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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.NO. 14272 OF 2019

Minor Kanika Issac
rep. by her mother and natural guardian
Tmt. Pushpa Nelson
No.17/18, Aiyappa Apartments
Pushpa Nagar Main Road
Nungambakkam
Chennai - 600 034

.. Petitioner

Versus

1. National Commission for Protection of Child Rights
Rep., by its Registrar
Government of India
II Floor
Chanderlok Building
36, Janpath
New Delhi - 110 001
2. Tamil Nadu Commission for Protection of
Child Rights
Kilpauk, Chennai - 600 010
Rep., by its Chairperson
3. Andaman & Nicobar Islands Commission
for Protection of Child Rights
Twin Nicobari Cottage
Vikas Bhawan
Aniidco
Port Blair - 744 103
Rep by its Chairperson
4. Nelson Issac
Junior Engineer Zila Parishad
C/o. Executive Officer
Panchayat Samiti
Ferrargunj Port Blair
Andaman & Nicobar Islands
Pin 744 206

.. Respondents



Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to take appropriate action against the 4th respondent as provided u/s. 15 of the Commission for Protection of Child Rights Act, 2005 for not making financial assistance to the petitioner in order to fulfil all her needs and thereby safeguard her rights.

For Petitioner : Mr. S. Doraisamy

For Respondents : Mr. J. Madanagopal Rao
Senior Panel Counsel for R1&R3

Mr. Stalin Abhimanyu
Government Counsel for R2

Mr. Anandraja for R4

O R D E R

The present Writ Petition has been filed for issuance of Writ of Mandamus to direct the respondents 1 and 2 to take appropriate action against the 4th respondent as provided under section 15 of the Commission for Protection of Child Rights Act, 2005.

2. According to the petitioner, her mother got married to the fourth respondent on 21.08.2000 and she was born out of that wedlock. It is stated that the fourth respondent, the petitioner's father is working as Junior Engineer Zilla Parishad, Panchayath Samithi, Ferrargunj Port Blair, Andaman and Nicobar Islands. However, owing to unbearable torture and harassment of the fourth respondent, her mother along with the petitioner returned to Chennai and admitted her at a school in Chennai. The petitioner's mother also filed a Divorce Petition before the Family Court at Port Blair in Matrimonial Suit No. 242 of 2017 and an order was passed directing the fourth respondent herein to pay Rs.20,000/- per month for her and her mother. Though the fourth respondent paid the monthly maintenance for few months, thereafter, he failed to comply with the order of the Family Court. Therefore, her mother filed an application in Misc.Case No. 46 of 2017 for enhancement of monthly maintenance and the same was decreed exparte on 14.06.2018. Pursuant to the same, she submitted an application on 03.05.2018 to the first respondent requesting to direct the fourth respondent to pay the monthly maintenance. The said application was forwarded by the first respondent to the second respondent for further action. Upon receipt of the same, the second respondent conducted an enquiry and passed an order dated 12.11.2018, directing the fourth respondent to pay monthly



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maintenance of Rs.35,000/- per month to the petitioner. However, the fourth respondent did not comply with the order of the second respondent. Therefore, the petitioner submitted a representation to the first respondent on 20.04.2019 seeking to direct the second respondent to take appropriate action against the fourth respondent under section 15 of the Commission for Protection of Child Rights Act, 2005 and the same is pending without any consideration, till date. Aggrieved against such inaction, the petitioner has come up with this Writ Petition.

3. The learned counsel for the petitioner submitted that despite the order of the second respondent dated 12.11.2018, the fourth respondent did not pay any amount to the petitioner to fulfil her basic needs and safeguard her rights and hence, appropriate direction may be issued to the respondent concerned to take action under the provisions of the Commission for Protection of Child Rights Act, 2005.

4. On the other hand, the learned counsel for the fourth respondent submitted that the fourth respondent was regularly paying the monthly maintenance to the petitioner for few months and thereafter due to some unavoidable circumstances, he was unable to pay the same. The learned counsel further submitted that the fourth respondent would pay the monthly maintenance to the petitioner, within a time frame to be stipulated by this court.

5. Mr. Madanagopala Rao, learned Senior Panel Counsel fairly submitted that if the fourth respondent fails to pay the monthly maintenance to the petitioner, appropriate action will be initiated against the fourth respondent under section 15 of the Commission for Protection of Child Rights Act, 2005.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this court directs the fourth respondent to pay the arrears of maintenance as ordered by the second respondent, within a period of three weeks from the date of receipt of a copy of this order and also continue to pay the monthly maintenance on or before 5th of every English calendar month. If the fourth respondent fails to comply with the said direction, the respondents 1 and 2 shall initiate action under section 15 of the Commission for Protection of Child Rights Act, 2005. Consequently, the respondents shall also initiate garnishee proceedings against the Executive Officer, Panchayath Samiti, Ferrargunj Port Blair, Andaman & Nicobar Islands for recovery of the amount.



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7. With the aforesaid directions, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. The Registrar
National Commission for Protection of Child Rights
Government of India
II Floor, Chanderlok Building
36, Janpath
New Delhi - 110 001
2. The Chairperson
Tamil Nadu Commission for Protection of
Child Rights
Kilpauk, Chennai - 600 010
3. The Chairperson
Andaman & Nicobar Islands Commission
for Protection of Child Rights
Twin Nicobari Cottage
Vikas Bhawan, Aniido
Port Blair - 744 103

+1cc to Mr. S. Doraisamy, Advocate, S.R.No.57237

WP No. 14272 of 2019

BR(CO)
PM/29/11/2021