



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Thirteenth day of June Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice K.RAVICHANDRABAABU
and
The Hon`ble Mr Justice SENTHILKUMAR RAMAMOORTHY

WMP(MD) No.9183 of 2019

IN

WP(MD) No.8122 of 2017

- 1 JULIA JACOB
- 2 EUNICE
- 3 ESTHER
- 4 BEULA
- 5 ZIPPORAH
- 6 SUSANNA
- 7 REBECCA
- 8 SARA
- 9 TABEA
- 10 HENA
- 11 MICHELLE
- 12 DEBORATH
- 13 RUTH
- 14 ANGEL
- 15 DAMARIS
- 16 GLORY PHOEBE
- 17 TRYPHOSA
- 18 RAHEL
- 19 NAGOMI
- 20 PRISCILLA
- 21 ELIZABETH
- 22 LEYAL
- 23 HELENA
- 24 VICTORIA
- 25 JOY
- 26 MARYANN
- 27 MAGDALENA
- 28 MIZPA JACOB
- 29 GNANAOLI.G
- 30 DOROTHY
- 31 VERONICA
- 32 FLORANCE
- 33 FRANCIS
- 34 GLADYS
- 35 EVELYN
- 36 THERESA
- 37 BERENIKA



38 OLIVIA
39 JOANA
40 CHRISTINA
41 GRACE G
42 DAVANIA
43 SYLVIE
44 NICOLA
45 JOSEPHINE
46 CORINNA
47 PAMILA
48 VIRGINIA
49 RAFFAELA
50 SHARON
51 LOURA
52 CATHERINE
53 VIVIAN
54 LINDA
55 JANETT
56 MERCY
57 CAROLYN
58 PHYLLIS
59 DOMINIQUE
60 JASMINE
61 JACQUELINE
62 ANNICA G,
63 CLARIE
64 PAULINE
65 ALISON
66 HARRIET
67 SALOME
68 TAMARA
69 CELINE
70 BERYL
71 ALICE
72 SHEEBA
73 QUELUA
74 CHRYSTAL
75 ULRICA
76 MELISSA
77 SAMANTHA
78 MERIAH
79 KIMBERLY
80 FIONA
81 ASHLEY
82 LYNN
83 ESTELLE
84 CHIARA
85 LARISSA
86 LOREEN

... PETITIONERS

Vs



1 THE DIRECTOR OF SOCIAL WELFARE,
DEPARTMENT OF SOCIAL WELFARE,
CHENNAI.

2 THE DISTRICT COLLECTOR,
COLLECTORATE OFFICE,
TRICHY DISTRICT.

3 THE DISTRICT SOCIAL WELFARE OFFICER,
COLLECTORATE BUILDING, TRICHY.

4 THE CHILD WELFARE COMMITTEE
REP. BY ITS CHAIRMAN, HAVING OFFICE AT
OBSERVATION HOME AT BABU ROAD (EAST BOULEVAR ROAD),
TRICHY.

5 THE SUPERINTENDENT OF POLICE,
TRICHY DISTRICT, TRICHY.

6. THE DIRECTOR,
CENTRAL BUREAU OF INVESTIGATION (CBI),
ANTI HUMAN TRAFFICKING UNIT,
PLOT NO.5-B, 6th FLOOR,
CAO COMPLEX, LODHI ROAD,
NEW DELHI- 110 003.

7 CHANGE INIDA,
REP.BY ITS DIRECTOR A.NARAYANAN
NO.7C, DAFFODILL, CEEBROS GARDENS, AROCTO ROAD,
VIRUGAMBAKKAM, CHENNAI-92.

