



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2021

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.9848 of 2021

and

WMP (MD)Nos.7579 to 7581 of 2021

T.Subha

... Petitioner

vs.

The Commandant,
TN Special Police IX Battalion,
Manimuthar, Tirunelveli District.

... Respondent

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the impugned memo in Na.Ka.No.D2/ViSu 3236/2021 dated 22.04.2021 on the file of the respondent and quash the same and further directing the respondent to grant the petitioner her child adoption leave of 270 days to look after her child C.S.Bavish in accordance to the G.O.Ms.No.2, Department of Social Welfare and Nutritious Meal Programme dated 05.01.2018.

For Petitioner : Mr.K.Prabhu

For Respondent : Mr.P.Thilak Kumar

Counsel for Government of Tamil Nadu

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned memo in Na.Ka.No.D2/ViSu 3236/2021 dated 22.04.2021 on the file of the respondent and quash the same and further directing the respondent to grant the petitioner child adoption leave of 270 days to look after her child namely, C.S.Bavish in accordance with G.O.Ms.No.2, Department of Social Welfare and Nutritious Meal Programme dated 05.01.2018.

3.The learned counsel for the petitioner would state that the petitioner is working as Havildar in the respondent department. She was married on 27.01.2008. She was not blessed with a child and therefore, she along with her husband mutually agreed to adopt a



child. Accordingly, they registered themselves with the Central Adoption Resource Authority (CARA), a statutory body of the Government of India and adopted a child by name, C.S.Bavish from Snehaniketan Founding Home, a child care institution registered under the Juvenile Justice Act 2015. He would further state that as per the Adoption Regulations, 2017, for completion of the entire process of adoption, it is necessary that an application jointly along with the specialised adoption agency has to be filed before the court concerned along with the relevant particulars for obtaining adoption order. Accordingly, the petitioner and her husband filed an application along with the above agency namely, Snehaniketan Founding Home, before the Family Court, Kannur, on 27.04.2021. In view of the pandemic lockdown, the said application is not yet numbered and not taken on file. Being a Havildar the petitioner has duty round the clock and therefore, she is unable to take care of her adopted child aged 5 months. Hence, she made a representation dated 19.04.2021 seeking child adoption leave of 270 days in accordance with G.O.Ms.No.2, dated 05.01.2018 and the same was rejected by the respondent by impugned memo dated 22.04.2021 stating that there was no registration number for the adoption agency, from where, the child is adopted, furnished and the petitioner did not attach the adoption order from the Court. Hence, this writ petition.

4.The learned Government Counsel appearing for the respondent would state that since the petitioner did not provide the registration number of the agency from where, she adopted the child and did not attach the court order for adoption, the respondent has rightly passed the impugned order which does not require interference by this Court.

5.Heard the learned counsel for the petitioner as well as the respondent.

6.Admittedly, the adopted child is at the hands of the petitioner. The petitioner would state that she had adopted the child from the agency recognised by the Government and filed an application along with the agency namely, Snehaniketan Founding Home, before the Family Court, Kannur, on 27.04.2021 for getting adoption order, but in view of the pandemic lockdown, the said application is not yet numbered and not taken on file. The impugned rejection for child adoption leave is on two fold. One is that there is no registration number of the agency furnished and the other is no court order is produced. At page 1 of the typed set of papers, the petitioner has enclosed the registration certificate of the above agency namely, Snehaniketan Founding Home from where she adopted the child and the petitioner has filed an application before the Family Court for getting adoption order in accordance with the relevant provisions under Adoption Regulations 2017, but due to lockdown, it is not yet numbered and taken on file. Admittedly, the



the petitioner and therefore, as per G.O.Ms.No.2, dated 05.01.2018, the petitioner is entitled to child adoption leave of 270 days and hence, the respondent cannot stand on technicalities.

7.Considering the facts and circumstances of the case and considering the present pandemic situation, the impugned memo in Na.Ka.No.D2/ViSu 3236/2021 dated 22.04.2021 on the file of the respondent is quashed and the respondent is directed to grant the petitioner child adoption leave of 270 days to look after her adopted child namely, C.S.Bavish in accordance with G.O.Ms.No.2, Department of Social Welfare and Nutritious Meal Programme dated 05.01.2018, if the petitioner is otherwise eligible.

8.With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

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To

The Commandant,
TN Special Police IX Battalion,
Manimuthar, Tirunelveli District.

+1 CC to M/s.SPL GP (SR-19047[F] dated 08/06/2021)

ORDER MADE IN
W.P(MD)No.9848 of 2021
DATED : 07.06.2021

GS (17.06.2021) 3P 3C