

19.05.2023
Ct. 5
D/L 9
ab

WPA 11509 of 2023

Smt. Priyanka Das

-Vs-

The State of West Bengal & Ors.

Mr. Prantick Ghosh,
Mr. Prasad Bhattacharyya,
Mr. B. Das

... for the petitioner

Mr. Prantick Garai

... for the State

Mrs. Priyanka Jana,
Mr. Bikramjit Mandal

... for the respondent no. 7

1. The petitioner has come before the Court seeking an order on the State respondents for custody of her minor child. The petitioner is the mother of a minor son, who is presently 4 years of age. The petitioner's son is in the custody of the petitioner's estranged husband and his family. The husband is the respondent no. 7 and his parents are the respondent nos. 8 and 9 respectively. The petitioner complains that the child is required to be in the custody of the petitioner, who is the natural guardian of the child.
2. Learned counsel appearing for the petitioner relies on Section 30 of The Juvenile Justice (Care and Protection of Children) Act, 2015. Section 30 deals with the functions and responsibilities of the Child

Welfare Committee (CWC) defined under Section 2(22) and also under Section 27 of the Act. Counsel submits that the functions of the Committee is to ensure care, protection, appropriate rehabilitation and restoration of children in need of care and protection, which the Committee has failed to do in the present case.

3. Learned counsel appearing for the CWC/respondent no. 4 has handed up the findings of the Committee pursuant to a Social Investigation Report. The findings are dated 8th May, 2023. The Committee has found that the child is not in need of care and protection and that the issue is one of custodial dispute on the guardianship of the child.
4. Section 30(vi) deals with the functions and responsibilities of the CWC for the safety and well being of the children who are in need of care and protection. Child in need of care and protection has been defined in Section 2 (14) of Act and includes the situations in Sub-Sections (i)-(xii).
5. The CWC's Report categorically states that the petitioner's child does not qualify under Section 2(14) of the Act and hence, Section 30(vi) will not assist the petitioner in the present case.
6. Even otherwise, Section 27(10) of the Act which relates to Child Welfare Committee, designates the District Magistrate to be the Grievance Redressal Authority to entertain any grievance arising out of

the functions of the Committee and the affected child, as the case may be.

7. In the present case, the petitioner has not made any complaint against the Committee. Even if such complaint is made, the duties of the Committee as provided under Section 30 will not apply since the CWC has certified that the child is not in need of care and protection as defined under the Act.
8. This is essentially a custody battle between the petitioner and the respondent no. 7. The Writ Court is not the appropriate forum for adjudicating that dispute. The petitioner has to approach the appropriate forum for seeking custody of her child.
9. WPA 11509 of 2023 is accordingly dismissed for the reasons stated above.

(Moushumi Bhattacharya, J.)