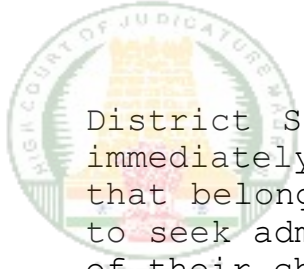
... RESPONDENTS

R7 IS IMPEADED VIDE COURT ORDER DT.03.06.2019 IN WMP(MD)NO.2553/18

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grand an order of Interim Direction, directing the 3rd respondent to immediately return all the education certificates and other records that belong to the petitioners back to them in order to enable them to seek admission to various further courses at various Institutions of their choice or employment pending disposal of the above WP and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.ISAAC MOHANLAL, Senior Counsel for M/S.M.SIDDHARTHAN, Advocate for the petitioner and of Mr.K.CHELLAPANDIAN, Additional Advocate General for R1 to R5 and Mr.NAGENDRAN, Special Public Prosecutor for R6, the court made the following order:-

(Order of the Court was made by **K.RAVICHANDRABAABU, J.**)



District Social Welfare Officer, Collectorate building, Trichy to immediately return all the education certificates and other records that belong to the petitioners back to them in order to enable them to seek admission to various further courses at various institutions of their choice or employment, pending disposal of the Writ petition.

2.The main Writ petition was filed for Mandamus, directing the respondents to set the petitioners free forthwith from the control and custody of the respondents at Mose Ministries Home, Trichy.

3.Heard Mr.Isaac Mohanlal, learned Senior Counsel for the petitioners and Mr.Chellapandian, learned Additional Advocate General for the respondents.

4.In this Writ petition an interim order was passed on 11.12.2017, wherein and whereby, the following directions were issued:

"1.The respondents are directed to shift the petitioners safely with adequate protection from the Mose Ministries to some other Home recognised by the Government or suitable place which has adequate infrastructure / facilities and give periodical counselling for one month to the petitioners with the assistance of competent persons / counsellors / experts. Further, explain their rights and liberty, entitled to them under Section 47 of the Juvenile Justice Act.

2.After completion of one month period and after giving appropriate counselling, the District Social Welfare Officer is directed to record individual statement from the petitioners and to file an interim report.

3.The respondents should ensure proper safety, food, accommodation and other facilities are adequately provided to the petitioners during the said period.

4.During the said period, the 5th respondent should give adequate police protection to the Home in which the petitioners are shifted temporarily.

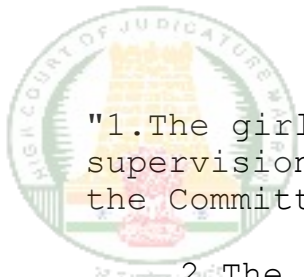
5.Further no male officers / staff should enter into the premises in which the petitioners are temporarily kept.

6.If any deviation is found, the same will be viewed seriously and the officers concerned will be dealt with in accordance with law.

7.The CBI / 6th respondent is also directed to file a final report as expeditiously as possible.

8.Registry is directed to list the matter after filing an interim report by the respondents, on 05.02.2018."

5.The said order was put to challenge before the Hon'ble Apex Court by the petitioners in Special Leave to Appeal (C) No.1711 of 2018. The said Special Leave petition was disposed by the Apex Court on 15.11.2018 by passing the following order:



"1.The girls shall continue to reside at the Mose Ministry under the supervision of the staff of the District Social Welfare Officer and the Committee appointed by the High Court;

2.The Committee and the District Social Welfare Officer shall be responsible for the well being of the girls;

3.The girls shall not directly or indirectly contact Father Gideon Jacob. If they are found to have contacted him or allowed him to contact them, they shall be shifted to any other Government Home at the discretion of the District Social Welfare Officer and the Committee;

4.The academic certificates which have been earned by these girls shall be returned to them to enable them to seek admission in educational courses and / or employment;

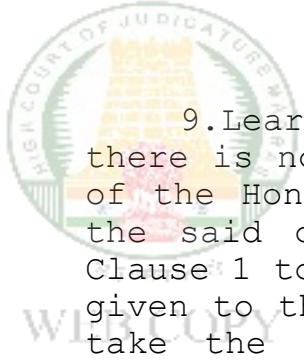
5.The girls of marriageable age, shall be entitled to get married after giving due notice to the District Social Welfare Officer about the details of the proposed marriage, if they so desire; and

6.Every girl shall be entitled to go back to her parents, if she so desires, and if the parents have consented."

6.After the said order was passed, the petitioners made a request before the District Collector, Trichy on 02.02.2019 for return of their certificates. As the said request has not been considered, the present interim petition is filed with the relief as stated supra.

