

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:28.02.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
H.C.P.No.230/2018

S.Jothi Loganathan

.. Petitioner

vs.

1.The District Collector
O/o.The District Collector
Kanchipuram, Kanchipuram District.

2.The Chairman
Child Welfare Committee
Chengalpet, Kanchipuram District.

3.The Superintendent
Annai Sathya Government Children's Home
Kanchipuram, Kanchipuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the respondents to produce the child Meenakshi Priyadharshini , C/o.Jothi Loganathan aged about 18 years before this Court and to set her at liberty.

For Petitioner : Mr.M.Ganesh
For R1 : Mr.M.Mohamed Riyaz, APP
For R2 : Mr.T.Mohan for
Ms.Sheik Mehrunisa

ORDER

(Order of the Court was made by C.T.SELVAM, J.)

Petitioner, caretaker of the detainee Meenakshi Priyadharshini, aged about 18 years, has filed the present petition to cause production of the detainee, who is said to be in the illegal custody of the 3rd respondent, before this Court and to set her at liberty.

2 Detenue Meenakshi Priaydharshini is present before us today. So also the petitioner.

3 We have heard learned counsel for the petitioner ; learned Additional Public Prosecutor appearing for the 1st respondent and Mr.T.Mohan, learned counsel appearing for the 2nd respondent.

4 Petitioner informs of having established a Trust under the name Sivasakthi Asram Trust in the year 1994 towards providing care for the welfare of marginalised children and destitutes. He has submitted that one R.Meenakshi, detainee herein, who had been abandoned at age 4, at the Kumbakonam Bus Stand, came into his care and he has treated her as also other children under his care with utter dedication and showered upon them, love and affection. While so, the District Protection Officer, Thanjavur took custody of the children at his Home with the aid of Police and Revenue Officials and under the instructions of the Child Welfare Committee, Thanjavur on 10.05.2017, on the ground that petitioner's Home was not registered under the provisions of the Juvenile Justice [Care and Protection of Children] Act, 2015. Pursuant to his obtaining necessary registration, the other children who had been taken out of the care of the petitioner, had been returned to his custody while R.Meenakshi, had not. Seeking her production and setting her at liberty as she has passed 18 years of age, present Habeas Corpus petition has been filed.

5 The matter has engaged the attention of this Court over several hearing dates eventually and as contended by learned counsel appearing for 2nd respondent, the Chairman, Child Welfare Committee, Chengalpet, the particulars of detainee who had studied at an Aided Primary School, V.V.Nagar, Palavanthangal, Chennai, had been gathered from the Headmaster of such school through the good office of the Public Prosecutor. Such communication dated 22.02.2018 informs that the date of birth of Meenakshi Priyadharshini had been recorded as 29.04.1997 in the School Record.

6 The position that detainee was taken out of the custody of the petitioner on 10.05.2017 is not in dispute. Thus, even on the date when she first was taken out of the custody of the petitioner, she had passed 18 years of age. Therefore, she could not have been dealt with under the provisions of the Juvenile Justice [Care and Protection of Children] Act, 2015, by anybody including the 2nd respondent.

7 We have interacted with detainee Meenakshi Priyadharshini and she expresses the wish to continue to be in the care of the petitioner who has grown her up from her very tender age. Even when asked if she would like to get in touch with the biological parents, if the same was possible, she states that having abandoned by them, she would not welcome any such measure and expresses the fear that they only would repeat the wrong done to her.

8 Given the above circumstances, this Court closes the present petition, recording the desire of detainee Meenakshi Priyadharshini to accompany the petitioner herein. The petitioner also affirms that he will continue to take good

care of detenue as he as done over the years.

9 By our order dated 15.12.2017, we have given the 2nd respondent a particular role to play. The requirement placed upon 2nd respondent under such order now does not survive and accordingly, order dated 15.12.2017 stand re-called.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP
To

- 1.The District Collector
O/o.The District Collector
Kanchipuram, Kanchipuram District.
- 2.The Chairman
Child Welfare Committee
Chengalpet, Kanchipuram District.
- 3.The Superintendent
Annai Sathya Government Children's Home
Kanchipuram, Kanchipuram District.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Ganesh, Advocate Sr.No.15141

RJ(CO)
sm:28.3.2018

H.C.P.No.230/2018

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