

CRWP-12262-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on : 25.04.2123

Harjot Kaur and another

. . . Petitioner(s)

Versus

State of Haryana and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Sandeep Lathar, Advocate
for the petitioner(s).

Mr. Pawan Kumar Jhanda, AAG, Haryana.

Mr. J.S. Arora, DAG, Punjab.

Mr. Gaurav Vir Singh Behl, Advocate as *Amicus Curiae*.

SANJAY VASHISTH, J. (Oral)

1. Two little stars i.e. petitioner No. 1 - Harjot Kaur, aged 9 years, and petitioner No.2 - Ekam Singh, aged 8 years, have filed present petition through their next friend namely Mandeep Kaur wife of Raju, Village Toosa, Tehsil Rai Kot, District Ludhiana, Punjab, for issuance of writ in the nature of habeas corpus directing respondents No. 2 and 3 to produce the detainee Sandeep Kaur, who is mother of the present petitioners in present case.

2. As per the allegations in the petition, mother of the petitioners i.e. alleged detainee - Sandeep Kaur was illegally detained by respondent No. 5 to 7 in District Bhiwani (Haryana) after hearing the arguments and examining the stand taken by the respondents on 08.02.2023 following order was passed:

“Two replies dated 06.02.2023 on behalf of respondents No. 9 and 10 has been filed by learned State counsel and same are taken

on record. Registry is directed to tag the same at appropriate place. Copy of both the replies has been handed over to the counsel opposite.

Instant petition was filed for issuance of writ in the nature of habeas corpus directing respondents NO. 2 and 3 to produce the detenue-Sandeep Kaur, before the High Court, who is alleged to be in the illegal custody of respondents No. 5 to 7.

On previous date of hearing i.e. on 12.01.2023 alleged detenue, Sandeep Kaur was present before this Court alongwith her minor children. On that day following order was passed:

“Already notice has been issued to State of Punjab and the Deputy Commissioner, Jalandhar (Rural) by this Court in its order dated 26.12.2022, therefore, registry is directed to make necessary corrections in the memo of parties by adding State of Punjab through Secretary Department of Home, Civil Secretariat, Chandigarh and Deputy Commissioner, Ludhiana (Rural) and Child Welfare Committee (CWC), Ludhiana through its Chairman as respondents respectively.

Today, alleged detenue Sandeep Kaur is present in the Court alongwith her two minor children, who are the petitioners in the present petition.

Petitioners and detenue-Sandeep Kaur have been escorted to this Court by Shri Deepak Kumar, Legal-cum-Probation Officer of Child Welfare Committee, Ludhiana.

Detenue Sandeep Kaur makes a request that she alongwith her both the children (petitioners) are willing to settle their lives in her village Toosa, Tehsil Raikot, District Ludhiana, where her maussi, whom she considers her mother is already staying.

In order dated 26.12.2022, it is clear that already this Court has apprised the Child Welfare Committee of District Ludhiana of its responsibility to take care of interest of the minor children for the purpose of their care and custody.

Though, detenue Sandeep Kaur, who appears to be a helpless mother of the two children (petitioners) has expressed her strong desire to maintain her minor children on her own, but without expressing any source of income for arranging the shelter and education for the children.

In this background, this Court needs to have response from the Child Welfare Committee of District Ludhiana and Deputy Commissioner, Ludhiana (Rural) that in view of the provisions of Juvenile Justice (Care and Protection), Act 2015 (as amended from time to time) and its Rules, what nature of care and protection can be provided to the minor children and upto what period. Let required affidavit(s) be submitted before next date of hearing.

Meanwhile, CWC/Deputy Commissioner, Ludhiana (Rural) will ensure the protection of the lives and liberty of the petitioners and the alleged detenue Sandeep Kaur.

On a plightful request of alleged detenue Sandeep Kaur, minor children i.e. petitioners are allowed to stay with their mother-Sandeep Kaur at Village Toosa, Tehsil Raikot, District Ludhiana, till next date of hearing.

However, it is believed that the mother of the children will ensure the attendance of the children in the school without any default.

Adjourned to 08.02.2023.

At this stage, Mr. Gaurav Vir Singh Behl, (PH-3925-2021) who is already present in Court, is appointed as Amicus Curiae, to assist the Court on the subject matter involved. He will assist this Court alongwith already counsel appearing for the respective parties.

Registry is directed to supply him complete set of paper book of the case.

Copy of today's order be sent to Deputy Commissioner, Ludhiana (Rural) and Child Welfare Committee (CWC), Ludhiana through its Chairman, through E-mail or telephonically or any other expeditious way."

Gist of the replies is that for the care and protection of the children, Sponsorship Foster Care Approval Committee (SFCAC) in Integrated Child Protection Scheme (ICPS) has approved the sponsorship of Rs. 2,000/- per month on dated 19.01.2023 to each minor petitioner namely Harjot Kaur (age 10 years) and Ekam Singh (age 9 years) through District Child Protection Unit, Ludhiana for three years. Said benefit would be given from the months of February, 2023. It is also explained that mother of the petitioners and both the children (petitioners) are anxiously willing to stay together.

It is also explained that detenue Sandeep Kaur is determined to give due care to her children.

