



2024:DHC:5465-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 24th July, 2024*

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W.P.(CRL) 1599/2024**SHABANA**

.....Petitioner

Through: Ms. Fozia Rahman Adv. (DHCLSC)
(M: 9810989707) along with Mr.
Sikander A. Siddiqui Adv., Ms. Mona
Tomar Adv., Mr. G.S. Parashar, Ms.
Aafreen Adv., for the Petitioner along
with the Petitioner in Person.

versus

GOVT OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
with Ms. Priyam Aggarwal, Adv. for
State alongwith SI Kamlesh, P.S.
Bawana.

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE AMIT SHARMA****Prathiba M. Singh, J.(Oral)**

1. This hearing has been done through hybrid mode.
2. The present is a writ petition under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C. filed on behalf of the Petitioner-Shabana, whose daughter, Ms. X is a minor and is missing. The Petitioner *vide* the present petition is seeking issuance of a writ of habeas corpus thereby, directing the Respondents to carry out an investigation and produce the daughter of the Petitioner.
3. On 1st July, 2024, the girl, Ms. X was produced before the Court and



the Court had interacted with the girl as also the Petitioner, i.e., mother of the girl. On the said date, it was recorded that the date of birth of the girl, Ms. X is not clear.

4. Subsequently, the original Aadhar Card of the girl was produced by the mother which records her date of birth as 1st January, 2006. However, it was observed by the Court that there are two dates of birth mentioned in the documents produced for the girl, Ms. X. The first date of birth is 4th May, 2007 and the other is 1st January, 2006. Consequently, the Court had directed the Unique Identification Authority of India (*hereinafter*, 'UIDAI') to conduct an enquiry as to when the said Aadhar Card was issued to Ms. X. The relevant portion of the order dated 1st July, 2024 is as under:

"9. As per the status report dated 2nd April, 2024 filed by the learned Standing Counsel, the leaving certificate dated 11.04.2018 shows that the date of birth of Ms. X is 4th May, 2007. However, the basis of the said date of birth is not clear. There is no clarity as to whether there is any birth certificate of the girl/Ms.X. The said date of birth is only based on the admission register of the school that the girl was going to. The Status Report is also accompanied by the statement of the principal recorded by the Investigating Officer in which it has been stated that the said certificate is based on the admission register of the students maintained by the school.

10. The original Aadhar Card was produced by the mother today. The same reveals that Ms. X also has an Aadhar Card which shows her date of birth as 1st January, 2006. On a pointed query from the Petitioner as to when this Adhar Card was made, she stated that the same was made in Bareilly itself several years ago when her daughter was quite young.

11. In the present case, it is observed that there are two dates of birth mentioned in the documents produced



for the girl/Ms. X. One date of birth is 4th May, 2007 and the other as 1st January, 2006. Considering that there are two dates of birth of the girl, it is directed that the Investigating Officer (hereinafter 'IO') may enquire from the school principal as to whether there is any document which can be the basis of verifying the date of birth, such as a birth certificate.

12. It is directed that an inquiry be also made from the Unique Identification Authority of India (UIDAI) as to when the said Aadhar Card was issued to Ms. X.

13. Further, it is directed that Ms. X be produced before the Child Welfare Committee today itself so that proper orders can be passed. It shall be ensured that since the girl is pregnant, proper medical care is also given to her."

5. The matter was then listed on 9th July, 2024 for the status report, which was filed. As per the said report, the girl was produced before the Child Welfare Committee wherein the girl expressed her wish to continue with her pregnancy. She also stated that she went to Bihar with her male friend and wants to stay with him. Further, it is stated that the girl does not want to go with her mother who had also refused to take the girl. The girl was then housed in CHG-IV, Nirmal Chhaya Complex, Delhi, in terms of the directions passed by the Child Welfare Committee.

6. The Principal of Govt. Primary School, Ghair Nagar Aola Distt. Bareilly, Uttar Pradesh has stated that except the school leaving certificate, there is no other document on record to establish the date of birth of the girl.

7. The Court was then of the opinion that the determination of the age of the girl could be relevant and accordingly, Id. Counsel for UIDAI who was present in Court was requested to verify the Aadhar Card of the girl and file a report.



8. The said report was received from the UIDAI in a sealed cover which confirms that the Aadhar card was issued to the girl on 13th December, 2016 and her date of birth is recorded as 1st January, 2006 (Approx.). Further, UIDAI added that the Aadhar card may not be used as a proof of date of birth. The matter was adjourned to today, with the direction that the girl be produced before Court.

9. As per the submission made by Mr. Lao, Id. SC, the girl had appeared before the CWC-10 through video conferencing on 19th July, 2024 and had expressed her wish to terminate her pregnancy. The mother of the child has also consented to the same. Accordingly, the girl has been admitted to Maharishi Valmiki Hospital, Pooth Khurd, Delhi-110039, for termination of her pregnancy. The documents in this regard including the CWC's minutes have been placed on record.

10. The matter is listed before the CWC again on 25th August 2024.

11. Ld. Counsel for the Petitioner Ms. Fozia Rahman submits that the mother is willing to take back the child, in fact, she is presently with the girl in the hospital as the termination of the pregnancy has been scheduled.

12. Considering the overall facts and circumstances of this case, let the procedure which has been fixed before the said hospital continue and after the health of the girl has stabilised, the hospital may discharge her and handover the girl to the mother.

13. Insofar as the date of birth of the girl is concerned, there is no clear document which determines the date of birth. As per the UIDAI Aadhar Card, the date of birth of the Petitioner is 1st January, 2006. However, as per the register maintained by the school, which is not supported by any other document, the date of birth of the girl is 4th May, 2007.



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14. Since this Court is not enquiring and investigating the issue with regard to the date of birth of the girl, the same is left open to be determined by the Id. Trial Court accordingly.
15. The original Aadhar Card of the girl is returned to her through Id. Counsel Ms. Fozia Rahman.
16. The UIDAI report may be kept in a sealed cover and retained by the Registry.
17. The writ petition is disposed of with all pending applications, if any.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

JULY 24, 2024
MR/RKS/PR