

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

H.C.P. NO. 3177 OF 2015

AND

CRL. M.P. NO. 90 OF 2016

Child Welfare Committee
rep. by its Members
Sheela Charles & Aspe
300, Purasawalkkam High Road
Kellys, Chennai 600 010. ... Petitioner

- Vs -

1. The Commissioner of Police
Chennai City Police
Vepery, Chennai 600 007.
2. The Inspector of Police
K-5, Peravallur Police Station
Jawahar Nagar
Chennai 600 082.
3. CB-CID
Anti-Trafficking Cell
Chennai.
4. Madras Christian Council of
Social Service (MCCSS)
rep. by the Executive Secretary
Ms. R.Isabel
21, VI Main Road, Jawahar Nagar
Chennai 600 082.
5. Krishnaveni .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of habeas corpus directing the first and second respondents to produce the detinue victim minor girl child Jothi @ Puppy, aged about 15 years, presently under the illegal custody of the fifth respondent before this Court and restore her custody to the petitioner.

For Petitioner : Ms. Shaikh Mehrunisa

For Respondents: Mr. A.N.Thambidurai, APP for RR-1 & 2
Mr. G.Babu for R-4

ORDER

This petition has been filed by the petitioner for a direction to the first and second respondents to secure the detainee, minor Jothi @ Puppy, aged about 15 years, presently under the illegal custody of the fifth respondent, produce her before this Court and restore custody of the detainee to the petitioner.

2. Heard the learned counsel appearing for the petitioner, the learned Addl. Public Prosecutor appearing for respondents 1 and 2 and the learned counsel appearing for the fourth respondent.

3. In compliance with the series of orders passed by this Court, the detainee was produced before this Court on 22.12.2015. Thereafter, the matter was listed on 5.1.16. Pursuant to the orders passed by this Court on 5.1.2016, the detainee was produced before the medical team constituted by the Kasturba Gandhi Hospital for Women and Children and after necessary medical examination, on the advice of the Medical team constituted, MTP was done on the child/detinue, which is recorded in the affidavit filed by the members of the Child Welfare Committee dated 19.1.16. Now, it is informed that the child is recuperating and is lodged in the Kellys Home, Chennai. The Child Welfare Committee has also stated in para-14 of the affidavit as under:-

"14. The CWC has decided that the minor victim will henceforth be counselled only by the CWC or by any natural government counsellor whom the CWC will recommend. No NGOs will be permitted to counsel the child since it has come to light that different NGOs approach victims in the Govt. Girls Home, Kellys without the knowledge of the CWC and counsel them in different ways leaving the minors in a totally confused state."

4. Recording the above statement of the Child Welfare Committee, this Court directs the Superintendent of the Child Welfare Committee to give sufficient protection to the victim girl so that the evidence of victim girl is not tampered with in any manner so as to ensure proper conduct of the trial in S.C. No.37/2015. The CB-CID is also directed to keep the detainee/victim girl under surveillance to ensure that the investigation in the re-registered Crime No.1/2016 registered by the CB-CID, ATC (Old Crime No.601/2015, K-5, Peravallur Police

Station) proceeds in a fair manner and action taken in accordance with law.

5. Coming to the fact about the missing of the detainee from the Girls Home leading to the filing of this habeas corpus petition and the subsequent production of the detainee on 22.12.2015, on 5.1.16, this Court passed a detailed order in which this Court had directed Mr.Lalvena, IAS, Director, Department of Social Defence, to be present before this Court along with the other concerned officers to appraise this Court as to the steps that are being taken to fill up the vacancies in the Child Welfare Committees throughout the State.

6. In compliance with the above order, Mr.Lalvena, IAS, Director, Department of Social Defence, along with Mr.Raj Saravana Kumar, Joint Director and Mr.A.Alfred David, Field Officer belonging to the Department of Social Defence are present before the Court. Ms.Sheila Charles Mohan and Ms.Asphy Joyson, Members of the Child Welfare Committee, Ms.C.Thilagavathi, Superintendent of the Kellys Girls Home along with the respective counsel are present before this Court.

7. The Director of Social Defence produced before this Court photographs of the Government Childrens Boys Home, Royapuram and the Government Childrens Girls Home, Kellys, showing the condition and infrastructural facilities prevailing therein. This Court takes on record the same. This Court, however, directs the concerned authorities to address the Government for providing necessary funds so as to ensure that both the Homes are maintained in the best condition possible and all infrastructural state-of-the-art facilities are provided to the children lodged in those Homes. The Director, Department of Social Defence is also at liberty to prepare a master plan for putting up new Homes with better infrastructural facilities.

