

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Amk

PUBLIC INTEREST LITIGATION NO. 115 OF 2014

High Court on its own Motion
on the report submitted by the
Registrar (Inspection-I), High Court,
Bombay

.. Petitioner

Vs.

The State of Maharashtra & Anr.

.. Respondents

WITH
NOTICE OF MOTION NO. 425 OF 2017
IN
PUBLIC INTEREST LITIGATION NO. 115 OF 2014

Children's Aid Society Employees Union

.. Applicant

In the matter between

High Court on its own Motion
on the report submitted by the
Registrar (Inspection-I), High Court,
Bombay

.. Petitioner

Vs.

The State of Maharashtra & Anr.

.. Respondents

WITH
PUBLIC INTEREST LITIGATION (STAMP) NO. 81 OF 2015

Kamal Jagdish Singh

.. Petitioner

Vs.

The Children's Aid Society & Ors.

.. Respondents

WITH
CONTEMPT PETITION (STAMP) NO. 5 OF 2018
IN
PUBLIC INTEREST LITIGATION (STAMP) NO. 81 OF 2015

Kamal Jagdish Singh	.. Petitioner
Vs.	
Devendra Fadnavis,	
President of	
The Children's Aid Society & Ors.	.. Respondents

WITH
SUO MOTU PUBLIC INTEREST LITIGATION NO. 3 OF 2015

High Court on its own Motion	
on the report/letter dated 4 th June,	
2016 submitted by the	
Principal Magistrate, City Juvenile	
Justice Board, Mumbai	.. Petitioner
Vs.	
The State of Maharashtra & Anr.	.. Respondents

Ms. P. H. Kantharia, Govt. Pleader a/w. Mr. Abhay Patki, AGP for the Respondent-State.
Ms. Gayatri Singh, Senior Advocate a/w. Mr. Ankit Kulkarni for Children Aid Society.
Ms. Radhika Samant i/b Mr. Pradeep Havnur for the Petitioner in PIL (L) No.81/15.

AND

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SUO MOTU PUBLIC INTEREST LITIGATION NO. 2 OF 2016

High Court on its own Motion	.. Petitioner
Vs.	
The State of Maharashtra & Anr.	.. Respondents

Mr. Mihir Desai, Senior Advocate-Amicus Curiae a/w. Mr. Chetan Mali.
Mr. Abhay Patki, AGP for the Respondent No.1-State.
Mr. D. P. Singh for the Union of India.

CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.

DATE : 22nd JULY, 2019.

P. C. :

1. Suo motu proceedings in public interest commenced pursuant to order dated 16.12.2014. The existing building to house the juveniles was dilapidated. It had to be demolished and new building had to be constructed. The period interregnum demolition of the dilapidated building till it was reconstructed required juveniles to be shifted to another Juvenile Home or Observation Home.
2. The male juveniles were shifted to David Sassoon Industrial School, Mahim and the female were shifted to Asha Sadan, Umerkhadi. Thereafter various orders have been passed to ensure finance being made available to the Public Works Department so that the new building could be completed. Hope it was expressed that this would be within a year as per order dated 17.03.2015.
3. Other above noted litigations got added. All raise same issues concerning children in children homes.
4. Today, over five years have lapsed and the various orders show that the Court has virtually taken over the role of a Supervisor to ensure that the new building is constructed and the juveniles brought back to the new building.
5. The orders passed show that there was a shift in the principal object for which the Public Interest Litigation was suo motu commenced. The shift was with respect to the condition of the various

Children Homes in the State; facilities such as toilets, food etc. were prima facie opined to need upgradation. The issue concerning mentally challenged boys and girls also attracted the attention of the Court.

6. In our opinion, in a Public Interest Litigation, the task of the Court is to ensure that the committees constituted under the Statute discharge their duties and ensure that the State makes available the necessary funds so that the Children Homes can not only be established but adequate funds made available so that these Homes are managed properly.

7. In the State of Maharashtra, the Child Welfare Committee has been constituted as per the mandate of Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015. As per the mandate of the said Section, at each district in the State of Maharashtra, the Child Welfare Committees have been constituted.

8. As per Sub-section 8 of Section 27 of the Act, the District Magistrate has to conduct a quarterly review of the functioning of the committees.

9. The power of the Child Welfare Committees is wide and includes the power to issue directions to ensure proper care, protection, rehabilitation or restoration of the children in need of care and protection. It is the duty of the Committee under Clause (viii) of Section 30 to conduct at least two inspection visits per month of residential facilities of children in need of care and protection. The Committees have the power to issue directions for improvement in quality of service to the District Child Protection Unit and the State Government. As per Section 54 the State or District Inspection

Committees have to inspect institutions housing children even if they are not registered under the Act and the reports have to be submitted to the District Child Protection Unit or the State Government.

10. It needs to highlight that as per Sub-section 10 of Section 27, the District Magistrate is the grievances redressal authority and thus, if there is an issue concerning the management of Children Homes, applications can be filed before the District Magistrate. Thus, the Child Welfare Committees can move applications before the District Magistrate.

11. Thus, we dispose of the Public Interest Litigations, Notice of Motion and Contempt Petition directing the District Magistrate to conduct a quarterly review of the functioning of the Child Welfare Committees which is the duty of the District Magistrate under Sub-Section 8 of Section 27 of the Act. The District Magistrate shall ensure that the Child Welfare Committees function as per law and discharge their duties and especially the duty under Clause (viii) of Section 30 of the Act. The District Magistrate shall submit six monthly report to the Chairperson of the District Level Legal Services Committee who in turn would submit the report to the Registrar General of this Court; to be placed before the High Court Legal Services Committee which may issue such directions that are warranted.

[N. M. JAMDAR, J.]

[CHIEF JUSTICE]