

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3194 OF 2023

[Dr. Vinita W/o Sandeep Agrawal D/o Dharamraj Dwivedi ..V/s.. Sandeep Shivkumar Agrawal]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr P. S. Tiwari, Advocate for Petitioner.

Mr D. Y. Kumbhare, Advocate for Respondent.

CORAM : **URMILA JOSHI-PHALKE, J.**

DATE : **19th MAY, 2023.**

1. By this writ petition, the petitioner has challenged the order passed by the Family Court, Nagpur granting access of minor daughter to the father during the vacation period by which the respondent was directed to give access of minor daughter to the petitioner during the summer vacation starting from 25.05.2023 till 05.06.2023.

2. The respondent was directed to handover the daughter to the petitioner from the campus of Police Station, Buranda on 25.05.2023 for access purpose and the petitioner shall handover the daughter to the respondent after availing access on 05.06.2023 at the campus of Bouranda Police Station. The liberty was granted to the respondent to have every right to make phone calls, video calls to the daughter or to meet her or to get her whereabouts. The petitioner was directed to take care of mental and physical health of the ward while availing the access. The petitioner was granted liberty to take the daughter at Nagpur and shall not leave the Nagpur without prior permission of the Court.

3. Being aggrieved with the said, present petition is filed on the ground that without interviewing with the child and without taking into consideration the welfare of the child, impugned order is passed. Therefore the impugned order deserves to be set aside.

4. The said petition is opposed by the respondent on the ground that prior to this access also, the respondent was granted the access. He invited my attention towards the various applications filed by him before the Principal Judge, Family Court, Nagpur, wherein it is mentioned that while access was granted, the petitioner has not allowed the respondent even to touch the child, to handover the gifts and asked to keep distance from the child. Learned counsel for respondent submitted that the conduct of the petitioner itself sufficient to show that she is not allowing the father to have an access to the child and depriving the father from the love and affection of the child. He submitted that by considering the entire facts and circumstances, the Family Court allowed the respondent to have access of a daughter.

5. Perused the order passed by the Family Court, Nagpur. It is observed by the Family Court, Nagpur that the petitioner and the respondent are having one daughter, who is taking education at Jodhapur. The vacation of the daughter is started and will complete at the end of the June-2023. It reveals that the access of a minor daughter to the petitioner was given at Kanpur to Boranda. It is further pointed out before the Family Court that if the petitioner is ready to clear the entire arrears of maintenance, they have no objection to give the access of a minor daughter in

summer vacation in Boranda. This observation shows that the learned counsel of the present petitioner submitted before the Family Court that if the petitioner is ready to clear the entire arrears of maintenance, the petitioner has no objection to give the access of minor daughter. Accordingly, the respondent has cleared the entire arrears of maintenance. From this observation, it seems that present petitioner has already gave no objection to give the access of a minor daughter in summer vacation in Boranda.

6. As per the request of the present petitioner, the respondent has already cleared the arrears of maintenance. The Family Court further observed that considering the adverse allegations between both the parties, arrears of maintenance and considering the welfare of the child, the respondent is granted the access in summer vacation at Nagpur. It reveals from the order that the petitioner was not having any objection, when the order was passed to give the access of a minor daughter in summer vacation in Boranda. As per the submission made by the present petitioner before the family court, the respondent has cleared the arrears of maintenance. Now, the present petitioner has challenged the said order in fact the order was passed by taking into consideration the no objection on the count that payment of the arrears of the maintenance. Thus, no illegality in passing the order of the access, and therefore, no interference is called for.

JUDGE