

Court No. - 10

Case :- HABEAS CORPUS WRIT PETITION No. - 354 of 2023

Petitioner :- Smt. Savita Kumari Thru. Her Mother In Law
Smt. Anita Devi

Respondent :- State Of U.P. Thru.Prin. Secy. Deptt. Of Home
And Others

Counsel for Petitioner :- Sheikh Mohammad Ali

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner, learned A.G.A. for the State/respondent Nos. 1 & 2 and perused the record.

Learned A.G.A. has taken up the preliminary objection regarding the maintainability of the petition for quashing/setting aside the order dated 04.09.2023, passed by the Child Welfare Committee, Bahraich. Learned A.G.A. says that there is a provision of appeal under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015 against the order passed by the Child Welfare Committee.

This Court believes that if rights and liabilities are created under a statute and statutory remedy is provided therein, the statutory remedy should first be availed of as held by Hon'ble Supreme Court in the case of *N.P. Ponnuswami Vs. Returning Officer, AIR 1952 SC 64*.

Learned counsel for the petitioner says that he has not challenged the order of the Child Welfare Committee in this petition. This Court has seen the prayer clause. Prayer No.1 is being quoted herein below :-

"(i) Issue a writ, order or direction in the nature of certiorari to quash/set aside the order dated 04.09.2023 passed by opposite party no.3 in Crime No.107/2023 (State Vs. Ankit Rajbhar) under section 363, 366, 376 IPC and 3/4 POCSO Act P.S. Sujauli, District Bahraich, as contained in Annexure No.1 to the petition."

The petitioner has arrayed Child Welfare Committee, Bahraich as O.P. No.3.

The writ petition is **dismissed** with the cost of Rs.10,000/- which shall be deposited by the petitioner in court within one month from today. On failure to do so, the Senior Registrar shall issue a Recovery Certificate to the District Magistrate concerned who shall recover the same amount as arrears of land revenue and deposit the same in court within three months thereafter.

Order Date :- 7.11.2023

ML/-