7.Learned Senior Counsel for the petitioners contended that when the Hon'ble Apex Court has specifically directed that the academic certificates, which have been earned by the petitioners, shall be returned to them to enable them to seek admission in education courses or employment, the respondents are not justified in retaining the certificates, despite a request was made to that effect by these petitioners on 02.02.2019. He further submitted that not returning their certificates would in fact amount to contempt of the order passed by the Hon'ble Apex Court and however, the petitioners, instead of resorting to such course of action, have approached this Court and filed this miscellaneous petition seeking for compliance of the above said order of the Hon'ble Apex Court.

8.A counter affidavit is filed by the third respondent, wherein, it is stated that all the directions issued by the Hon'ble Apex Court have to be read conjointly and when the Committee decided to enroll the inmates in job oriented higher study courses in Government run institutions, neither the names of inmates were mentioned nor the courses to be pursued by them as well as the sponsors, who undertake the responsibility of bearing the expenses, were indicated. Therefore, it is contended that it is for the petitioners to furnish those informations as the District Social Welfare Officer as well as the Committee are ready to give all the certificates and testimonials to the inmates, if proper requests are made with required particulars.



9. Learned Additional Advocate General submitted that though there is no difficulty for the respondents to comply with the order of the Hon'ble Apex Court, this Court has to see that Clause 4 of the said order cannot be read in isolation without reference to Clause 1 to 3. Therefore, he contended that if the certificates are given to the petitioners directly without there being any person to take the responsibility for their well being as well as their education, the respondents will be in difficult situation in future as and when any problem arises in respect of these petitioners. Therefore, the learned Additional Advocate General submitted that once those particulars as sought for by the Committee and the District Social Welfare Officer, are provided the certificates would be returned to the petitioners.

10. We have given our careful consideration to the submissions made by both sides and perused the materials placed before us.

11. At present we are called upon to decide only the present interim petition seeking for return of the education certificates and other records that belong to the petitioners back to them.

12. We have already pointed out that the Hon'ble Apex Court by its order dated 15.11.2018 has in clear and categorical terms directed the return of the academic certificates to the petitioners so as to enable them to seek admission in education courses or employment. When such a specific and clear direction has been issued by the Hon'ble Apex Court at Clause 4 of its order, in our considered view, the same does not require to be clarified as intended by the respondents and it is also not the role of this Court to do so, since such direction, which is in clear and categorical terms needs to be complied with by the respondents without imposing any precondition. It is to be seen that the Hon'ble Apex Court has not stipulated any condition as projected by the respondents before this Court for return of such certificates. When that being the factual position, we don't find any justification on the part of the respondents in stipulating certain conditions as referred to in their counter for return of the certificates. Therefore, we find that the action of the respondents in not returning the certificates so far even though the Hon'ble Apex Court has passed the order as early as on 15.11.2018 followed by the request made by the petitioners on 02.02.2019, is in violation of the said order. Thus, this Miscellaneous petition is disposed of by directing the respondents to comply with said the order passed by the Hon'ble Apex Court, in its strict sense forthwith.

sd/-

13/06/2019

/ TRUE COPY /



TO

1 THE DIRECTOR OF SOCIAL WELFARE,
DEPARTMENT OF SOCIAL WELFARE,
CHENNAI.

2 THE DISTRICT COLLECTOR,
COLLECTORATE OFFICE,
TRICHY DISTRICT.

3 THE DISTRICT SOCIAL WELFARE OFFICER,
COLLECTORATE BUILDING,
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4 THE CHAIRMAN,
THE CHILD WELFARE COMMITTEE
HAVING OFFICE AT
OBSERVATION HOME AT BABU ROAD (EAST BOULEWAR ROAD),
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CAO COMPLEX, LODHI ROAD,
NEW DELHI- 110 003.

+1. C.C. to M/S.M.SIDDHARTHAN Advocate SR.No.9616
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.68850

ORDER
IN
WMP (MD) No.9183 of 2019
IN
WP (MD) No.8122 of 2017
Date :13/06/2019

MS/VR/SAR-2/19.06.2019/7P.9C