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IN THE HIGH COURT OF BOMBAY AT GOA

**PUBLIC INTEREST LITIGATION SUO MOTU NO. 1 of
2024**

High Court on it's own motion

... PETITIONER

Versus

1. State of Goa, through its Chief
Secretary, Porvorim, Goa.

2. Secretary, Home Department,
Secretariat, Porvorim, Goa.

3. The Director, Directorate of Women
& Child Development, 2nd Floor, Old
Education Building, 18th June Road,
Panaji, Goa.

4. Director General of Police, Goa
Police Headquarters, Near Azad
Maidan, Panaji-Goa, India Pin Code 403
001.

5. Chairperson, Child Welfare
Committee, for North Goa District,
Government of Goa, Apna Ghar
Complex, Mercers-Goa.

6. El Shaddai Charitable Trust, Office:
El Shaddai House # 251, Socol, Vaddo,
Assagao, Bardez, Goa.

... RESPONDENTS

Ms. Annelise Fernandes, Amicus Curiae.

Ms. Akshata Bhat, Additional Government Advocate for
Respondent Nos. 1 to 4.

Mr. Neehal Vernekar, Advocate for Respondent No. 5.

Mr. Parag S. Rao with Mr. S. Singbal, Advocates for Respondent
No. 6.

CORAM: **BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

RESERVED ON: **24th JULY 2025**

PRONOUNCED ON: **4th AUGUST 2025**

ORDER: (per BHARATI DANGRE, J.)

1. Suo Motu cognizance is taken of a letter dated 13.08.2024 received from the Child Welfare Committee, North Goa District (CWC) pertaining to the illegalities committed by the 'El Shaddai Charitable Trust'.

The letter allege that some Child Care Institutions (CCI) in North Goa District are not adhering to the due process of law and in particular, are not complying with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) and Rules framed thereunder.

Referring to the surprise inspection of the CCI, namely "House of Kathleen" at Assagao, Goa on 31.07.2024, it noted the following illegalities:-

- (i) Some children were housed without an order of the committee.
- (ii) Some children, despite being released, continued to be housed in the institution.
- (iii) Some children, despite having Orders, were shown as absent from the institution's attendance register.
- (iv) That institution sent children to their respective homes/residences on a long leave of absence without informing/intimating the Committee.
- (v) Some children were released from the institution without the Committee's knowledge.

2. Further, the letter also stated that on 03.08.2024, the Committee along with the District Child Protection Unit (DCPU), conducted a surprise visit to the CCI, to find that around 34 children were housed and most of the children were from outside the State and some of the children who were initially given custody to their parents were also admitted in the Institution without the knowledge of the Committee.

This prompted the DCPU to file a police complaint against the Institution for appropriate action.

3. Another point which was highlighted in the letter is the act of uploading the videos of children admitted in the Institution either on 'Facebook' or 'Instagram' pages, thereby violating the provisions of Section 74(1) and Section 74(3) of the JJ Act, 2015.

It was therefore alleged that the above Institution is functioning in utter disregard to law and running and maintaining a parallel child care system and the CWC, being a statutory Authority under the provisions of the JJ Act, is interested in the well-being of the children, requested for action.

4. Upon the cognizance being taken of the letter, it was registered as Suo Motu Public Interest Litigation, and the Court requested Mr. Ashwin D. Bhole (at present sitting Judge of the

Bombay High Court) and Ms. Annelise Fernandes to appear and assist the Court.

Since the grievance made in the complaint revolved around El Shaddai Trust, it was impleaded as Respondent No. 6.

The said Respondent, being represented by Mr. Parag Rao, has tendered its affidavit in reply, affirmed by its Managing Trustee, Mr. Mathew Kurian, on 27.08.2024, and this received a rejoinder affidavit filed by the Chairperson of the North Goa CWC on 09.12.2024.

The Convenience Note was filed on behalf of Respondent No. 5, relying upon the factual aspects and also giving its suggestions for the effective implementation of the JJ Act through the prescribed machinery i.e. the Child Development Committees working under the control of the Department of Women and Child Development.

