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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 3003/2024 & CRL.M.A. 29214/2024**

RANJIT PASWAN

.....Petitioner

Through: Mr. Umesh Sharma and Mr. Dinesh
Kumar, Advs.

versus

STATE (GOVT. NCT OF DELHI) & ANR.Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Criminal) with Ms. Priyam Agarwal
& Mr. Abinav Kumar Arya, Advs.
SI Tejbir Singh, PS Shalimar Bagh.
Mr. Lalit Chauhan, Ms. Laxmi
Chauhan, Mr. Anith Jonshan & Ms.
Nikita Chauhan, Advs for R-2

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

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03.12.2024

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - Mr. Ranjit Paswan under Article 226 of the Constitution of India seeking issuance of a writ in the nature of Habeas Corpus for production of his minor son, who is currently residing in Children Home for Boys (CHB), Alipur, Delhi in terms of order dated 16th August, 2024 by the Child Welfare Committee-VI (CWC), North-West Delhi.
3. The facts of this case are peculiar. The Petitioner is stated to be married and living with his wife in Calcutta, along with their two children. It is stated by the Petitioner that the Respondent No.2 is his sister-in-law. Further, it is averred that the Petitioner has two sons from Respondent No. 2, and the present petition has been filed seeking production of the younger son.



4. It is the case of the Petitioner that the said minor son has lived in Calcutta along with the Petitioner for the past 12 years, and that during summer vacations the Petitioner along with his minor son was in Bihar from where the said minor child was removed from his custody by Respondent No.2.
5. A complaint was lodged by him on 1st June, 2024 and 4th June, 2024 at PS Roshara, Samastipur, Bihar.
6. The escort order dated 29th July, 2024 was passed by the CWC, Hoogly in West Bengal, and finally vide order dated 16th August, 2024 the CWC, Delhi directed the concerned minor child to be placed in CHB, Alipur, Delhi.
7. On 26th September, 2024, when the matter was taken up for the first time, it was argued on behalf of the Petitioner that the minor child was always living with the Petitioner and the Statement to this effect under Section 183 BNSS is extracted below:-

“मैं जब गाँव में रहता था तो एक Babita हैं, जो मेरी mummy लगता था। फिर मैं उन्होंने मंदिर के पास जो मेरे घर के पास पड़ता हैं। मेरा गाँव सोनुपुर। फिर मेरी मैं बबीता ने मंदिर के पास मेरे मुहँ पर कपडा बाँधा और बस से मुझे दिल्ली ले गई। 2 महीने से मुझे खाना नहीं देती थी, मुझे मारती थी। उसकी बेटी ज्योति और उसके बुल बुल मुझे मारते थे। खाना भी नहीं देते थे। मुझे मेरे मोसा का पास रहना था। फिर मेने मोसा/पापा रंजित पासवान को phone किया। तो यह मुझे शमशान घाट के पास मुझे लेने आ गए। उनके साथ मैं कोल्कता चले गए। मुझे अपने मोसा साथ रहना हैं। मुझे बबीता के साथ नहीं रहना। वो लोग मुझे मारते हैं।”

8. After having perused the statement, the Court had directed that the minor child shall be produced before the Court. The Court also permitted the



Petitioner to meet the child at CHB Alipur, Delhi and called the Petitioner and his legally wedded wife to the Court for the next date of hearing.

9. On 27th September, 2024, the child was produced before the Court. The Petitioner and his legally wedded wife as also the biological mother were present. During interactions, the biological mother denied that the Petitioner was the biological father of the child. The child, however, appeared to be more attached to the Petitioner and his wife whom he referred to as *Bade Papa* and *Bade Mummy*. The biological mother had made an allegation that the legally wedded wife of the Petitioner is her real elder sister and she had handed over her two sons for education and for taking care of them. On the said date, in view of the allegation about the Petitioner not being the biological father, DNA testing was directed. The DNA report was received in a sealed cover on 5th November, 2024. The Court perused the same and directed the parties to be present on the next date of hearing. On the last date of hearing i.e., 14th November, 2024, again in Chamber interactions were held and the following order was passed and the Court observed as under:-

“3. The DNA report has been received in a sealed cover and the Court has perused the same. In-chamber interactions have been held with the Petitioner and his wife, the biological mother of Master X, as also her husband. The child - Master X has been produced and the Court has also interacted with him who is about 12 - 13 years of age.

