



\$~14

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(CRL) 1763/2024

JENNIFER THOMAS

.....Petitioner

Through: Mr. Mihir Samson, Ms. Amritananda Chakravorty, Ms. Sitamsini Cherukumalli and Mr. Pradip Kumar Singh. Advocates (M: 9811233878)

versus

THE GOVERNMENT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel(Crl), Ms. Priyam Agarwal, Mr. Abhinav Kr. Arya, Advs. for R-1, Inspr. Rajender Singh P.S. Keshav Puram.

Mr Pranav Gupta, Adv. for R-3 (M: 8851953920), Mr. Tushar Sannu, Mr. Utkarsh Mishra, Advs. for IHBAS (M: 8808432727)

Mr. Mr. Saurabh Kirpal Senior Advocate(Counsellor)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

%

23.10.2024

1. This hearing has been done through hybrid mode.
2. The present petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C has been filed by the Petitioner/Next friend - Jennifer Thomas seeking the issuance of a writ in the nature of *habeas corpus* to direct the Respondents to produce Ms. X before this Court. The petition was seeking production of Ms. X who is claimed to be a transgender person. Notice was



issued on this petition on 29th May, 2024. The father of Ms. X was impleaded as Respondent No. 3. It was also noted vide order dated 29th May, 2024 that medical examination of Ms. X was conducted and as per the report there were no physical injuries when Ms. X was found.

3. Various allegations were raised in the petition on 30th May, 2024. After interaction, this Court directed examination of Ms. X by a team of doctors from All India Institute of Medical Sciences ('AIIMS'). The report from AIIMS was received on 10th July, 2024 which revealed that the evaluation was completed by the psychiatric department and counselling was ongoing by another department.

4. This Court had also interacted with Ms. X and the parents. During the interaction Ms. X expressed an inclination to speak to her sister. Accordingly, a schedule was fixed for interactions between Ms. X and her sister. Ms. X was also permitted to obtain the belongings which were lying in the residence of the parents *vide* order dated 10th July, 2024.

5. On the said date, the matter was also referred to the Delhi High Court Mediation and Conciliation Centre. Report from AIIMS was also called for.

6. Thereafter, the report dated 23rd July, 2024 signed by the Medical Superintendent from AIIMS was received. As per the said report, psychiatric evaluation has been completed and counselling is ongoing. However, evaluation was continued in the endocrinology department and accordingly a further report was sought.

7. At that stage, it was expressed by the parents that they wish to extend some financial support to Ms. X in order to ensure that Ms. X live comfortably. Accordingly, it was also agreed upon the suggestion by this Court that the parents and Ms. X shall have counselling sessions with a



Counsellor.

8. Accordingly, this Court, had then appointed Mr. Saurabh Kirpal Senior Advocate as a Counsellor. The directions given on 30th July, 2024 are extracted below: -

“6. The Court has had detailed in-Chamber interactions with Ms. X and her parents, separately. After interactions, the following is broadly agreed -

a. Ms. X is currently willing to accept some financial help from the parents but is not willing to meet the parents.

b. The parents are willing to pay a sum of Rs.12,000/- to Rs.15,000/- per month to Ms. X to enable her to live comfortably and for daily expenses, fees for courses etc., The said amount shall accordingly be remitted to Ms. X by 15th of every month through UPI.

c. Ms. X shall continue to meet the sister in the Mediation Centre once a week i.e., on every Friday from 06:00 P.M. to 08:00 P.M. The Mediation Centre shall ensure that when Ms. X meets the younger sister, no one else is present in the room. In addition, Ms. X may also do video calls with the younger sister which shall be enabled through the mother as directed in the previous order.

d. The parents and Ms. X are willing to have counselling sessions with a Counsellor. Mr. Saurabh Kirpal, Senior Advocate is appointed as a Counsellor. The Counsellor can have counselling sessions separately with Ms. X and with the parents in order to sensitize the parents and Ms. X of their respective needs. Once the Counsellor feels that Ms. X and the parents can interact with each other, the Counsellor, with the consent of Ms. X and the parents, may initially try to make Ms. X meet the mother and have interactions.

e. The Counsellor shall endeavour to have the



counselling sessions on Fridays when Ms. X would be visiting the mediation centre to meet the younger sister.”

