



W.P.No.17124 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.17124 of 2022

Anjali Tara Babanrao Pawar

.. Petitioner

Vs

1.The State of Tamil Nadu,  
rep. by its Secretary,  
Social Welfare and Nutritious Meal  
Programme Department,  
Fort St. George, Chennai-600 009.

2.The State of Tamil Nadu,  
rep. by its Principal Secretary,  
Social Reforms Department,  
Fort St. George, Chennai-600 009.

3.The Director General of Police,  
Dr. Radhakrishnan Salai,  
Mylapore, Chennai - 600 004.

4.The Union of India,  
rep. by its Secretary,  
Ministry of Women & Child Development,  
West Block 8, Wing 2, I Floor,  
R.K. Puram, New Delhi-110 066.

.. Respondents



W.P.No.17124 of 2022

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Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the fourth respondent to seize the records of all children's homes in the State that have been closed from 1965 onwards and preserve the records in digital format and ensure they are systematically archived and direct the third respondent to assist adult adoptees in their root search, especially in cases involving child trafficking and other crimes.

For the Petitioner : Ms.P.Selvi

For the Respondents : Mr.P.Muthukumar  
State Government Pleader  
assisted by  
Mr.K.M.D.Mugilan  
Government Advocate  
for respondent Nos.1 to 3

### ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The writ petition has been filed for the following relief and is quoted hereunder:

*"For the reasons stated in the accompanying affidavit it is therefore prayed that this Hon'ble Court be pleased to pass an order, direction or writ and more*



W.P.No.17124 of 2022

*specifically a writ in the nature of WRIT OF MANDAMUS directing the fourth respondent to seize the records of all children's homes in the State that have been closed from 1965 onwards and preserve the records in digital format and ensure they are systematically archived and direct the third respondent to assist adult adoptees in their root search, especially in cases involving child trafficking and other crimes and pass such further or other order/s as this Hon'ble Court may deem fit and thus render justice."*

2. Learned counsel appearing for the petitioner submitted that to repeal the Juvenile Justice (Care and Protection of Children) Act, 2000, Juvenile Justice (Care and Protection of Children) Act, 2015 came and thereupon the Central Government framed Regulations called Adoption Regulations, 2017. Regulation 44 provides for root search in case of an orphan or abandoned child in adoption. In the light of the said Regulation, every Specialised Adoption Agency, which may be Authorised Foreign Adoption Agency; Central Authority; Indian Diplomatic Mission; Authority; State Adoption Resource Agency or District Child Protection Unit, whenever



W.P.No.17124 of 2022

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contacted by any adoptee, shall facilitate his root search. For the aforesaid, every such agency is required to maintain the record of every child given in adoption so that in case of application by the adoptee, the record would show the root of that child. In view of the above, the prayer is to direct the respondents to seize the records of all Children Homes in the State, which were closed from 1965 onwards, and preserve the records in the digital format. The prayer aforesaid is made for the reason that adoption at times is for the purpose of child trafficking. To avoid it, the record is required to be maintained by all agencies so that in case an application is made seeking root search, it may be furnished.

3. Learned counsel for the petitioner has given reference to the efforts made by the petitioner and thereupon the judgments of different High Courts from time to time. It was even for recovery of missing child and otherwise to register a case against those who involve in the child trafficking. In the light of the aforesaid, it is necessary for the petitioner to get the required information of the child as and when required, which can be furnished only if the



W.P.No.17124 of 2022

records are preserved. Learned counsel further submitted that orphans and abandoned children are easily targeted for child trafficking. It is not unknown that children are even sent abroad for the aforesaid purpose and thus monitoring is required to be made. The prayer is accordingly to grant the relief as made in the writ petition.

4. We have considered the submissions made by learned counsel for the petitioner and find that a direction has been sought to seize the records of all Children Homes in the State that have been closed from 1965 onwards and to preserve the records in digital format. The petitioner has not disclosed the list of such Children Homes said to have been closed from the year 1965. In any case, the preservation of records to find out the root of the child was brought by the Central Government in the year 2017, but the petitioner is seeking seizure of records from the year 1965 onwards. Even if we go by the prayer, we do not find any application made by the adoptee to an agency seeking root search and the record was not furnished. Thus, the writ petition has been



W.P.No.17124 of 2022

filed for the sake of it.

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5. It may be a fact that the petitioner is doing social work to help the children who may be subjected to trafficking. But for that, a direction can be sought in respect of a particular child. Be that as it may, the prayer is made to seize the records of all Children Homes which have been closed from the year 1965 onwards, i.e., records which are almost 50 years old. It is without indicating that any of the Children Home to the knowledge of the petitioner is not maintaining the record and also when Regulations were introduced in the year 2017, how the record in the manner provided therein can be asked for from the year 1965.

6. It is well settled that for filing a public interest litigation, the petitioner should first undertake research of the subject. The aforesaid ratio has been laid by the Apex Court in the case of **S.P. Anand vs. H.D.Deve Gowda, (1996) 6 SCC 734**, wherein it has been held that a person filing a public interest litigation owes it not only to the public but also to the Court that he does not rush to the



W.P.No.17124 of 2022

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Court without undertaking any research to raise the issues in the public interest litigation. The Apex Court warned that *"a good cause can be lost if petitions are filed on half-baked information without proper research or by persons who are not qualified and competent to raise such issues as the rejection of such a petition may affect third party rights."*

7. In the present petition, we can appreciate the efforts made by the petitioner, but that does not mean that she is entitled to the relief sought for in the writ petition. Without highlighting any violation of any statutory provision or the guidelines, a direction has been sought to seize the records of all Children Homes which have been closed from the year 1965 onwards.

8. That apart, the petitioner is a third party and Regulation 44(6) prohibits furnishing of information relating to biological parents, adoptive parents or adopted child to third party. For ready reference, Regulation 44(6) of the Adoption Regulations, 2017 is quoted hereunder:



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W.P.No.17124 of 2022

**"44. Root search. -**

**(1) to (5) ...**

**(6) A root search by a third party shall not be permitted and the agencies or authorities concerned shall not make any information public relating to biological parents, adoptive parents or adopted child."**

*[emphasis supplied]*

9. The Court has to act within the framework of the statutory provisions and cannot issue an order going against it. Further, the nature of direction sought by the petitioner cannot be issued in the facts and circumstances of the case. Since Regulations were brought in the year 2017, every agency named therein or other agency connected with the adoption is required to maintain the records so that in case application is filed by the adoptee, root search may be made available to him/her. We direct compliance of the law by all the agencies.



W.P.No.17124 of 2022

10. With the aforesaid observation, the writ petition is closed by directing the State Government to ensure compliance of the Rules and Regulations in this regard. Consequently, W.M.P.No.16432 of 2022 is closed. There will be no order as to costs.

(M.N.B., CJ.) (N.M., J.)  
06.07.2022

Index : Yes/No  
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To:

- 1.The Secretary,  
State of Tamil Nadu,  
Social Welfare and Nutritious Meal Programme Department,  
Fort St. George, Chennai-600 009.
- 2.The Principal Secretary,  
State of Tamil Nadu,  
Social Reforms Department,  
Fort St. George, Chennai-600 009.
- 3.The Director General of Police,  
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W.P.No.17124 of 2022

THE HON'BLE CHIEF JUSTICE  
AND  
N.MALA,J.

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W.P.No.17124 of 2022

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