

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPLICATION (APPW) NO. 04 OF 2023

IN

CRIMINAL WRIT PETITION NO. 846 OF 2022

Rithika w/o Manish Agrawal and anr.

Vs.

State of Maharashtra, Thru. PSO PS Ajni, Nagpur and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Atul Pande, Advocate for applicant.
Ms. Mayuri Deshmukh, APP for respondent Nos.1 & 2.
Mr. N.B. Kalwaghe, Advocate for respondent No.4.
None for respondent No.3.

**CORAM : VINAY JOSHI, AND
VALMIKI SA MENEZES, JJ.**

DATE : 19.01.2023.

Heard.

2. Criminal application is taken out seeking a limited relief to continue the earlier arrangement which was made by this Court while disposing Criminal Writ Petition No.846/2022 vide its order dated 12.12.2022.

3. It can be briefly stated that the respondent No.4 is biological mother of the child,

who alleged to have given child in adoption to petitioner couple.

4. At the instance of police report lodged by someone else suspecting the genuineness of adoption, the police took child from the custody of the petitioners and by virtue of order of respondent No.2 – Child Welfare Committee, Nagpur, has been placed in the custody of respondent No.3 – Shradhanand Anathalaya, Nagpur, for proper care, custody and protection of the child. In the circumstances, the petitioners have sought a writ of *habeas corpus* however, for the reason stated in our order, the same relief was not granted, but, this Court has permitted the petitioners to file statutory appeal under Section 101 to the Children Court and in the meantime, permitted them to have daily access on the terms and conditions stated in the order. In turn, petitioners have filed appeal to the Children Court however, the said appeal was disposed on 29.12.2022 directing petitioners to initially apply to respondent No.2 – Child Welfare Committee, Nagpur, for seeking custody.

5. In view of said order, the petitioners have applied to respondent No.2 – Child Welfare

Committee, Nagpur, but their urge was rejected by CWC vide order dated 13.01.2023. Now, the petitioners are once again resorting the same remedy of filing appeal under Section 101 of the Juvenile Justice (Care and Protection) Act, 2015, before Children Court.

6. In above circumstances, the petitioners are seeking for continuation of access order.

7. Having regard to the factual scenario, this Court has already granted access on certain terms. However, the matter was engulfed in legal tantrum that is why now again petitioners are filing appeal. In the circumstances, we find no reason to deny the petitioner's urge which is to the limited extent of giving access to the child, which was earlier permitted by this Court.

8. In view of above, the criminal application is allowed. The order of limited access granted by this Court in Criminal Writ Petition No.846/2022 vide paragraph 5 of the order shall continue to operate till the decision of appeal which shall be decided within one month from its institution. The petitioners undertakes to file appeal either today or tomorrow before the competent forum.

9. The criminal application stands disposed of in above terms.

JUDGE

JUDGE