This Note has also received a response at the end of Respondent No. 6.

5. We have heard the learned Amicus, Ms. Annelise Fernandes for the Petitioner, Ms. Akshata Bhat, the learned Additional Government Advocate for the State Authorities i.e. Respondent Nos. 1 to 4, Mr. Neehal Vernekar, the learned Additional Government Advocate for CWC i.e. Respondent No. 5 and Mr. Parag Rao representing Respondent No. 6.

6. Mr. Vernekar, the learned Counsel for CWC has invited our attention to the letter dated 13.08.2024 addressed to various Authorities, of which the Court had taken cognizance, and he would submit that the CWC is a body constituted under Section 27 of the JJ Act, 2015, and Section 30 of the said Act has set out the functions and responsibilities of the Committee.

According to him, the primary function of the Committee is to deal with cases of children who are in need of care and protection and by inviting our attention to distinct categories of a 'Child', he would submit that the JJ Act covers two of them; namely, a "Child in conflict with law" i.e. a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of the offence and a 'Child in need of care and protection' defined in Section 2(14) cover various categories of children, who are in need of care and protection.

Highlighting the procedure prescribed in the Act, Mr. Vernekar would invite our attention to Chapter VI of the JJ Act, which prescribe the procedure in relation to such children, and he would submit that the Committee is the sole Authority to decide whether a child ought to be institutionalised in the CCI or not. According to him, when the child is produced before the Committee, who is in need of care and protection, it is not as a matter of right or procedure that the child has to be mandatorily

admitted to an Institution as Section 37(b) allow a child to be restored to the family despite of need and protection.

According to Mr. Venekar, Section 40(1) of the JJ Act, which is a provision as regarding restoration of child in need of care and protection, he would submit that restoration and protection of a child is the prime objective and all such steps which are necessary for restoration of child deprived of the family environment are contemplated by the statute and the Committee is bestowed with the powers to restore any child in need of care and protection to the parents, guardians etc. According to him, a child shall be placed in institutional care as a last resort after making reasonable inquiry and for this purpose, he would place reliance upon the general principles to be followed in the administration of the JJ Act, which are categorically set out in Section 3, and he would rely upon Principle No. (xii), which reads thus:

“3(xii) Principle of institutionalisation as a measure of last resort: A child shall be placed in institutional care as a step of last resort after reasonable inquiry.”

7. According to Mr. Vernekar, the CWC is competent to make appropriate inquiry of the status of the parents and the wishes of the child in the event the parents approach the Committee seeking admission of the child, and if it feels that the child does not need institutionalisation, the Committee shall pass necessary orders. An admission of the child in need of care and protection,

according to Mr. Vernekar, is the sole prerogative of the CWC, and no CCI can have any say in the decision of the Committee.

In addition, it is also his submission that the Committee grants admission only to children falling in the category of the children who need care and protection and if any person is aggrieved by any order of the Committee, the aggrieved person has a remedy of filing an Appeal before the Children's Court under Section 101 of the JJ Act, 2015.

8. It is in the background of this statutory scheme, Mr. Vernekar submit that when an inspection was carried out by the Committee of the CCI, namely, 'House of Kathleen' at Assagao belonging to Respondent No. 6, several illegalities were noticed, the foremost being that children from different States were housed there, without the orders of the Committee and some children despite being released, continued to be in the Institution.

The inspection of the Institution, carried out found 34 children illegally housed, and the reluctance on the part of the staff present to have access to the registers led to an inference that something was hidden. The staff was also unable to show valid orders/documentation, justifying housing of the children and several instances were noticed during the inspection of the Institution run by Respondent No. 6, which gave rise to inference that it was being run in contravention of the provisions of JJ Act and a demand was made for an appropriate inquiry in that regard.

According to Mr. Venekar, the purpose of the JJ Act is to cater to the children in need of care and protection by providing them proper care, development, treatment, social integration and adopting a child-friendly approach in adjudication and disposal of the matters and institutionalisation of the children is not at all the focus of the Act.

According to him, a ‘ Child Care Institute’ defined in Section 2(21) would include children's home, open shelter, observation home, special home, place of safety, etc., which would be capable of providing care and protection to the children who are in need of such services. He would submit that it is necessary for the CCI to be registered in terms of Section 41 of the Act and it can be an Institution run by the State Government or by voluntary or non-voluntary governmental organisations, for housing the children in need of care and protection or the children in conflict with law and once such Institution is registered, it shall imperatively follow the procedure under the Act and children covered under the Act shall be sent to the CCI after being produced before the CWC and it shall act in accordance with the instructions of the CWC and the orders/instructions of the CWC, issued from time to time.

Mr. Venekar has relied upon the report dated 29.08.2024 placed by the CWC and forwarded to the State Government, under the signature of the Chairperson and the Members of the Committee, giving the details of the children housed in the House of Kathleen in reference to the Public Interest Litigation and this

include 34 children, ranging from age 5, along with the date of their admission in the Institution with brief case history of each child. He would submit that there are children from outside Goa, including Uttar Pradesh, Karnataka, and Jharkhand, who have been admitted, without orders of the CWC and as the Institute is not authorised to accept children without direction of the CWC, their continuation to the house is illegal.

9. Mr. Parag Rao representing Respondent No. 6 has relied upon the affidavit affirmed by the Managing Trustee of Respondent No. 6 and he would submit that the allegations levelled by CWC are completely baseless. By highlighting the fact that Respondent No. 6 is duly registered with the Sub-Registrar of Bardez on 27.06.1997, he would submit that the Trust has also been registered under the Foreign Contribution (Regulation) Act, 2010 with the F.C.R.A. Wing, Ministry of Home Affairs, Government of India since the year 2001 and has received renewals from time to time. According to him, the Trust is a non-profit charity organisation working in Goa and other States of India with the vision of “Bringing childhood to Children who never had one” and is established with the object of catering to the economically unprivileged children by arranging for shelter and care, education, nutrition, health support, etc.

Mr. Rao would submit that the Trust, since its registration from the year 1997 till 2020, has managed 7 Child Care

Institutions, 4 Open Shelters and 2 Community Centres, and House of Kathleen is one of them, which is established for housing boys and girls between 2 to 6 years. The affidavit has offered the details of all such Institutions.

Highlighting the bonafides of the Trust and the social cause undertaken by it, Mr. Rao would submit that the Trust also run a “Meals on Wheels” programme under the caption of “Manna Khana Food Distribution Programme”, which arrange for packed meals for the poor, disabled and those living on the street and around 300 adults and children avail the benefit of the scheme, in the State of Goa in four regions.

In addition, according to him, the Trust also runs ‘Slum Schools’ with an object of imparting education to economically underprivileged children as well as children of migrant labourers and daily wage workers. In addition, it also runs a women’s shelter in Mapusa and a men’s shelter in Verna in collaboration with Goa State Urban Development Agency.

It is also submitted that the Trust also runs Shanti Niketan School since the year 2000, which is affiliated to the Director of Education, Government of Goa and impart classes from 1st to 3rd standards for around 80 students and it run a national open programme in Shanti Niketan School where education upto 10th standard is arranged for.

Mr. Rao would submit that the achievements of the Trust are highlighted in the affidavit filed by it.

10. By inviting our attention to the certificate of registration of the Society as well as the Institution, House of Kathleen, Mr. Rao would submit that it is registered as a Child Care Institution, vide Registration No. 52 with the Directorate of Women and Child Development on 30.01.2018.

By inviting our attention to the Application preferred to the Director of Women and Child Development, he would submit that it made a request for registration of the said Home as partial CCI to cater to the children in need of care and protection and willing to attend the school with the purpose that the children from both the categories mix up with each other, resulting in holistic development of children in need of care and protection.

The Application for partial registration was preferred in the wake of a specific provision in the Act i.e. Section 41, which permit a voluntary or non-voluntary organisation, to either wholly or partially, house the children in need of care and protection or children in conflict with law, regardless whether it receives or not any grants from the Central Government or its State Government.

