



WEB COPY

W.P.No.4843 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4843 of 2024

and

W.M.P.No.5428 of 2024

Mrs.Praveena

... Petitioner

Vs.

1.The Child Welfare Committee (North),
Through its President / Chairman,
No.58, Suryanarayanan Street,
Kasimedu,
Chennai – 600 013.

2.Mariyakaya Girls Home,
No.29/57, Pedariyar Koil Ln,
Bundar Rama Garden, George Town,
Chennai – 01.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to consider petitioner representation dated 16.02.2024 and to direct the 1st respondent to pass an order to give custody of the petitioner's minor adopted child namely A.Prithika aged about 11 years to petitioner.



For Petitioner : Mr.M.P.Saravanan
For R1 : Mr.V.Jeevagiridharan
Additional Government Pleader
For R2 : No Appearance
: Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)

ORDER

The Writ of Mandamus has been instituted to direct the 1st respondent to consider the representation submitted by the petitioner on 16.12.2024 and to direct the 1st respondent to pass an order to give custody of the petitioner's adopted minor child A.Prithika.

2. The petitioner states that she has adopted the minor child from one Mrs.M.Preethi, who had affairs with another person. The child was adopted in the year 2012 and thereafter, it is brought up by the petitioner and another person, who is having living-in relationship with the petitioner namely Mr.Boopalan.



3. The minor girl is aged about 11 years and informed the School Teacher that she had been abused by the said Boopalan in the house. The School Teacher provided information to the Child Help Line, who in turn visited the child and ascertained the facts. Thereafter, took the child to the Government Home.

4. The 1st respondent states that the child now is in safe custody in Government Home Sevasadhan. She is attending the school regularly and living happily.

5. The learned counsel for the petitioner would submit that the child was adopted in the year 2012 and the petitioner is looking after her. Therefore, she is entitled for custody. The Child Welfare Committee-North Zone, Chennai filed a report regarding the factual aspects.

6. In view of the fact that the child informed about her bitter experience in the house of the petitioner and abused by the said Boopalan, the child was referred to the Psychologist / Government Children Home, who in turn submitted a psychological report, which read as under and findings in the



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psychological report reads as under:

“Subsequent to the sessions held with Prithikashri the following observations were made. The same could be taken into note:

- 1. Prithikashri had been brought up by Ms.Praveena who is not biological.*
- 2. The girl is upbringing, grooming by her 'family' seemed to lack in meeting the needs of the child.*
- 3. Her educational needs were not given much importance as evident from the school changes and current academic skills.*
- 4. She seemed to lack emotional support at her 'home', which could have been a reason to share her feelings with friends and her class teacher.*
- 5. Also she seen to be vulnerable in the midst of authoritative figures at her house.*
- 6. The child is safety, care and psychological needs does not seem to be well met.*

Prithikashri has desires to achieve good positions in her future life. She will benefit if she is given opportunities, resources & support to aid her future development into a wholesome personally.”



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7. The psychological reports submitted by the psychologist / Counsellor would be sufficient to form an opinion that the child must be allowed to continue her studies in Sevasadhan. She is aged about 11 years and studying 7th Standard. Therefore, she may not be in a position to take an appropriate decision about her life.

8. That being so, this Court is of the considered opinion that the petitioner is not entitled for custody. More so, the petitioner is having living-in relationship with the said Boopalan, who is an auto Driver. The petitioner is a beautician and considering the nature of relationship between the petitioner and the said Boopalan, it is not advisable to send the child along with the petitioner, which would affect the child psychologically. More so, the Chairman, Child Welfare Committee, who is present before this Court examined the child and made a submission that the child was abused by the said Boopalan as per the information provided.

9. Considering all facts and circumstances, this Court is not inclined to grant the relief as such sought for in the present writ petition. The child must



be allowed to continue her studies by staying at Sevasadhan under the custody of the Government authorities.

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10. Further, it is brought to the notice of this Court that the information received by the Child Help Line was informed to the Police for appropriate action. But the Police has not initiated appropriate action nor registered a case.

11. The learned counsel for the 1st respondent furnished the copy of the letter sent by the Inspector of Police, which would reveal that no sexual abuse has been occurred against the child, but the said fact seems to be incorrect. The Chairperson, Child Welfare Committee present before this Court made a submission that the child was abused by the said Boopalan and the statement has been given by her. The evidences are also available for such information.

12. That being so, the Inspector of Police, W-14, All Women Police Station, Thiruvottiyur Chennai is directed to register a Criminal Case and investigate the matter by following the procedures as contemplated.



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13. Learned Government Advocate (Criminal Side) would submit that the Inspector of Police along with the Chairman of the Child Welfare Committee and the Member will produce the victim girl before the Jurisdictional Magistrate for recording Section 164 statement to ascertain the truth and initiate all appropriate actions in the manner known to law.

14. With these observations, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.04.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

The President / Chairman,
The Child Welfare Committee (North),
No.58, Suryanarayanan Street,
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S.M.SUBRAMANIAM, J.

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