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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

CORAM:

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.10128 OF 2018

Karunai Children's Home,
Represented by its Director
G.George Mullar,
Grey Nagar and Post,
Vijayamangalam (Via),
Erode District 638 056.

...Petitioner

Vs

1. The Director of Social Welfare,
   Directorate of Social Welfare,
   Old Engineering College Complex,
   Chepauk, Chennai 600 005.

2. The District Collector,
   Erode District, Erode.

3. The District Social Welfare Officer,
   Erode District,
   Erode.

4. The District Children Protection Officer,
   Social Protection Department,
   Erode.

...Respondents

Prayer:
Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 4th respondent to lift the ban imposed on the petitioner's home vide order No.3 of 12 dated 04.10.2012 by the 4th respondent and again hand over the children already taken, to the custody of the petitioner's home based on the petitioner's appeal petition, dated 22.09.2017 made to the 4th respondent.

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For Petitioner : Mr.K.Kannan

For R1 to R3 : Mr.K.M.D.Muhilan
Government Advocate

For R4 : Mr.V.Jayaprakash Narayanan

O R D E R

This Writ Petition has been filed, seeking for a mandamus on the fourth respondent to lift the ban imposed by the fourth respondent/District Children Protection Officer, on the petitioner's Karunai Childrens Home, vide order No.3 of 12 dated 04.10.2012 and to handover the children to the custody of the petitioner's home based on the petitioner's Appeal Petition, dated 22.09.2017, made to the fourth respondent.

2. Mr.K.Kannan, the learned counsel appearing for the submits that the petitioner is a Managing Trustee of a Trust, named 'In God, We Trust'. The said Trust established a Home, under the name and style 'Karunai Childrens Home', (viz., the petitioner herein) for the welfare of the children, who are abandoned in the Society and the said Home has been registered by the first respondent, vide Registration No.280 of 2003. Whileso, a criminal case was registered against one John, who is the warden of the petitioner-Home, as he is alleged to have sexually abused the children in home, pursuant to which, the fourth respondent imposed ban on the petitioner-Home, vide order, dated 04.10.2012, and took the children into their custody.

2.1 According to the learned counsel for the petitioner, though initially, the said Warden was convicted by the trial Court, subsequently, he was acquitted by the Appellate Court. Therefore, the petitioner made an appeal Petition, dated 22.09.2017, to the fourth respondent to lift the ban and also to hand over the children taken from the petitioner's home. Since the Appeal petition was not disposed of, this Writ Petition came to be filed, seeking for the above stated relief.

3. Mr.K.M.D.Muhilan, the learned Government Advocate appearing for the respondents 1 to 3 submits that, though it is the contention of the petitioner that, initially, the warden was convicted by the trail Court, subsequently, he was acquitted by the appellate Court, that cannot be a ground for the petitioner-Home to permit them to run the Home, for the reason that, only due to improper management of the petitioner-Home, the incident

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occurred, and that, if the petitioner is allowed to run home, engaging this type of persons, then, these kind of incidents will be recurring and therefore, the petitioner's Appeal Petition was not considered. Hence, the learned Government Advocate submits that the Writ Petition is liable to be dismissed.

4. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents 1 to 3, the learned counsel for the fourth respondent and perused the materials available on record.

5. It is true that a criminal offence was committed by the Warden of the petitioner-Home. As rightly pointed out by the learned Government Advocate for the respondents 1 to 3, only to improper management of the petitioner-Home, this incident had occurred and therefore, entire Institution is responsible for the same. It is not only the warden, who has to be blamed, but, the entire Institution should be blamed.

5.1 The petitioner is not running a hotel, or restaurant, where, such an incident is common, but, the petitioner is running a Children Home, therefore, the petitioner has to be cautious in engaging employees under them. Here, in this case, if the Warden engaged by the petitioner's Home had indulged in these sort of heinous activities, then, imagine, what, would be plight of the children, who were abandoned children and left under the care of the Insitution, as it would amount to fence eating the crops. Though it is the contention of the petitioner that the Warden, though intially got convicted, subsequently, he was acquitted, that cannot be a ground for the petitioner to seek for grant of permission to run the Home again and wanted their children back to run the home. Though the petitioner has given a statement, solmenly affirming that these kind of incidents would not happen in future, offence of this nature cannot be viewed leniently. Hence, I do not find any merit in the Writ Petition.

6. Accordingly this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

jd/sd

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To

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   Chennai 600 005.

2. The District Collector,
   Erode District, Erode.

3. The District Social Welfare Officer,
   Erode District, Erode.

4. The District Children Protection Officer,
   Social Protection Department,
   Erode.

+1cc to M/s.M.Sarfudeen Ali Ahamed, Advocate, S.R.No.59912

+1cc to the Government Pleader, S.R.No.60047

W.P.No.10128 of 2018

KSM(CO)
RLP(09/12/2021)

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