

Court No. - 47

Case :- HABEAS CORPUS WRIT PETITION No. - 228 of 2024

Petitioner :- Km Pooja Rajput Corpus And Another

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Sunil Srivastava

Counsel for Respondent :- G.A.

Hon'ble Arvind Singh Sangwan,J.

Hon'ble Ram Manohar Narayan Mishra,J.

1. In pursuance to the last order the detenu, namely, Pooja Rajput is produced from the Nari Niketan/Child Welfare Committee, Kanpur Nagar by Sub Inspector, Sudesh Kumar along with Sapna Nirmal, lady constable, police Station Govind Nagar District Kanpur Nagar.

2. Both the parents i.e. petitioner no.2, Guddi Devi (mother) as well as Kailash Raj (father) are also present.

3. During the interaction with the minor child, she stated that she is aged about 15 years and she was studying in Class-7. However, for the last three months as she is lodged in Nari Niketan/ Child Welfare Committee, Kanpur Nagar and she could not appear in Class-7 examination and has lost her academic year. Her consistent stand, even after meeting with her mother, is that she wants to stay with her father.

4. During interaction with her father, he has stated that the girl child is staying with him for the last many years and despite he is handicapped, he is taking care of the child and her education and paying fee.

5. This fact could not be disputed by the mother that for the last 5-6 years, the detenu is residing in the care and custody of her father and the Court can visualize that as the child is growing up, the mother has now become interested in taking her custody. We have also considered the conduct of the mother who had, on an earlier occasion, taken custody of the minor girl, ignoring her education and involved her husband in a false case.

6. The most surprising and shocking part is the manner in which, the Nari Niketan/Child Welfare Committee, Kanpur Nagar has kept the minor child in Government Children Home (Women) which is a place where normally such type of children whose parents are eager to claim the custody of their child, are not kept as

the father admittedly is capable of taking care of the minor daughter as he has custody for last many years .

7. Though, on the last date, a specific direction was issued to the Child Welfare Committee, Kanpur to send a authorized representative along with an affidavit as to how and in what manner the girl child has been sent to Nari Niketan/Child Welfare Committee (women).

8. Learned counsel for State, on instructions from the concerned police officer, has placed on record Form-18 which is in printed format bearing the names and designation of four members and one president of the committee. On this format, on 20.1.2024, three members and the President/Chairman has signed.

9. Surprisingly, neither there is any application of judicial mind nor any reasoning is assigned as to why the child is being sent to the Government Children Home (Women) and in a casual manner, the child has been sent there and she is staying there since 20.1.2024 and as noticed above she has lost one academic year.

10. No one is present on behalf of Committee despite specific direction.

11. Considering the seriousness of the case about the manner in which the committee has conducted the life liberty of a minor girl, we take strong exception to the action taken by the committee.

12. List again on 23.5.2024.

13. In the mean time, the custody of Pooja Rajpoot, is handed over to the father-Kailash Raj who is present in the Court as Court deem it appropriate to allow the child as per her wish to stay with her father and continue her studies.

14. The child is set free today from the Court itself and a copy of this order be handed over to the concerned police officer who has brought the girl.

15. The SHO concerned of local area where the father is residing will make sure that there is no inconvenience or harm is caused to the minor child as well as the father. However, it will be open for the mother to seek the custody of the girl in accordance with law by filing petition before the competent Court of Law.

16. Considering the conduct of the committee, we deem it

appropriate to award cost of Rs.5,00,000/- (Five Lacs) which will be payable to the father of the girl within thirty days from today. The amount will be used for upbringing of the minor girl child.

17. In case the cost of Rs.5,00,000/- (Five Lacs) are not paid before the next date of listing, the Commissioner of Police, Kanpur Nagar is directed to ensure that the Chairman of Nari Niketan/Child Welfare Committee, Kanpur Nagar will remain present in the Court.

Order Date :- 22.4.2024/Mukesh