to abject desperation, began a dharna at Jantar Mantar for the second time, agitating for the arrest of the MP, who is the president of the Wrestling Federation of India, on sexual harassment charges.

Surprisingly, the accused has been airing his views openly against the alleged misuse of the POCSO Act and claiming that it was wrongly drafted by the previous government. He has even announced that changes will be made accordingly. In a public meeting, he joked about the crime being merely one of touch. (But who will decide that the touch was not inappropriate?) He suggested a polygraph test on himself and the wrestlers. A snide remark followed that Vinesh Phogat is playing the role of Manthara.

There is none to take action, because the MP was a powerful leader of BJP. Then protest started, but Government ignored. A FIR was lodged, that too, only on the Supreme Court's intervention. Then we have a provision of law in Criminal Procedure Code. They took cover under the exceptions explained by the Lalita Kumari judgment, which allows an initial inquiry when a complaint is made after a certain period, the Delhi police finally lodged two FIRs under Section 354 of the IPC (sexual assault) and Section 354D (stalking). The second offence is under Section 10 of the POCSO Act. The POCSO Act is a special legislation meant to protect minors from sexual abuse and exploitation. Even non-reporting of a sexual assault against a minor constitutes a serious crime. The law entails that trial should be completed within a year with the special court taking cognisance. Further, the burden of proof, after the trial begins and the prosecution has established the foundations of the charge, lies with the accused.

My formal colleague, Yashovardhan Azad, former senior Police Officer, and former IB, besides Central Information Commissioner, said with pain and agony, questioned: "FIRs would be registered, statements taken, evidence collected and witness statements recorded. Notice under Section 41 of the CrPc would have been slapped on the accused and arrest made citing reasons. Instead, a political slugfest is out in the open. Ludicrous theories are being aired behind lodging of FIRs – politics and lucre. Can the seven wrestling champions, holders of Olympic and world medals, fall prey to such petty gains? Can a life's mission earned with sweat, blood and grit be frittered away under political influence?"

Yashovardhan, worked from 2013 to 2018 as CIC, in Union of India, since 2005, designated in rank of judge of Supreme Court with five years of term, when it was diluted and reduced to low down and amended the Right to Information Act in 2019, it was violation of Right to freedom of speech and expression, through RTI Act).

### **Dismantle the Structures of Sexual Violence**

I would support and sign the following statement. Dismantle the structures of sexual violence, NOT the protesters' tent! We, concerned individuals, are absolutely horrified to see the violence unleashed by the government and police today, to suppress the powerful grassroots support for our brave wrestlers and their struggle against Wrestling Federation of India chief Brij Bhushan Sharan Singh, who stands accused of sexual harassment of women wrestlers stretching back over a decade. The wrestlers have been protesting since 18<sup>th</sup> of January, 2023. They had given a call to all women's organisations, activists and all other civil society organisations to join a Mahila Samman Mahapanchayat outside the new parliament building today, i.e. 28 May 2023. Thousands of women from Delhi and nearby states responded to the call. Fearing the collective strength of Indian women – the police pre-emptively blocked all border roads, shut down proximal metro stations, and cordoned off roads. This is how scared a patriarchal State is of the sight of the women of India standing shoulder to shoulder with each other. Despite this crackdown, the government was unable to block the flow of solidarity; activists and concerned citizens found ways of trying to reach the protest site. But in a rerun of how people's protests have been stifled in

the past few years, many women have been taken into custody and many have been subjected to physical and verbal violence by the police. As we write this statement with fury, we learn that the wrestlers' tent at Jantar Mantar has been dismantled, and the wrestlers have been taken into custody. Not only has their minimum demand of holding proper inquiries not been met, but they and the thousands from across India, speaking up with them for justice to women, are being treated like criminals; while the actual criminal, Brij Bhushan, remains scot-free. Fittingly for this anti-women regime, this is happening even as a new parliament building is being inaugurated by a Prime Minister whose 'Beti Bachao' slogan never rang hollow. This parliament belongs to all of us; it belongs to the women of this country, as does their right to demand justice! I stand in complete solidarity with the wrestlers, and the people who have been detained. We demand: ● Immediate arrest of BJP MP Brij Bhushan Sharan Singh ● Immediate release of the detained wrestlers and activists ● Respect for the right to protest against injustice.

### **Understand and Implement Law**

Let us understand why the law "the Protection of Children from Sexual Offences Act of 2012" is powerful. There are several authorities who were involved, such as: the state governments, child welfare committees, the Special Courts, and the Police alike. These 12 principles are given below are important to implement this law to protect children and women.

**Best Interest of the Child:** The most significant part of the process is the development of the child in a holistic manner.

**Right to Life and Survival:** Any kind of psychological, physical, emotional, and mental harm should be kept away from the child in the best manner feasible.

**Right to be Protected from Discrimination:** The passage of justice should not be marked by any discrimination on any grounds. It should be transparent.

**Right to be Treated with Dignity and Compassion:** As per the provisions of the POCSO Act, victims are to be treated with great care and sensitivity throughout the process.

**Right to be Informed:** The legal proceedings should be clearly explained to the child victim or witness.

**Right to Special Preventive Measures:** The likeliness of once abused children being abused again is high and since prevention is better than cure, this act operated on the preventive measures pretty seriously.

**Right to Effective Assistance:** The process of legal proceedings can be harrowing for an individual in more than one way, which is why a lot of crimes go unreported because the mental and financial cost is often too high. This is why the act provides for legal, health, counsel, psychological and financial aspects.

**Right to be Heard and to Express Views and Concerns:** A child has the right to be heard for the parts that affect him/her.

**Right to be Protected from Hardship During the Justice Process:** There is a very real secondary victimization that occurs when a child is involved in the process of legal cases. This is to be minimized.

**Right to Privacy:** Cases can get very public, which is why the POCSO Act 2012 made it necessary that the identity and privacy of a child are protected at all times of the trial, pre and post-trial.

**Right to Compensation:** Relief and rehabilitation of a child must be compensated for.

**Right to Safety:** The protection of the child is vital, be it during the trial or after it.