

15.11.2021
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WPA (H) No.58 of 2021

Sk. Nazir Ali.

Vs.

State of West Bengal & Ors.

Mr. Amitabha Ghosh for the petitioner.

Mr. Sabir Ahmed,
Mr. Simanta Kabir ... for the State.

This habeas corpus petition has been filed by the father of the alleged detainee stating his 14 years old daughter is in illegal detention in a child welfare home.

The Learned counsel for the petitioner submitted that based upon some fictitious complaint, the Child Welfare Officer has detained the petitioner's daughter who is a school going child and the petitioner, as a parent, has not been able to meet the child and he does not know as to what is the reason for keeping the child in the child welfare home. Therefore, it is prayed that this Court may direct the authorities to produce the child before this Court and to enquire into the matter and set her at liberty.

The Learned counsel appearing for the respondents / State has produced the written instructions given by the Sub-Inspector of Police, Chanditala Police

Station, Hooghly Rural Police District dated 11th November, 2021 along with all annexures from which it is seen that the custody of the child is in a home called “Child Line”. On a complaint received by the Child Welfare Committee that a minor child is likely to be given marriage without consent, the proceedings are pending under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the “said Act of 2015”). In the light of the said fact, we find that there is no illegal detention of the minor child of the petitioner for us to issue a writ of habeas corpus. At the same time, we are also conscious of the fact that health and well-being of the child should be adequately protected in the home.

Therefore, we direct the respondent authorities to ensure that the child is given healthy, nutritious food, clean clothes and safe atmosphere for stay. Since the child is a school going student and as of now, the schools are functioning in online mode, if such facility is available in the child welfare home, the same shall be extended to the child. That apart, the petitioner and his wife namely the parents of the child may be permitted to meet the child subject of course, to the child consenting and willing to meet the parents. This consent shall be obtained in an appropriate form in consonance with the spirit of the provisions of the said Act of 2015.

With the above observations, the habeas corpus petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)