8. It is brought to the notice of this Court by the Director of Social Defence that the Juvenile Justice Act, 2015 has come into force w.e.f. 15.1.2016 and that steps are being taken in consonance with the amended Act for reconstituting the Child Welfare Committees. It is also informed that vide G.O. Ms. No.74, SW & NMP (SW8-1) Dept., dated 30.11.2015, the Government is taking steps to merge the Homes under the Social Welfare Department with the ones under the Social Defence Department. We also take on record the statement made by the Director that consequent to the new Act, all the Homes, both under the Social Welfare Department and Social Defence Department would come under one umbrella. Accordingly, we direct the Director, Department of Social Defence, to take necessary steps to see that the merger of the various Homes under both the departments is done at the earliest so as to ensure better administration of the Homes.

9. It is also informed by the Director of Social Defence that there exists certain administrative issues due to the introduction of the new Act, which have to be ironed out by the Government. It is further brought to the notice of this Court that the Government has been addressed for necessary direction as to how the Members of the Child Welfare Committees should be filled up in the light of the new Act. Accordingly, we direct the Government to implement G.O. Ms. No. 74, SW & NMP (SW8-1) Dept., dated 30.11.2015 so that the problem that is created by the dichotomy in the two departments is resolved and that the Child Welfare Committees are put in place at the earliest.

10. In the above circumstances, we direct the Director, Department of Social Defence to pursue the matter in all earnestness to its logical conclusion and ensure that Homes under both the departments are merged at the earliest and the Members to the Child Welfare Committees are appointed at the earliest so that vacuum that is already existing is cleared.

11. With the above observations and directions, this habeas corpus petition is closed. Consequently, connected miscellaneous petition is also closed.

12. Registry is directed to forward a copy of this order to the Chief Secretary to Government of Tamil Nadu, Secretary, SW & NMP Department and the Director, Department of Social Defence for necessary action.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

GLN

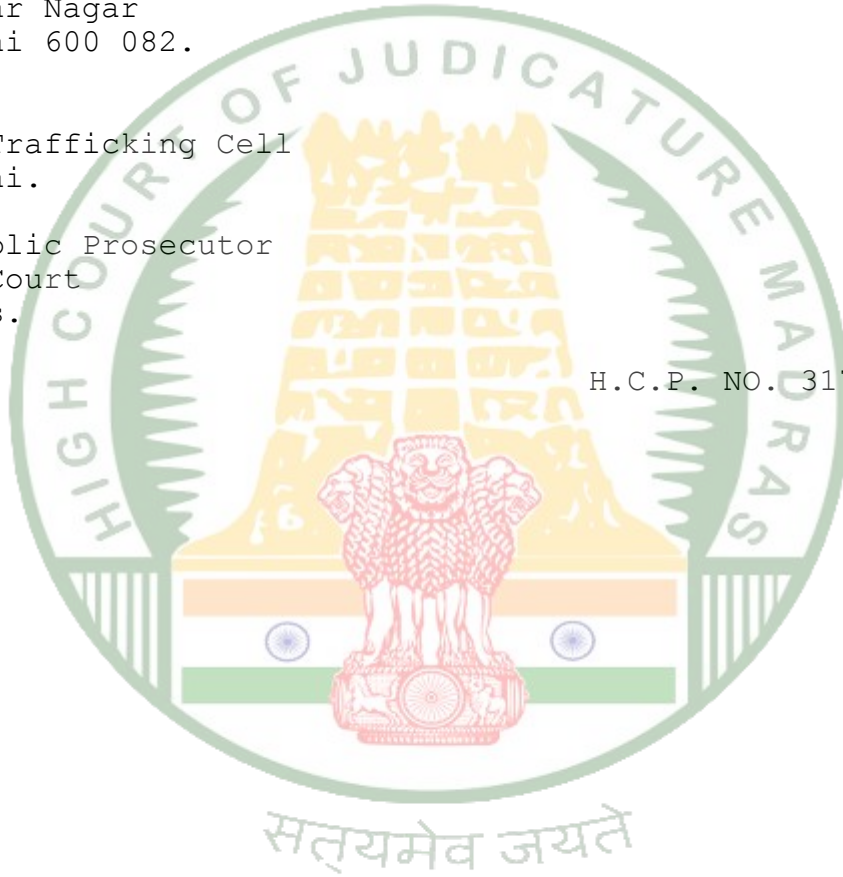
To

1. The Chief Secretary
Government of Tamil Nadu
Fort St. George
Chennai.
2. The Secretary to Government
SW & NMP Department
Government of Tamil Nadu
Fort St. George
Chennai.

3. The Director
Department of Social Defence
Government of Tamil Nadu
Fort St. George, Chennai.
4. The Commissioner of Police
Chennai City Police
Vepery, Chennai 600 007.
5. The Inspector of Police
K-5, Peravallur Police Station
Jawahar Nagar
Chennai 600 082.
6. CB-CID
Anti-Trafficking Cell
Chennai.
7. The Public Prosecutor
High Court
Madras.

H.C.P. NO. 3177 OF 2015

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