

10.09.2024
Item No.2
Daily List
Ct. No.26
CHC

WPA(H) 74 of 2024

Sahinur Gazi
Vs.
The State of West Bengal & ors.

Mr. Sekhar Pal, Advocate
Mr. Mobakshar Islam, Advocate
...for the petitioner

Mr. Amal Kr. Sen, Ld. A.G.P.
Mr. Lal Mohan Basu, Advocate
...for the State

1. Writ petition is at the behest of the maternal uncle of two minors.

2. Writ petitioner seeks writ of Habeas Corpus.

3. Learned advocate appearing for the writ petitioner submits that, the father of the minors was an accused in a criminal case involving the murder of the mother of the two minors.

4. Learned advocate appearing for the writ petitioner submits that, the maternal uncle tried to locate the whereabouts of the two minors and was unsuccessful.

5. Learned advocate appearing for the State submits on the basis of the written instruction that, the two minors were initially with Ramkrishna Vibekananda Mission Boys Home and thereafter the daughter was shifted to Sukanya Home. He submits

that, Jurisdictional Child Welfare Committee is in seisin of the affairs of two minors. He points out that, the son is about 15 years old and daughter is 17 years old. Son is studying in Class-IX while the daughter is studying in Class-XI.

6. On a query of the Court, learned advocate appearing for the writ petitioner submits that, the minors were in custody of the writ petitioner till August, 2012. Thereafter, the custody of the minors was not with the writ petitioner.

7. There is an element of delay in coming to the Court. Custody of the writ petition admittedly was lost in 2012.

8. Moreover, the writ petitioner is not the natural guardian of the minors. No Court permitted the writ petitioner custody of the two minors. In fact Jurisdictional Child Welfare Committee is looking after the affairs of the minors. Both the minors are studying at sufficiently reputed institutions.

9. Essential jurisdictional facts necessary to invoke a habeas corpus writ jurisdiction.

10. We find any merit in the writ petition.

11. WPA(H) 74 of 2024 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