4. It is clear from the aforesaid DNA report that the Petitioner is not the biological father of Master X. However, the child during the course of interaction, was quite interactive and has expressed emotional attachment with the Petitioner and his wife and not with the biological parents. The child has also complained of abuse by the biological parents, even during the period



during which he was with them in Delhi.

5. It is submitted by the Id. Counsel for the Petitioner that, since childhood, the child has always been with the Petitioner and has been living in Calcutta. The birth certificate of the child also mentions the Petitioner as the father. He also submits that during the 2024 summer vacations, when they had gone to Bihar, the biological mother had removed the child from the custody of the Petitioner and brought him from Bihar to Delhi. It is also submitted that on receiving a call from the child and upon being informed by him that he did not want to stay with his biological mother, the Petitioner took the child away and consequently **FIR No.369/2024**, was registered at PS Shalimar Bagh at the instance of the biological mother.

6. Considering the above, the Court is of the view that submissions on behalf of the biological parents of Master X would also have to be heard before orders can be passed in this matter. The Court is informed that the biological parents of Master X are not represented by a counsel. Accordingly, the Delhi High Court Legal Service Committee is directed to appoint a legal aid counsel to the biological parents of Master X, who are in the Court so that the submissions on law can be made on the next date of hearing.

7. In the meantime, the child - Master X shall continue to remain in Children Home for Boys (CHB), Alipur, Delhi. The child does not wish to interact with the biological parents. Accordingly, it shall be ensured that the biological parents do not interact with the child. Further, in the CHB, some formal/informal teaching classes may be provided to the child so that during the period he is at CHB, he continues to remain occupied either with some studies or some hobbies.”

10. As can be seen from the above order, the DNA report had revealed that the Petitioner is not the biological father of the child. The child, however, had



expressed emotional attachment with the Petitioner and his wife and not with the biological mother. In view of this, the matter was listed for arguments today.

11. When the matter was taken up for hearing, both the learned counsels submit that the parties have entered into an arrangement in the following terms:-

- (i) The parties agree that the child shall continue to live with the Petitioner in Calcutta and continue his education in Calcutta itself;
- (ii) He shall remain in Calcutta for a period of 11 months and for 1 month the Petitioner undertakes to leave the child with the biological mother, upon expiry of the aforesaid 1 month period the Petitioner shall pick up the child;
- (iii) The parties shall avoid making allegations against each other, so that the child maintains a healthy relationship with both the families i.e., the Petitioner, his wife as also the biological mother and her family. During the period when the child is residing with either of the families, the communication with the other family shall not be curtailed in any matter;
- (iv) With the parties' consent bearing in mind the child's wishes, the child is free to visit the biological mother apart from the arrangement made here and vice versa;
- (v) All the complaints filed by the parties against each other including ***FIR No. 369/2024***, registered at P.S. Shalimar Bagh and the complaint which has been filed at PS Roshara, Samastipur, Bihar, shall not be proceeded with as the parties have agreed to withdraw the same.

12. The Petitioner, his wife, as also the biological mother and her husband



are present in Court when the above arrangement is being recorded and they have been explained the arrangement, in Court to which they have consented.

13. Since the child has remained separated from both the families during his stay in CHB, Alipur, the child may visit the biological mother from today i.e., 3rd December, 2024 till 7th December, 2024. On 8th December, 2024, the Petitioner shall pick up the son from the biological mother's home and then he shall be taken to Calcutta.

14. Considering that this is an unusual case, where the child had to remain in a shelter home in Delhi, due to differences which arose between the parties, the concerned school where the child is presently enrolled shall take a compassionate view and shall retain the child on its roll and conduct any extra tests, if needed, so that his academic progress does not suffer.

15. Accordingly, the petition is disposed of, in the above stated terms. Applications, if any, are also accordingly disposed of.

16. The present order shall be communicated to the CHB, Alipur, Delhi for enabling the biological mother to pick up the child today in the presence of the Petitioner.

17. The DNA report produced on 5th November, 2024 shall be retained in a sealed cover with the Registry and no inspection of the same shall be granted to any of the parties.

18. A copy of this order be given *dasti* under the signatures of Court Master.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

DECEMBER 03, 2024/gs/nk