Paragraphs No. 1 to 6 of the said reply are reproduced as here-in below:

"1. That as per the compliance of the order of this Hon'ble Court dated 12.01.2023 Child Welfare Committee Ludhiana for Care and Protection of children, SFAC (Sponsorship Foster Care approval Committee) in ICPS Scheme (Integrated Child Protection Scheme) has approved the Sponsorship Scheme of rupees 2000/- per month on dated 19.01.2023 to each minor petitioner Namely Harjot Kaur (age 10 years) and Ekam Singh (age 9 years) through District Child Protection Unit Ludhiana for three years. The benefit of this scheme will be given to both minors petitioners with effect from next month i.e. February, 2023. Sandeep Kaur, mother of both minor Petitioners (Namely Harjot Kaur and Ekam Singh. Minor Children) accompanied by next friend Mandeep Kaur appeared before the Child Welfare Committee,

Ludhiana on 17.01.2023. During an interaction with Sandeep Kaur at the Child Welfare Committee office Sandeep Kaur expressed her willingness to keep the minor (her children) petitioners with her only. She would support the minor petitioners (Namely Harjot Kaur and Ekam Singh Minor Children) to continue their studies and she will also make an effort to get a job/ self-employment in order to be financially independent for her better future. That Petitioner's next friend Mandeep Kaur said that Sandeep Kaur and her children (Petitioners) would stay in the same house where they were staying earlier. Copy of said letter no. 71 dated 17.01.2023 (Annexure RA-1).

2. The minor Petitioners (Namely Harjot Kaur and Ekam Singh Minor Children) have been studying in the Government Primary School Pull Akalgarh, Block Sudhar, District Ludhiana and the Children are regularly attending the school since 08.10.2021 till date. In this regard the center head teacher issued a letter/certificate. Copy of letter no. 337, dated 19.01.2023 (Annexure RA-2) and one more letter issued by Gurdev Kaur center head teacher and attested by VPO Sudhar on dated 20.01.2023 that no school fees/Admission fees will be charge from the petitioners (Minor Children namely Harjot Kaur and Ekam Singh) even school dress, books, scholarship, Mid- day meal and other benefits will be given to the petitioner as per the Punjab Govt. Copy of said letter no. 338 & 339, dated 20.01.2023 (Annexure RA-3& 4).

3. Sandeep Kaur (Mother of Petitioners) Residing along with Petitioners no-1 & 2 (Minor Children namely Harjot Kaur and Ekam Singh) in the house of next friend of Petitioner namely Mandeep Kaur who is her maternal aunt (Massi). Sandeep Kaur gave her statement to Police Station Sudhar on dated 18.01.2023 that she is living happily with her Massi (Mandeep Kaur) and wants to continue to stay there and she has no fear from anyone. Copy of statement on dated 18.01.2023 (Annexure RA-5).

4. That Petitioners have also given their statement to Police Station Sudhar on dated 18.01.2023 that they want to Reside with her maternal mother (Nani) namely Mandeep Kaur along with their mother Sandeep Kaur and want to continue their study in Government Primary School Pull Akalgarh, Block Sudhar, Ludhiana and they have no fear from anyone. This statement was given by the Petitioners (Minor Children namely Harjot Kaur and Ekam Singh) in the presence of her mother Sandeep Kaur. Copy of statement on dated 18.01.2023 (Annexure RA-6).

5. That the Copy/Report given by the Police Station Sudhar in the above said writ petition is Annexure RA-7.

6. Now Sandeep Kaur is working as a helper (tea maker) in the office of Dildar Entertainment Group at Village Halwara on a salary of rupees 4000/- per month. Copy of the same is Annexure RA-8 & SA.”

It appears that District Administration Ludhiana, especially Child Welfare Committee has started doing commendable job for the children who urgently required help.

Mr. Gaurav Vir Singh Behl, Amicus Curiae submits that he needs some time to assist the Court that what else can be done under the provisions of the Juvenile Justice (Care and Protection of Children) Act 2015, its Rules and further Regulations.

For the said purpose matter is adjourned to 25.04.2023.

Detenue-Sandeep Kaur is present in the Court and she is free to stay at the place of her choice but of course with an expectation that she will keep safe the life of her children and will do hard work for their better future.”

3. Today, Ms. Amandeep Kaur, Child Protection Officer, representative of the Child Welfare Committee (CWP), Ludhiana - respondent No. 10, is present in Court and states that it is always the endeavour of their office to facilitate the needy children by providing them the qualitative education and good diet for maintaining their health.

4. Detenue - Sandeep Kaur, is also present before this court, who also states that presently, she is earning through stitching the clothes, and would spare some amount for the well being of her children also. She appears to be very confident for a good future after facing bad time and black spots in the past life.

5. Ld. *Amicus Curiae*, also refers to the provision of Section 30 of the Juvenile Justice (Care and protection of the Children) Act, 2015, and submits that there are certain responsibilities of the Child Welfare Committee – respondent No.10, and therefore, it should be ensured that respondent No.10 is making compliance of all such duties /responsibilities expected under the law from it.

6. Considering the submission by Ld. *Amicus Curiae*, this Court

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would always expect from Child Welfare Committee - respondent No. 10, that all possible efforts for providing a better platform to all the children in Child Welfare Committee, would be taken care of by its administration. It would also be expected that issues in regard to the health and medical facilities required from time to time would be noticed, and if needed, would be addressed to the concerned quarter of the Government also.

7. With the aforementioned observations made by this Court today, and on the previous date(s) of hearing(s), this Court finds that no further purpose would be achieved by keeping the present petition pending, as two little stars i.e. the petitioners in the present case, have succeeded in getting their mother released from illegal detention, and now, she is living her life with her choice. Thus, the present petition stands disposed of.

8. However, it would be open for the petitioners /alleged detainee – Sandeep Kaur, or any other person, interested in the well being of the minor children, to move appropriate application(s) in this very petition, in case it is realized that respondent No.10 - Child Welfare Committee, is not doing its responsibility expected under the law.

(SANJAY VASHISTH)
JUDGE

April 25, 2023

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*