

ITEM NO.3

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal) No(s).102/2007

RE EXPLOITATION OF CHILDREN IN ORPHANAGES
IN THE STATE OF TAMIL NADU

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 21-08-2018 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Ms. Aparna Bhat, AOR (A.C.)
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Ms. Joshita M. Pai, Adv.
Mr. Tipoo N., Adv.

For Respondent(s)
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Mr. A.K. Sharma, Adv.
Ms. Aslam, Adv.

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For States of
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Arunachal Pradesh Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

Assam Mr. Shuvodeep Roy, Adv.
Mr. Sayooj Mohandas, Adv.

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UPON hearing the counsel the Court made the following
O R D E R

We have heard learned *amicus curiae* and we have also heard learned counsel appearing on behalf of the Union of India.

Learned *amicus curiae* has presented before us brief submissions in which she has highlighted several issues:

Non-institutional care:

It is submitted that on conservative estimate, there are about 50,000 children who are potentially free for adoption and there are instances where parents have to wait for three to four years to adopt children.

However, for one reason or another, the process of adoption has not been carried forward and the number of children who have been adopted in the recent past, i.e., in 2016-2017, is less than 4000 and in 2017 up to March, 2018, it is about 4000. In other words, considerable progress has been made in the year 2017-18 though the number is still very small as compared to the number of children potentially free for adoption.

Overcrowding in homes

It is further stated that as per the survey conducted by Childline, there are 9589 homes across the country and there are about 5764 homes which are not registered, but have children living in them. This is a huge number.

In terms of the status report filed by the Union of India on 20th August, 2018, it appears that the number of child care institutions is 8734 out of which 7707 are registered and the registration process in respect of 373 is being undertaken. It is further stated that there are 131 unregistered homes out of which 110 are from the State of Kerala. There are about 523 some other homes. The categorization of other homes is not very clear.

It is also submitted by learned *amicus curiae* that there is overcrowding in several homes and as per the survey conducted by the Childline, about 50% of the homes are overcrowded. On the other hand, there are some homes where the number of children are much less than the capacity and there are also some districts, as many as about 97, where there is no home for children.

Punishments and Disciplinary Measures

It is further submitted that in terms of the survey prepared by the Childline, corporal punishments and other disciplinary measures are imposed upon the children and they range from restricting/restraining movement, withholding food, use of abusive language, etc. etc.

Missing Children

It is further submitted by learned *amicus curiae* that in terms of the survey conducted by the Childline in 2016-17, there were about 4.7 lakh children in child care institutions (including about 50,000 prioritize for non-institutional care).

On the other hand, in terms of the status report filed by the Ministry of Women and Child Development, Union of India on 23rd March, 2018, the number of children in child care institutions is about 2.61 lakhs.

It is not clear what has happened to the balance about 2 lakh children. These children appear to be missing from the statistics. The other possibility is that the child care institutions have given an inflated figure perhaps to get more funds.

In any event, the entire matter deserves serious consideration.

Establishing a Committee

In this view of the matter, it is submitted by learned *amicus curiae* that the only solution to deal with these problems is to have a Committee at the national level and also at the State/Union Territory level to monitor the child care institutions so that horrifying instances like the ones that came to light recently in Muzaffarpur in Bihar and Deoria in Uttar Pradesh are not only prevented, but come to be known so that the children can be looked after and rehabilitated.

We have put it to learned counsel for the Union of India to take instructions on the setting up of such Committees. The arrangements for the Committee at the national level will, of course, be made by the Union of India and the arrangements for the Committees at the State/Union Territory level will have to be made by the

concerned State Governments/Union Territory administrations.

Learned counsel appearing for all the State Governments/Union Territory Administrations say that they have no objection to this suggestion. We have in fact specifically asked learned counsel for the State Governments/Union Territory Administrations if they have any objection and no one has raised any objection at all.

Under these circumstances, it appears to us that the solution suggested by learned *amicus curiae* is a workable solution. The only issue is putting that solution in place.

Learned counsel for the Union of India and for the State Governments and the Union Territory Administrations will suggest appropriate names for the constitution of the Committee. Similarly, learned *amicus curiae* will also suggest some names for this purpose.

Learned counsel appearing for the Union of India would like to take instructions whether the Union of India is prepared to have a Committee for the purposes mentioned above.

The information made available to learned *amicus curiae* is voluminous and she says that she had to take the assistance of Viaante Business Solutions, Mumbai for data analysis. She acknowledges and appreciates the support given to her by the aforesaid organization.

In our view, for the effort that has been put in by learned *amicus curiae* on a *pro bono* basis, adequate honorarium should be given to her and we accordingly direct that the Union of India should give her an honorarium of Rs.2.5 lakhs to be paid by the Ministry of Women and Child Development, Government of India. The payment be made within a week from today.

List the matter on 28th August, 2018 for this purpose.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER