

D/L.24.
March 7, 2024.
MNS.

WPA No. 3026 of 2024

Joy Mondal (Minor) and others
Vs.
The Union of India and others

Mr. Prantick Ghosh,
Mr. Prasad Bhattacharyya

... for the petitioners.

Mr. R. Banjerjee,
Ms. Ranjana Chatterjee

...for the Union of India.

1. Affidavit-of-service filed in Court today be kept on record.
2. Despite service, none appears for the State, although the petitioners and the Union of India are represented through counsel.
3. The present writ petition has been filed on behalf of Joy Mondal, a juvenile of 14 years, by his parents Sri Dipak Mondal and Smt. Pratima Mondal.
4. The plight of the petitioner no. 1, namely, Joy Mondal, is that whereas his parents and a brother of seven years have been granted bail in a proceeding under the Foreigners Act, 1946 (the Act of 1946), the petitioner no.1, Joy Mondal had the misfortune of having pleaded guilty before the Juvenile Justice Board and

being accordingly held to be a Bangladeshi national, awaiting deportation to Bangladesh.

5. It is submitted by learned counsel for the petitioners that in view of the impressionable age of the petitioner, who is a minor, deportation to Bangladesh while his parents and family are in India, would be seriously against the welfare and interest of the petitioner no. 1, Joy Mondal.
6. It is submitted that the writ petition seeks intervention by the court insofar as the petitioner may be permitted to stay with his family at least till the final adjudication of the criminal trial of the parents and brother of the petitioner no.1, Joy Mondal.
7. Heard learned counsel for the petitioner and the learned counsel for the Union of India.
8. The plight of the petitioner no. 1, Joy Mondal, is peculiar, hence, requiring some widening of the peripheries of law.
9. The matter pertains to the implicit human right of the petitioner no. 1, Joy Mondal, which is ensured by Article 21 as well as Article 14 of the Constitution of India to live a life of dignity worth the name and, as a corollary to which he is required to be placed with his family till deportation for his welfare.

10. It is noteworthy that the said Articles do not speak about citizens of India alone, but about any person who is on the soil of India.

11. There is no doubt that a competent authority has held that the petitioner no. 1, Joy Mondal, is a Bangladeshi citizen and the petitioner no. 1, Joy Mondal, also admitted the same before such authority. Therefore, the natural and only course of action is to deport the petitioner no. 1, Joy Mondal, to Bangladesh.

12. However, the question arises whether in the interest of the petitioner no. 1, Joy Mondal, who is a juvenile of 14 years, he should be deported to Bangladesh. Such deportation, without the petitioner no. 1 Joy Mondal having any guardian or family to stay with in Bangladesh, might lead to the petitioner going astray or suffering vicissitudes inflicted by society, if deported right now.

13. In any event, the rest of his family is on bail and are residing in Dhankyakuria at Basirhat in West Bengal.

14. Hence, for the ends of justice, the deportation of the petitioner no. 1, Joy Mondal ought to be stalled at least till final adjudication of the criminal trial against the rest of his family.

15. Accordingly, WPA No. 3026 of 2024 is disposed by restraining the respondent

authorities from deporting the petitioner no. 1 Joy Mondal and/or implementing the order of deportation of the petitioner no. 1 Joy Mondal passed by the Juvenile Justice Board, till disposal of the pending criminal trial against the parents and sibling of the petitioner no. 1 under the Act of 1946.

16. However, such restraint order shall be subject to the final orders passed in the criminal trial against the rest of his family. The restraint order shall also be conditional on the petitioner no. 1 Joy Mondal presenting himself once every month before the Inspector-in-Charge of Swarupnagar Police Station, if necessary with one of his parents. However, the petitioner no. 1, Joy Mondal, shall not leave the territorial jurisdiction of Basirhat, District- North 24 Parganas, without specific leave being obtained from this Court.

17. In order to ensure that the petitioner no. 1 Joy Mondal can be with his parents during such period, the respondent no. 5, the Child Welfare Committee, North 24 Parganas, shall ensure that the petitioner no. 1, Joy Mondal is taken to and handed over to his parents residing at Basirhat within a week from the date of communication of this order to the respondent no. 5.

18. The parties shall act on the server copy of this order without insisting upon prior production of certified copy thereof.

19. There will be no order as to costs.

20. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)