

10.04.2024
SI No.4
Court No.8
(gc)

WPA (H) 11 of 2024

**Sudha Singh
Vs.
The State of West Bengal & Ors.**

Mr. Debajyoti Basu,
Mr. Barun Chatterjee,
Mr. Dibyendu Ghosh
...for the Petitioner.

Mr. Swapan Banerjee,
Ms. Amrita Panja Moulick
...for the State.

Mr. Supriyo Ghosh,
Ms. Susmita Adhikary
...for the Respondent Nos.9 & 10.

1. The custody of the children is presently with the father. The whereabouts of the children are now known to the mother. In terms of our earlier order, the statements under Section 164 of the Cr.P.C. of the children are produced in sealed envelope. We have perused the statements recorded of the children by the Additional Chief Judicial Magistrate, Serampore. In view of the statements of the children that they are willing to reside with their father, we are of the view that no further order can be passed in this proceeding.
2. The learned Counsel for the petitioner submits that the children have been tutored and have not expressed their opinion voluntarily. However in this

proceeding, we are not inclined to go into such question as the petitioner has a better remedy under the Hindu Minority and Guardianship Act and/or Guardians and Wards Act for custody of the children.

3. The learned Counsel for the private respondents has submitted that an application has already been filed for custody of the children.
4. Under such circumstances, it is not advisable for us to go into such issues.
5. The parties are left to the remedies available under the law. Any observation in this order shall not influence the pending or future proceeding in relation to the custody of the children.
6. We record that on 15th March, 2024, a copy of the letter dated 12th March, 2024 signed by the petitioner addressed to the Officer in Charge, Uttarpara Police Station along with all supporting documents which includes a Pen Drive being a Cruzer Blade 32 GB Red and Black colour Sandisk model in terms the order dated 14th March, 2024 passed by this Bench has been duly served upon Ms. Amrita Panja Moulick, learned Counsel for the State.

7. The learned Registrar Administration (L&OM) is directed to communicate this order to the ACJM, Serampore, Hooghly along with the resealed envelopes containing the statements of the minor boy and minor girl recorded under Section 164 of the Cr.P.C. by the ACJM, Serampore.
8. With the aforesaid observation, the habeas corpus petition stands disposed of.
9. However, there shall be no order as to costs.
10. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Soumen Sen, J.)

(Uday Kumar, J.)