

29.10.2025
Item No.05
Court No.11
KCP

WPA (H) 80 of 2025

Sagar Kumar Shaw
- Versus -
The State of West Bengal & Ors.

Mr. Satyam Dhanuk.
...for the petitioner

Mr. Amitabrata Roy, Ld. G.P.
Mr. Vivekananda Bose, Ld. Jr. Stng. Cnsl,
Mr. Shibasish Banerjee.
...for the State respondents

Affidavit-of-service, as filed, be kept on record.

The present writ petition has been preferred primarily seeking a writ of *habeas corpus* to produce two minor children, namely, Kunal Kumar Sah and Roushan Kumar Sah, who are presently aged about 6 years and 2 years respectively. The petitioner claims to be the uncle of the minor children.

Mr. Dhanuk, learned advocate appearing for the petitioner submits that the father of the minor children, expired on 9th April, 2024 and thereafter he took the responsibility of his sister-in-law, namely, Nishu Kumari Shaw (hereinafter referred to as Nishu) and her minor children. Unfortunately thereafter, Nishu passed away in a road accident on 30th May, 2024. As regards the said incident a written complaint was lodged before the respondent

no.3 by one Bablu Kumar Singh which was registered as West Port Police Station Case No.84 dated 30.05.2024 u/s 304/34 IPC on 30th May, 2024. In course of investigation, one Sanjit Kumar Shaw, the uncle of the minor children and one Saraswati Shaw, the grandmother of the minor children were arrested. After such arrest, the children were in the custody one Uttam Kumar Shaw (hereinafter referred to as Uttam), who is the husband of the accused no.2 in the FIR. Thereafter, the respondent no. 3 asked Uttam to produce the minor children. Accordingly, on 8th June, 2024, Uttam attended the police station along with the minor children and their custody was taken over by the police authorities and a purported '*no objection letter*' was forcibly obtained from Uttam. The petitioner thereafter claimed the custody of the children but in vain. Aggrieved thereby, the petitioner has approached this Court.

Mr. Bose, learned Junior Standing Counsel appearing for the State respondents submits that on 30th May, 2024 there was an altercation amongst the in-laws of Nishu regarding running of a tea stall on the road side and she was physically heckled and pushed. As a consequence thereof, she fell down on the road and was run over by a truck and she

expired on the self-same date. In support of such contention our attention has been drawn to the post mortem report.

Mr. Bose further submits that on the prayer of one Uttam, who was initially looking after the minor children, the children were handed over by the police authorities to the Child Welfare Committee (hereinafter referred to as CWC) and they were thereafter placed in a home and the children are presently residing in the home namely, Society for Indian Children's Welfare at 20 & 22, Colonel Biswas Road. The documents, upon which reliance has been placed by Mr. Bose, have been handed over to Mr. Dhanuk.

In reply, Mr. Dhanuk denies the contention of Mr. Bose and submits that the purported representation of Uttam dated 8th June, 2024, as annexed at page 24 of the writ petition was obtained forcibly and Uttam's original signature does not tally with the signature incorporated in the said representation. In the said conspectus, the custody of the children should be handed over to the petitioner, who has a preferential right towards such custody.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the parents of the minor children have expired. The person, namely, Uttam, who took over custody of the minor children submitted a representation on 8th June, 2024 to the respondent no.3 with a prayer to take over the children and to place them in a home under CWC. Pursuant thereto, the police authorities took appropriate steps and the children were handed over to CWC. We do not find any infirmity in such act. The children are presently residing in the home, namely, Society for Indian Children's Welfare at 20 & 22, Colonel Biswas Road and as such it cannot be said that they are in illegal detention.

In view thereof, no further interference is called for in the present writ petition and the same is, accordingly, disposed of.

Nothing in this order shall, however, prevent the petitioner from initiating proceedings before any other Court or forum seeking relief, in accordance with law.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)