According to Mr. Rao, the request letter, therefore, prayed for partial registration of House of Kathleen wherein 25 children in need of care and protection would be cared. However, since this Application was not processed, the Trust, which was earlier also registered under the Goa Children's Act 2003 as a Children Home, requested for its de-registration as a Child Care Institution since it did not had the sufficient strength of students and

presently, had only two children, forwarded by the CWC. It was therefore informed that these children could be transferred to another CCI run by the Trust. Simultaneously, the Trust addressed a communication to the Collector, North Goa, seeking permission to permit children of the age group of 0 to 6 years in the CCI, Kathleen House, registered in the year 2006 under the Goa Children's Act 2003 and the Goa Children's Home Rules 2004. A request was made to admit the children in the said age group for catering to their educational needs.

11. Mr. Rao has thus submitted before us that there are many children who are outside the purview of the JJ Act, but there is a need to take care of them, which may be in form of their protection, imparting education to them or involve them in any vocational training so that they can stand on their own feet and therefore, according to him, though the House of Kathleen was registered under the Goa Children's Act, but this registration was surrendered when the registration under the JJ Act was obtained. He would submit that he has made a request to the Women and Child Welfare Department to cancel its registration under the JJ Act so that it can function as NGO and provide care to the needy children.

12. Mr. Rao has also relied upon the affidavits of several parents, who have deposed that there were unable to take care of

their children on account of variety of reasons and therefore, they have admitted their child in the School, which has been run by El Shaddai Trust, which was in a position to offer education and a better world to their ward.

All these affidavits, according to Mr. Rao, are instances of trust being reposed in Respondent No. 6 and the Institution run by it for the welfare of the children and he is clear in his submission that the registration of the House of Kathleen be revoked and still it shall continue to work as an Institution of the Trust, which is devoted for betterment of children.

Mr. Rao also make a categorical statement that in that case, the registration of the House of Kathleen under the Goa Children's Act will be restored as a place of 'Place of Care', which offers care as the purport of a place of care is wider than the CCI under the JJ Act.

13. The Petition before us involve two aspects, firstly, the alleged illegalities in the functioning of the House of Kathleen, an Institution run by Respondent No. 6 and also another aspect, whether the projection of the children on 'Facebook' or 'Twitter' or 'Instagram' or other social medias for soliciting donations is violation of the provisions of the JJ Act.

In this connection, it is necessary to refer to Section 74 of the Act, which prohibits disclosure of identity of children through any medium like newspaper, magazine, news-sheet or audio-visual

media or other forms of communication regarding any inquiry or investigation or judicial procedure, which may lead to the identification of a child in conflict with law or a child in need of care and protection or a child victim or witness of a crime, involved in such matters. Any such reporting would amount to an offence, which is punishable as prescribed in sub-section (3) thereof.

Responding to the said allegation, Respondent No. 6 has filed an affidavit and it is not denied that the photographs/ clippings of the children are posted on social media for soliciting support for helpless children, however, it is specifically stated that the idea of posting videos was inspired by the social media campaigns of renowned and award winning NGOs in India, such as, Akshaya Patra Foundation, Child Rights and You (CRY), Smile Foundation, Feeding India etc. In addition, it is also stated that similar campaigns are promoted by various international organisations like UNICEF, UNESCO, NHRC, Save the Children etc. on their respective social media domains.

14. Along with the affidavit, a pen drive with videos of social media campaign was handed over to us and we permitted it to be played before us on the screen in the Court and on viewing the same, we are of the opinion that the children in the said videos/small clips in no way are projected in a deplorable

condition as indicated by the National Commission for Protection of Child Rights (NCPCR) in its guidelines dated 02.12.2022.

The aforesaid guidelines refrain use of any pictures, videos or any material which depict vulnerable children in deplorable conditions for the purpose of fund raising, and the object underlying is very clear that it would amount to projecting the children in a wrong way.

