

**129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-880-2019

Date of decision-04.10.2019

Gagandeep Kaur

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Aminder Singh, Advocate for the petitioner.

MANOJ BAJAJ, J. (Oral)

Gagandeep Kaur-petitioner has filed this petition under Article 226 of Constitution of India for issuance of a writ in the nature of habeas corpus for custody of her minor child, namely, Jaskirat Singh, aged one year and nine months (detenue) who is in custody of Navdeep Singh (father of the child)-respondent No.3.

During the course of argument, it is not disputed by learned counsel for the petitioner that during the Panchayat meeting, the child was handed over by petitioner to his father and since then he is residing with him. He contends that except for the writ jurisdiction, there is no remedy available in law and has relied upon the judgment passed by this Court in CRWP-68-2017, delivered in “**Kirandep Kaur Vs. State of Punjab and others**”

After hearing learned counsel for the petitioner, this Court does not find any merit in the petition as the child was handed over by the mother

herself to the father, therefore, the child cannot be construed to be in illegal detention. The petition is not maintainable particularly when the statutory remedy to seek custody of the child is available under the Guardian and Wards Act, 1890. The petition is based on disputed facts and the judgment relied upon may not be applicable in the facts and circumstances of the present case as in the cited case, the petition for custody of the child was pending before the competent Court of jurisdiction and the custody was taken by the husband forcibly.

In view of the above, no ground is made out to exercise writ jurisdiction under Article 226 Constitution of India. However, it shall be open for the petitioner to avail the alternative remedy.

Dismissed.

(MANOJ BAJAJ)
JUDGE

04.10.2019
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No