9. Again on 19th September, 2024, the Court received a report from the mediation centre as well. The same revealed that counselling sessions were held with the Counsellor and there was substantial progress in the relationship between the parties with the intervention of the Id. Counsellor. Ms. X and the parents had arrived at some broad understanding which was also captured in the said order dated 19th September, 2024. The relevant Paras are extracted below: -

“5. Today, Ms. X and the parents are present in Court. The Court has interacted with them in-chamber. Mr. Saurabh Kirpal has also joined the proceedings.

6. The parties present today have broadly agreed for an arrangement, vide which, Ms. X would move into the apartment of the mother at B-4, 2nd Floor, 123-C Keshav Puram, New Delhi, where she would be given a separate unit consisting of one bedroom, kitchen and bathroom. However, the common area of the said apartment is being used by the parents for storage of some goods.

7. Ms. X and the parents have no objection if the common area is used by either of them. However, insofar as use of the unit by Ms. X is concerned, the parents shall not enter the said unit without informing Ms. X in advance.

8. The parties have also agreed that the younger sister may also regularly meet Ms. X in terms of the agreement between the parties. Further, the parents are also willing to pay Ms. X some monthly amount for day to day maintenance and living expenses.

9. A draft of the terms of arrangement between Ms. X and the parents may be drawn before the Counsellor, Mr. Saurabh Kirpal, Sr. Counsel. For the said purpose,



the parties along with their Counsels may visit the Counsellor's office at 64, Jor Bagh, New Delhi on 21st September, 2024 at 4:00 pm. The parties or counsel may contact Ms. Adya Rajkotia (M:9999191024), a colleague of Mr. Saurabh Kirpal, Sr. Counsel for arranging any logistics in respect of the meeting.

10. Let the terms of settlement be drawn up and placed for perusal of the Court.

11. It is directed that the settlement terms shall remain confidential and shall not be put in the public domain by any of the parties.

12. In the meantime, AIIMS shall continue to monitor the progress of Ms. X, both by therapy and by counselling."

10. Today, the Court has been informed that the broad terms of agreement have been arrived at between Ms. X and the parents. There are six terms in the agreement dated 21st October, 2024 which have been presented before this Court.

11. For the sake of maintaining confidentiality between the parties, the terms of agreements are not extracted below, however, the signed original agreement shall remain with the Id. Counsellor -Mr. Saurabh Kirpal Senior Advocate.

12. This Court has also interacted with the parents and Ms. X. They have all expressed an intention to avail family counselling in the Delhi High Court Mediation and Conciliation Centre.

13. Accordingly, the earlier counsellor Ms. Parnika Sharma, who was appointed by the Delhi High Court Mediation and Conciliation Centre, shall continue to hold counselling sessions with the parents and Ms. X. Considering the age of the younger sister, who is between 5 to 6 years of age, at this stage she need not be engaged in those counselling sessions.



14. The parties shall abide by their reciprocal obligations as stated in the agreement executed by them.

15. The mobile numbers of the parties are given to the concerned ACP, sub-division Ashok Vihar, P.S. Keshav Puram. The concerned ACP shall render assistance if either of the parents or Ms. X contacts the concerned ACP.

16. Mr. Sanjay Lao's office shall obtain the contact numbers of the parents and Ms. X and pass on the same to the concerned ACP and the ACP's contact details shall also be provided to the parties.

17. If any of the parties needs further assistance from the Id. Counsellor appointed by this Court, the Id. Counsellor has graciously agreed to stay in touch with them.

18. This Court acknowledges the contribution of Mr. Saurabh Kirpal, Senior Advocate who has patiently counselled the parties and helped them in ironing out their differences as also for enabling a settlement. The assistance of Mr. Kirpal has been invaluable.

19. Copy of this order be sent to the Secretary, Delhi High Court Mediation and Conciliation Centre for necessary information and compliance.

20. The Petition is disposed of in the aforesaid terms. Pending applications, if any, also stand disposed of.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

OCTOBER 23, 2024/kr/bh/NS