15. We have viewed four videos contained in the pen drive and in none of the videos, we have noted violation of the guidelines issued by the NCPCR and rather, we have noted the smiling faces of the children, who are being benefited through various schemes run by Respondent No. 6 and in any case, this projection of children does not fall within the purview of Section 74, and hence, we must reject the objection raised by the CWC that the children are being used for soliciting donations, moreso, since the videos do not amount to disclosing the children's identity, which is prohibited only in the situation of pendency of inquiry or investigation or judicial proceedings revolving the said child, we fail to show any interference on that count.

16. As far as the second part of the objection is concerned that the children are admitted in the Institute, House of Kathleen without the order of the CWC, we put a specific query to Mr.

Vernekar representing the CWC about the interpretation of Section 41 of the JJ Act, which is the provision for registration of the CCI, as to whether it is permissible for an NGO also to be a CCI and we attempted to seek an answer to our query by referring to the provisions of the JJ Act and by appreciating the arguments in that regard.

The JJ Act 2015 deal with a 'Child', as a person who has not completed 18 years of age. The Act caters to two types of children; a child in need of care and protection and a child in conflict with the law.

The Act has set out the distinct mechanism to be adopted in dealing with these two categories of children; Chapter IV prescribing the procedure in relation to children in conflict with law and Chapter VI stipulating the procedure in relation to children in need of care and protection.

Chapter V which has more significant role to play and is a common thread between the two categories, provide for constitution of the Child Welfare Committee under Section 27, which has authority to dispose of cases of care, protection, treatment, development and rehabilitation of children in need of care and protection and to provide for their basic need and protection.

Section 30 of the Act set out the functions and responsibilities of the Committee and it include taking cognizance of and receiving the children produced before it and after

conducting an inquiry on all issues relating to it and affecting the safety and well being of the children under the Act, directing the Child Welfare Officers or the District Child Protection Unit or non-governmental organisations to conduct social investigation and submit a report before the Committee and declare them fit persons for care of children in need of care and protection.

17. The Act contemplate several such Institutes, which shall provide care and protection to the children and has assigned a definite meaning to the term “Child Care Institution” in Section 2(21) of the Act, which reads thus:

“(21) ‘Child Care Institution’ means children home, open shelter, observation home, special home, place of safety, specialised Adoption Agency and a fit facility recognised under this Act for providing care and protection to children, who are in need of such services.”

18. Since the major focus of the Juvenile Justice (Care and Protection of Children) Act, 2015 is on rehabilitation and social integration of the child under the Act, which has to be based on the individual care plan of the child, preferably through family based care such as restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care, the restoration and protection of the child is highlighted to be the

object of any children's home, specialized adoption agency or open shelter.

It is in tune with the said object and to operate as Child Care Institution, Section 41 mandates registration of such Institution, and it set out the procedure for conferring registration along with the power to cancel or withhold the registration, which must aim to provide rehabilitation and reintegration services.

It is relevant to take note that the provision in the form of sub-section (1) of Section 41, which reads thus:

“41. Registration of child care institution - (1) Notwithstanding anything contained in any other law for the time being in force, all institutions, whether run by a State Government or by voluntary or non-governmental organisations, which are meant, either wholly or partially, for housing children in need of care and protection or children in conflict with law, shall, be registered under this Act in such manner as may be prescribed, regardless of whether they are receiving grants from the Central Government or, as the case may be, the State Government or not.

Provided that the institutions having valid registration under the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) on the date of commencement of this Act shall be deemed to have been registered under this Act.”

19. The aforesaid provision assist us in answering our query, as to whether it is permissible for any voluntary or non-voluntary organisation to obtain a part registration as CCI and from reading

of the aforesaid provision, it is evident to us that all Institutions, whether run by the State or by voluntary or non-voluntary organisations, which are made either wholly or partly for housing the children in need and protection under the JJ Act, belonging to both categories, require registration of the Act.

It could be discerned from the provision that an NGO which is otherwise taking care of the children situated in different circumstances, but outside the purview of the JJ Act, seek registration under Section 41, so that it can also cater to the children within the scope of the JJ Act, we do not see any difficulty in doing so.

