

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2992 OF 2024

Poshetty Pedda Belgula And Anr. .. Petitioners

Versus

The State Of Maharashtra And Ors. .. Respondents

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Mr. Abhijit B. Kadam i/b Mr. Mukesh Dongarge, for the
Petitioners.

Mr. S. V. Gavand, A.P.P. for the State/Respondent.

Ms. Ankita Singhania a/w Ms. Risha Alva i/b Argus Partners,
for the Respondent No.3.

Mr. Mahadev Sawant, Chairperson and Mr. Shyam Mistry,
Member, CWC Mumbai City, are present.

Mr. Dilip Tejankar, PI, Unit II, Crime Branch, Mumbai, is
present.

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CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 8th AUGUST, 2024

P.C:-

1. As directed earlier, Ms Singhania has invited our
attention to the provisions in the the Juvenile Justice (Care
And Protection Of Children) Act, 2015, in particular Section
37, where the committee is empowered to cater to the need of

the child who is in need of care and protection, by passing distinct orders, considering that the welfare of the child is of paramount importance.

This include placement of the child with the fit person for long term or temporary care or putting him in foster care as per Section 44.

‘Fit Person’ is assigned a definite connotation in the statute by describing him to be a person who is prepared to own the responsibility of the child, for a specific purpose and such person will identify an inquiry made in that behalf by the Child Welfare Committee or the Board, as the case may be.

2. Upon looking to the scheme of the enactment when we indicated whether it is permissible for the parents to be given the very child in adoption, whom they have nurtured over the period of about six to eight months and since we are not focusing upon the legality or otherwise of the manner in which the child was handed over to them, but we expressed that through the mechanism prescribed in law, they shall continue to have the child, adoption being one of the mode.

Though Ms. Singhania would also invite our attention to CARA Guidelines, which may pose some difficulty as it lacks any human interference, we deem it appropriate to direct the learned A.P.P. Mr. Gavand, who has received instructions from the Chairperson of the Child Welfare Committee, about the possible modalities which can be adopted, but since the officer present need to have an interaction with the Commissioner of Women And Child

Welfare Department, in order to have a smooth functionality and transparency in the manner when we take a decision on the Petition filed by the Petitioner seeking writ of habeas corpus, for production of the child who is presently with the Respondent No.3 and his custody to be handed over to them, we deem it appropriate to re-notify the proceedings to 12.08.2024, to be listed at 10.00 a.m.

(MANJUSHA DESHPANDE,J.)

(BHARATI DANGRE, J.)