

**HON'BLE THE ACTING CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
HON'BLE DR. JUSTICE SHAMEEM AKTHER**

WRIT PETITION No. 10259 of 2019

ORDER: *(per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)*

Mr. Syed Sajjad Basha, the petitioner, has filed this Habeas Corpus petition *inter alia* on the ground that despite the order dated 27.12.2018 passed by the learned VI Additional District Judge, Medak at Siddipet, whereby the learned Court had granted the custody of his minor daughter, Nishath Fathima, to him during the summer vacation, and had directed the parties to decide the time of visit and duration of the visit, the respondent Nos.4 and 5 are refusing to give the custody of his daughter to him. Thus, they are illegally detaining his daughter.

By order dated 08.05.2019, this Court had directed the respondent Nos.4 and 5 to produce the child before this Court. Consequently, Nishath Fathima has been produced before this Court.

The learned counsel for the petitioner submits that the petitioner had filed a petition under Sections 10 and 25 of the Guardians and Wards Act, 1890, before the learned Court. Although the said petition was dismissed by the learned Court by order dated 27.12.2018, the learned Court directed that on every 1st, 3rd and 4th Saturdays of the month, the petitioner can visit his

daughter at the school, provided it is convenient both to the petitioner and to the child. Moreover, the learned Court directed that the petitioner can take his daughter with him during the holidays to spend time both with the petitioner, and with his family members. However, the time of visit and the duration of the visit shall be agreed to by both the parties. Despite the clear directions of the learned Court, the respondent Nos.4 and 5 are refusing to agree to any time visit, or duration of the visit, by the petitioner during the summer vacations. Meanwhile, using dilatory tactics, they are not willing to handover the custody of the child to the petitioner. Hence, the custody of the child with the respondent Nos.4 and 5 is an illegal one.

On the other hand, the learned counsel for the respondent Nos.4 and 5 submits that the petitioner has not come forward to decide the time and duration of the visit during the summer vacation. Moreover, as the child is not willing to eat her food without the presence of the respondent Nos.4 and 5, the handing over of the custody of the child may not be in the interest of the child. Furthermore, since the summer vacation is for one month, as the summer vacation will end on 09.06.2019, the learned counsel suggests that for the fifteen days, the custody of the child should be with the grandparents, while for another fifteen days, the custody of the child could be with the petitioner.

However, he suggests that for the first fifteen days, the custody of the child should be with the respondent Nos.4 and 5, the grandparents. Therefore, the custody of the child should not be handed over to the petitioner presently.

Heard the learned counsel for the parties.

The petitioner should have the visitation right and the custody of the child for sometime. After all, it is imperative that an emotional bond should develop between the petitioner, the father, and the daughter. The daughter cannot be deprived of the company of a father. For, in case the child does not have the company of the father, he or she will be psychologically affected by a sense of insecurity, and sense of loss. Therefore, it is essential that for 50% of the summer vacation, the custody of the child should be handed over to the father, and for the remaining 50%, the custody should be restored to the respondent Nos.4 and 5, who are the maternal grandparents of the child.

According to the petitioner, he has sufficient number of people, women and children, who can look after the welfare of the child. Moreover, children are highly adaptable in any environment, in which, they are placed.

Therefore, in the interests of justice, this Court directs the respondent Nos.4 and 5 to handover the custody of the child to the petitioner for fifteen (15) days beginning from today itself.

The custody of the child shall be with the petitioner till 24.05.2019. The petitioner is directed to handover the custody of the child on 24.05.2019 by 7:00 p.m. Thereafter, the custody of the child shall continue for a further period of fifteen (15) days with the respondent Nos.4 and 5. Once the school reopens on 09.06.2019, the visitation rights, as granted by the learned Court, shall be followed by the parties.

With these directions, this petition stands disposed of.

Pending miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, ACJ

Date: 09.05.2019

DR. SHAMEEM AKTHER, J

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