

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 210 of 2024

Petitioner :- Yasmeen Thru. Her Mother Smt. Shahnaz

Respondent :- State Of U.P. Thru. Secy. Home Lko. And 3 Others

Counsel for Petitioner :- Sunil Kumar

Counsel for Respondent :- G.A., Sachida Nand Tiwari

Hon'ble Shamim Ahmed,J.

On 20.08.2024, this Court has passed the following order:-

"Vakalatnama filed today in the Court by Shri Sachida Nand Tiwari, Advocate on behalf of respondent No.4 is taken on record.

Office is directed to print/show the name of Shri Sachida Nand Tiwari, Advocate as learned Counsel for respondent No.4 on the next date of listing.

Counter affidavit filed today in the Court by learned A.G.A-I for the State-respondent Nos.1 to 3 is also taken on record.

Heard Shri Sunil Kumar, learned Counsel for the petitioner, Shri Sachida Nand Tiwari, learned Counsel for respondent No.4 and Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent Nos.1 to 3 and perused the material placed on record.

In compliance of the earlier order dated 24.07.2024 passed by this Court, learned A.G.A-I for the State-respondent Nos.1 to 3 has produced a medical report regarding the age determination of the detainee, namely-Yasmeen conducted by the team of Doctors of King George Medical University, Lucknow in a sealed cover. The petitioner, namely-Smt. Shahnaz and the respondent No.4, namely-Abhishek Rastogi are present before this Court in person, who have been identified by their respective counsel.

The detainee, namely-Yasmeen has been brought before this Court in person from Nari Niketan, Lucknow by Station House Officer, Police Station-Jankipuram, Lucknow, namely-Upendra Singh P.No.9454403878 and Sub Inspector, namely-Shivani Verma, P.No. 012190179, Police Station-Jankipuram, Lucknow.

At the outset, learned A.G.A-I for the State-respondent Nos.1 to 3 submits that he may be given some time to bring on record the medical report regarding the age determination of the detainee by way of filing a supplementary affidavit.

Further, learned Counsel for respondent No.4 submits that he may be granted some time to file the counter affidavit on behalf of respondent

No.4.

Accordingly, learned A.G.A-I for the State-respondent Nos.1 to 3 is granted one week's time to file a supplementary affidavit bringing on record the medical report regarding the age determination of the detainee and ten days' time is also granted to learned Counsel for the respondent No.4 to file a counter affidavit on behalf of respondent No.4.

Accordingly, list/put up this case on 03.09.2024 before the appropriate bench.

Till the next date of listing, the detainee, namely-Yasmeen shall reside in the Nari Niketan, Lucknow in terms of the order dated 24.07.2024 passed by this Court.

Further, the Station House Officer, Police Station-Jankipuram, Lucknow, namely-Upendra Singh P.No.9454403878 and Sub Inspector, namely-Shivani Verma, P.No. 012190179, Police Station-Jankipuram, Lucknow are directed to take the detainee to the Nari Niketan, Lucknow and hand her over to the Superintendent of Nari Niketan, Lucknow.

On the next date of listing, the detainee, namely-Yasmeen shall again be brought before this Court in person by the officers concerned and the petitioner and respondent No.4 shall again appear in person before this Court. "

In compliance of the aforesaid order dated 20.08.2024, Sri Ashok Kumar Singh, learned A.G.A.-I for the State has filed a supplementary counter affidavit today in the Court, which is taken on record. A medical report has been annexed as SCA-1 alongwith this affidavit, which reveals that a five members committee was constituted for determination of age of the detainee. The names of the Doctors are Dr. Shalini Gupta, Dr. Mausami Singh, Dr. Anil Rawat, Dr. Nisha Singh and the Chief Medical Superintendent and vide their report dated 02.08.2024, they determined the age of the detainee between 18 to 20 years, as such, the detainee is major.

Learned counsel for the respondent no.4 has also filed counter affidavit today in the Court, which is taken on record and learned counsel for the petitioner has also filed rejoinder affidavit today in the Court, which is also taken on record.

The petitioner, namely-Smt. Shahnaz and the respondent No.4, namely-Abhishek Rastogi are present before this Court in person, who have been identified by their respective counsel.

The detainee, namely-Yasmeen has been brought before this Court in person from Nari Niketan, Lucknow by Station House Officer, Police Station-Jankipuram, Lucknow, namely-Upendra Singh P.No.9454403878 and Sub Inspector, namely-Roshni Dubey, P.No. 224100252, Police Station-Jankipuram, Lucknow.

This Court has openly asked the detenue, Yasmeen that with whom she wants to go. She has clearly stated that she wants to go with her mother, namely, Smt. Shahnaz. She further submits that she has not solemnized marriage with the respondent no.4, Abhishek Rastogi and whatever certificate has been filed, is fake. Thus, as per the statement made by detenue, Yasmeen, who is major, her custody is being given to her mother, Smt. Shahnaz, W/o Sri Mohd. Umar, R/o Chhatha Meel, Kamlabad, Muslim Nagar, Police Station Jankipuram, District Lucknow before this Court.

It is further directed that the respondent no.4, Abhishek Rastogi shall not create any hindrance in future in peaceful living of the detenue, Yasmeen and her parents.

The Station House Officer, Police Station Jankipuram, District Lucknow is directed to take action in case the respondent no.4, Abhishek Rastogi interferes and creates any problem in future with the detenue, Yasmeen and her parents.

The Station House Officer, Police Station-Jankipuram, Lucknow, namely-Upendra Singh P.No.9454403878 and Sub Inspector, namely-Roshni Dubey, P.No. 224100252, Police Station-Jankipuram, Lucknow are directed to take the detenue, Yasmeen and her mother, Smt. Shahnaz to their home safely and drop them at their residence i.e. Chhatha Meel, Kamlabad, Muslim Nagar, Police Station Jankipuram, District Lucknow today itself.

With the aforesaid directions, the instant writ petition stands **allowed**.

No order as to the costs.

Order Date :- 3.9.2024

Saurabh