

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CRWP-8662-2021
Date of decision: 10.09.2021**

Anita Devi

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Azad Khan, Advocate for the petitioner.

(Through Video Conferencing)

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking a writ in the nature of habeas corpus for issuance of directions to respondents No.1 to 3 to release the alleged detainee Ishika who happens to be the daughter of the petitioner, from illegal and wrongful custody of respondent No.4.

Learned counsel for the petitioner contends that the alleged detainee is below 18 years of age and is in illegal custody of respondent No.4. In support of his submissions, he has invited the attention of this Court to Annexures P1 to P-3 which are the Birth Certificate, School Leaving Certificate and the Aadhaar Card of the alleged detainee.

Learned counsel further contends that the petitioner had earlier also approached this Court by way of CRWP-1046-2021 (Annexure P-5) seeking issuance of a writ in the nature of habeas corpus. However, the same was disposed of in the light of the status report filed by the State wherein it has been stated that as per the ossification test the age of the alleged detainee was between 18 and 21 years.

Learned counsel also submits that in the wake of contradictions between the medical opinion given by the doctor with respect to the age of the alleged detainee on the one hand and Birth Certificate, School Leave Certificate and Aadhaar Card of the alleged detainee (Annexures P-1 to P-3) on the other, the latter would hold primacy over the former.

Notice of motion to State of Punjab.

On the asking of the Court, Mr. Luvinder Sofat, Asstt.AG, Punjab accepts notice on behalf of respondents No.1 to 3.

Respondent No.2 shall depute a lady police official to get the statement of the alleged detainee recorded before the Illaqa Magistrate concerned qua her alleged illegal confinement by respondent No.4. In case the alleged detainee has indeed been illegally detained by respondent No.4 then her custody shall be given to the petitioner-mother. However, if the alleged detainee declines to return to the custody of the petitioner in that eventuality she would be sent to the nearest Nari Niketan till she attains the age of majority.

Disposed of.

10.09.2021

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No