

DL-23

13.11.2025
Court No.37
[Bench ID-266046]
(AD)

WPA (H) 67 of 2025

Syed Samiul Halim
Vs.
The State of West Bengal & Ors.

Mr. Kaustav Sen, Advocate
Mr. Sristi Mukhopadhyay, Advocate
... for the petitioner
Mr. Swapan Dutta, Ld. GP
Mr. Sudipto Panda, Advocate
Mr. Arkadipta Sengupta, Advocate
... for the State
Mr. Subrata Bhattacharya, Advocate
Mr. Indranuj Dutta, Advocate
... for the respondent no.11

1. Father of a minor before Court seeking visitation rights.
2. Custody proceedings are pending before the appropriate Court.
3. Petitioner relies upon **2022 SCC OnLine Cal 4122 (Pranav Khaitan vs. State of West Bengal and Others)** for the proposition that, the habeas corpus writ petition is maintainable.
4. In **Pranav Khaitan** (supra), Coordinate Bench noted that, Court in exercise of habeas corpus may decline the relief of return of the child to the country from where the child was removed irrespective of pre-existing order of return of the child by a foreign Court. It also noted that, habeas corpus proceedings are not to justify or examine the legality of the custody. It is a medium through which the custody of the child is

addressed to the discretion of the Court. It also noted that, there is nothing which can stand in the way of the Court exercising its *parens patriae* jurisdiction.

5. Petitioner before us is aware with whom the minor is presently residing.
6. We enquired of the learned Advocate for the petitioner as to whether the petitioner is willing to provide for the welfare of the child. Learned Advocate appearing for the petitioner submits that, the petitioner did not see the child for more than two and half years. He submits that, as and when the petitioner visits the child, the petitioner will look after the child.
7. Welfare of a child is a paramount consideration for the Court.
8. Here, we find that, the petitioner is unwilling to provide for the welfare of the child and is conditioning his proposal to provide for the welfare of the child on the premise that, he must be allowed a visitation right.
9. We are unable to accept such a stand of the petitioner. As a father of the child the obligation to provide for the welfare of the child is unconditional.
10. In such circumstances, we are not minded to interfere in a habeas corpus writ petition at the behest of a father, such as the person before us.

11. **WPA (H) 67 of 2025** is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)