



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

957 CRIMINAL WRIT PETITION NO. 359 OF 2024

XYZ

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Mr. Shaikh Mazhar A. Jahagirdar

APP for Respondent No. 1 : Mr. V.M. Jaware

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 22 FEBRUARY 2024

PER COURT :

Heard.

2. The petitioner is coming with following prayers :

“ B. To direct the respondent police authorities to grant protection to the petitioner and his family members as sought by complaint dated 06/02/2023 annexed at Exhibit 'A' of Writ Petition, by issuing the writ of mandamus or any other writ of like nature.

C. To direct the respondent Police authorities to grant protection as contemplated under the provision of the human immunodeficiency virus and acquired immune deficiency syndrome (prevention and control) Act, 2017 to the petitioner and his family members, by issuing writ of mandamus or any other writ of like nature.”

3. Learned Advocate for the petitioner adverts our attention to
Section 16 of the Human Immunodeficiency Virus and Acquired

Immune Deficiency Syndrome (Prevention and Control) Act 2017 (for short ‘the Act’). He submits that in order to protect the properties of the petitioner, who is suffering from AIDS, has approached the Court.

4. A perusal of the provision reveals that it is a part of Chapter VII in respect of Welfare measures by the Central Government and State Governments and lays down the specific provisions for protection of property for children affected by HIV or AIDS. *Prima facie*, it enables the persons like the petitioner and his family members to approach the Child Welfare Committee set up under Section 29 of the Juvenile Justice (Care and Protection of Children) Act 2000. Section 16 of the Act reads as under :

“16. Protection of property of children affected by HIV or AIDS.

(1)The Central Government or the State Government, as the case may be, shall take appropriate steps to protect the property of children affected by HIV or AIDS for the protection of property of child affected by HIV or AIDS.

(2)The parents or guardians of children affected by HIV and AIDS, or any person acting for protecting their interest, or a child affected by HIV and AIDS may approach the Child Welfare Committee for the safe keeping and deposit of documents related to the property rights of such child or to make complaints

relating to such child being dispossessed or actual dispossession or trespass into such child's house.

Explanation. - For the purpose of this section, "Child Welfare Committee" means a Committee set-up under section 29 of the Juvenile Justice (Care and Protection of Children) Act, 2000."

5. Perceivably the petitioner is apprehending disturbance to his possession of an agriculture land. Bare reading of Sub-Section 2 of the Act reveals that in cases of grievance relating to such a child being dispossessed or actual dispossession or trespass into such child's house, the remedy has been provided to approach the Child Welfare Committee as mentioned herein above. It does not apparently expressly laid down any such right in the parent to approach the Committee.

6. It would always be open for a person who is major though suffering from HIV or AIDS to resort to appropriate remedies as are available to them under the law. But, *prima facie*, he cannot seek a direction to the police authorities for granting him and his family a general protection. No mandamus can be issued.

7. The petition is dismissed.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]