With the necessary infrastructure, which the Institute has garnered for taking care of the children, who are either destitute or whose parents on account of some inability being expressed are unable to take care of their children, and these children not necessarily falling within the purview of the JJ Act 2015, can also be admitted to such an Institute.

A perusal of the report furnished by CWC which has offered the details of the children housed in the House of Kathleen itself would reveal to us that apart from the children in need of care and protection, there may be many children, with different situations, who need care and this could be seen from the said report as we have noted the history of the children who are housed in House of Kathleen and a few of them are the following children:-

- (a) Abandoned by the parents, admitted by grandmother who lives and begs on the street.
- (b) The father is alcoholic and the mother lives in a rented place. The child was referred by cousin who studied in El Shaddai.
- (c) The family belongs to an economically weaker section.
- (d) Father is unemployed and mother is finding it hard to make ends meet.
- (e) Parents are separated and none is ready to take care of the child.
- (f) The biological father has abandoned the child, the mother has re-married and the step father is not ready to take responsibility.
- (g) Father is alcoholic, mother is in financial difficulty and is unable to take care of the child and admitted the child to CCI for better care and education.
- (h) Admitted by mother-single parent working on a petrol pump.

20. Amongst the many of circumstances which would warrant admission of the child in the CCI, and in this case, House of Kathleen and all these children fall outside the purview of the JJ Act, but deserve to be taken care.

Child Welfare Committee is under the wrong impression that the JJ Act is the only statute which offer care for the children in need of care and protection.

Article 39 of the Constitution of India cast a duty on the State to direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth

are protected against exploitation and against moral and material abandonment.

This duty is not only discharged by taking care of the two classes of children as provided under the JJ Act, but there are children who are below 18 years, who are susceptible of exploitation or because they are not being taken care of by their own parents are susceptible of exploitation and if the NGO like Respondent No. 6, offer some solace to such parents and such children, we see no difficulty as to why CWC shall come in way of such an Institution, which is ready to offer such care.

In any case, we have noted that El Shaddai being run by Respondent No. 6 was earlier registered under the Goa Children's Act 2003, but subsequently, transformed its registration under the JJ Act and it has pertinently made a request to the Women and Child Development Department to recall its registration under the JJ Act and also requested for permitting the two children to be transferred to another CCI, but this Application is not decided.

Mr. Rao has made it clear to us that Respondent No. 6 is devoted to the task of catering to the welfare of children, not necessarily only those who are covered by JJ Act, but also, 'Children' as a class who are vulnerable on account of variety of reasons and circumstances in which they find themselves and as by way of illustration, we have referred to some of such reasons, we expect the Women and Child Development Department to take a decision on the request letter of Respondent No. 6 dated

07.10.2023 within a period of four weeks and cancel its registration as a Child Care Institute under the Juvenile Justice (Care and Protection of Children) Act, 2015.

21. We must note that despite the registration being cancelled as CCI, in the wake of the impressive work of Respondent No. 6, which is highlighted before us through relevant excerpts from the children, who are benefited out of its charity offered, we do not want that Respondent No. 6 shall be tied up only with CWC and cater to the children in need of care and protection under the Act as the expanse of the activities of Respondent No. 6 is sufficiently wide and it can still operate as a Society/Organisation as it has already obtained registration under the Societies Registration Act and also under the Foreign Contribution (Regulation) Act, 2010. Since it is a non-profit charity organisation with several CCI as well as community centres under its aegis and it implements various schemes for the welfare of the children of young age, we find it unfortunate that it faced an accusation at the hands of CWC as CWC knocked the doors of this Court on the two aspects highlighted in its letter dated 13.08.2021.

In any case, since we have already taken cognizance of the said letter and after detail analysis to the aforesaid effect, we neither find that any illegality is being undertaken in the Institute, House of Kathleen run by Respondent No. 6 nor do we find that the children of this Institute are being exploited for soliciting

donations, we close the proceedings initiated by us suo motu as we do not find any reasons to take it ahead.

Suo Motu Public Interest Litigation is disposed of.

NIVEDITA P. MEHTA, J. BHARATI DANGRE, J.