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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-702-2024 (O&M)
Date of decision: 25.01.2024

Raj KaurPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON’BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Harmanpreet Singh Sehgal, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. D.A.G., Punjab.

PANKAJ JAIN, J. (ORAL)

By way of present petition the petitioner seeks writ in the nature of Habeas Corpus seeking restoration of custody of alleged detenue Vanakjot Kaur (daughter of the petitioner).

2. As per the contents of the petition, the petitioner got married to one Harjit Singh on 03.03.2011. Out of their union, the alleged detenue Vanakjot Kaur was born on 08.09.2012 and one male child namely Ravinderjit Singh was born on 06.07.2014. Owing to detrimental circumstances between the petitioner and her husband, the said marriage was dissolved by decree of divorce on 09.11.2022 and the custody of the children remained with the present petitioner.

3. Petitioner claimed that after her separation from her husband she returned to her parental home where she was living with her two minor children and later on shifted to her elder sister's accommodation i.e. respondent No.4 at Village Pakka, Tehsil & District Faridkot. Petitioner got remarried with one Kashmir Singh in May, 2023. Petitioner along with her son shifted to her new matrimonial house living alleged detainee i.e. girl child Vanakjot Kaur with respondent No.4 who was preparing for entrance examination to join Jawahar Navodaya Vidyalaya School. The petitioner claims that the alleged detainee got admission in the said School which is a boarding school run by the Government of India and the petitioner used to visit child at regular intervals. However, during Diwali break, when petitioner went to see her daughter, she found that the child has already been taken by respondents No.3 & 4 to their house and the school authorities refused the petitioner to meet her own's daughter.

4. On 23.01.2024, respondent No.2 was directed to ensure that the detainee is produced before the Court on 25.01.2024 i.e. today.

5. The Court interacted with the alleged detainee in camera proceedings in the presence of both the counsels. The child understands and possesses above the average prudence. She has denied any harassment at the hands of respondents No.3 & 4. Maternal grandmother is also present in the Court. Alleged detainee has expressed her willingness to stay with respondents No.3 & 4.

6. This Court while entertaining the present petition cannot go into the question of fact to ascertain the welfare of the child which is of paramount consideration while deciding the matter related to custody of a

child but petitioner is natural mother of the child and thus is natural guardian under Section 6 of the Hindu Minority and Guardianship Act, 1956, but the child in conversation has expressed no intent to be in the company of the petitioner.

7. Keeping in view the aforesaid fact and in order to strike a delicate balance between Sections 6 and Section 13 of the Act, 1956, the present petition is disposed off with liberty to the petitioner to seek custody of the alleged detenue by availing appropriate remedy. However, the respondents No.3, 4 & 5 i.e. the private respondents as well as the authorities of the school shall not prohibit the petitioner from meeting the child. Needless to say, for availing meeting with the child, the petitioner shall obey rules and regulations of respondent No.5-institute.

8. Pending application(s), if any, shall also stand disposed off.

January 25, 2024
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(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No