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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 341/2026**
MRS. KIRAN KUMARIPetitioner
Through: **Mr.D.V. Khatri, Adv. with**
petitioner

versus
STATE (NCT OF DELHI) & ORS.Respondents
Through: **Mr.Sanjay Lao, Standing**
Counsel (Crl.) with Ms.Priyam
Agarwal, Mr.Abhinav Kr. Arya,
Mr.Aryan Sachdeva, Advs for
State.
Insp. O.P Vishnoi, SI
Balleswar, PS-Najafgarh.
Dr.Nidhi Kataria, Deputy
Director of R-3 with children.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **03.02.2026**

CRL.M.A. 3305/2026 (Exemption)

1. Allowed, subject to all just exceptions.

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2. The present Writ Petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking a Writ in the nature of Habeas Corpus, directing the respondents to produce the children of the petitioner, who are aged around 8 years and 7 years old, respectively, before this Court.

3. It is the case of the petitioner that due to some matrimonial disputes between the petitioner and the respondent no.5, the respondent no.5 took away the children from the custody of the



petitioner on 13.06.2025. A complaint in this regard was also made to DCP, South West District, however, no action was taken. The petitioner later learnt that the respondent no.5 had filed an application before the Child Welfare Committee-VII (CWC), that is, the respondent no.2, surrendering and transferring the custody of the children, stating his inability to take care of them. The CWC in turn passed an *ex-parte* order dated 08.09.2025 sending the children to the protection of the respondent no.3-Institution.

4. The petitioner thereafter filed an application before the Mahila Court, being MC No.364/2025, seeking the custody of the children. The said application was, however, dismissed *vide* order dated 18.10.2025 finding the lack of jurisdiction.

5. The petitioner then moved to CWC by an application seeking the custody of the children, however, the same was again dismissed by the CWC *vide* order dated 03.11.2025, holding that it cannot adjudicate on disputes of custody and visitation. The petitioner has thereafter approached this Court.

6. While we are cognizant of the fact that the petitioner has an appropriate remedy in form of an appeal under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015, in the special facts and circumstances of the case, we have entertained the present petition.

7. Though the respondent no.5 was informed by the police regarding filing and the listing of the present petition today, none is appearing for the respondent no.5.

8. We have interacted with the children, the petitioner and



Dr.Nidhi Kataria, Deputy Director of the respondent no.3. From the interaction, at least *prima facie*, we could not find any reason why the custody of the children should not be restored to the mother as the natural guardian. We are of the opinion that the welfare of the children lies in their custody being with the natural guardian-their mother, rather than with the respondent no.3-Institution. At the same time, we are of the opinion that a regular supervision should also be kept to determine the welfare of the children and if they are in any need for care and protection.

9. Accordingly, we direct that the custody of the children be handed over to the petitioner. A representative of the respondent no.3 shall visit the petitioner at least once in a week for the next two months or such further period as they may deem it fit, to determine the welfare of the children and in case of any adverse finding, make a report in this regard to the concerned CWC, who may take appropriate action in accordance with the law.

10. As far as the dispute on custody and visitation between the petitioner and the respondent no.5 is concerned, the parties are left to avail of their own remedies in accordance with the law.

11. The petition is disposed of with the above direction. This order shall, however, not be treated as a precedent as it has been passed in the special facts and circumstances.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

FEBRUARY 3, 2026/Arya/as