

States obliged to prevent lynchings: CJI

State governments are obliged to prevent mob lynchings, Chief Justice of India Dipak Misra observed on Tuesday.

The Supreme Court classified lynchings as sheer 'mob violence.' But it said compensation for victims should not be determined solely on the basis of their religion, caste, etc., but on the basis of the extent of injury caused as "anyone can be a victim" of such a crime.

Chief Justice Misra said States cannot give even the "remotest chance" to let lynchings happen. "People cannot be allowed to take law into their hands," he observed orally.

A three-judge Bench led by Chief Justice Misra was hearing a contempt petition filed by activist Tehseen Poonawalla that despite the Supreme Court order to States to prevent lynchings and violence by cow vigilantes, the crimes continue with impunity.

"Despite your order to States to appoint nodal officers to prevent such incidents, there was a lynching just 60 km from Delhi recently," senior advocate Indira Jaising submitted.

"Each State shall be held responsible. Law and order is the State's responsibility," Chief Justice Misra observed orally. Ms. Jaising said these lynchings go "beyond the description of law and order...these crimes have a pattern and a motive. All these instances happen on highways. This court had asked the States to patrol the highways."

"Let us not confine ourselves to any pattern or motive...All these incidents are instances of mob violence," the Chief Justice responded.

He asked the Centre to frame a scheme under Article 256 to give directions to States to prevent/control the instances and maintain law and order.

Additional Solicitor General P.S. Narasimha disagreed, saying such a scheme was unnecessary.

"The concern here is maintaining law and order. The question is whether the State governments can implement your directions," Mr. Narasimha said.

Ms. Jaising said the Union has issued advisories, but did not back them up with action.

Targeted violence

She said the lynchings were 'targeted violence' against particular religion, caste, and thus, in violation of the constitutional guarantees under Article 15, which protects citizens from discrimination on the basis of religion, caste, sex, and gender.

The compensation to be determined for victims of lynchings, she said, should be fixed with an eye on the fact that they were targeted for their religion and caste.

But Chief Justice Misra objected to the suggestion, saying "anyone can be a victim" of such mob violence, irrespective of their religion or caste or sex.

He said the criteria for determining compensation would not be their religion or caste but the nature of injury — simple or grievous — or death. "Anyone is a victim and not just those under Article 15. This has more potential than Article 15," the Chief Justice said. But Ms. Jaising said she

was referring to a “specific form of vigilantism”.

However, the Chief Justice intervened to say that the term ‘victim’ includes anyone living in a constant state of fear.

“Victims should be protected,” the Chief Justice said, reserving the petition for orders.

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