



[1]
HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

सत्यमेव जयते

IN RE:

CHILDREN IN NEED, CARE AND PROTECTION

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

ORDER

01.10.2024

REPORTABLE

By the Court:

1. Protecting children's right is not just a legal obligation, its a moral imperative that directly impacts the future of our society. In India, millions of children face challenges that threaten their safety, well-being and development. The right of protection includes freedom from all forms of exploitation, violence, abuse and inhumane or degrading treatment.

2. The Fundamental Rights incorporated in Part-III of the Constitution of India, Directive Principles of State Policy in Part IV and Fundamental duties in Part IV-A, plays significant role in affirming child rights. Article 15 of the Constitution of India authorizes the State to make special provisions for children and Article 21 provides them right to protection of life and personal liberty.

3. The Directive Principles ensures care for children. Article 39 lays down that the State shall formulate its policy in a way that it provides protection to children of tender age from getting abused. The State must ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of



freedom and dignity and that their childhood and youth are protected against exploitation and against moral and maternal abandonment.

4. The 21st century has heralded a number of important policies and legislative initiatives as well as significant Court interventions and same important bills are also pending before the Parliament of India. Some major strides witnessed in past years, include landmark laws, Protection of Children against Sexual Offences (POCSO) Juvenile Justice (Care and Protection of Children) Act 2015 (for short, "the JJ Act, 2015") among others. JJ Act is an act to strengthen the law relating to children who are in need of care and protection by meeting their basic needs through adequate care and protection, development, treatment along with the social reintegration by adopting and implementing a child-friendly approach in the finest interest of children and their rehabilitation. A Child Welfare Committee (CWC) is an autonomous institution formed under the JJ Act, 2015 to handle and resolve the issues related to children who are either orphan, lost and abandoned, and who are in need of care and protection, treatment, development and rehabilitation. The JJ Act, 2015 also includes the provisions for supply of necessary requirement for fulfillment of their basis needs and protection, such children are taken care of by the CWC. A child in need of care and protection will be placed in a Children's Home for treatment, education, training, development and rehabilitation.

A nerve shocking, heartbreaking and society rocking news was published in the Rajasthan Patrika, a daily Hindi Newspaper,





in its Jaipur Edition dated 25th September, 2024, Wednesday, has published the following report:-

"महिला ने बाल कल्याण समिति से लगाई गुहार

सड़क पर रहती हूँ, अनहोनी से बचाने को मेरी बेटियों को सुरक्षित रखवा दो

शहर में फुटपाथ पर रहने वाली एक विधवा ने जयपुर की जिला बाल कल्याण समिति से अपनी दो बेटियों सहित चार बच्चों को सुरक्षित रखवाने की गुहार लगाई है। पीड़ित महिला ने बाल कल्याण समिति को प्रार्थना पत्र देकर कहा है कि दो बेटियों सहित उसके चार बच्चे सड़क पर तंबू में रहते हैं, बेटियों के साथ अनहोनी की चिंता सताती है, इसलिए चारों बच्चों को सरकार की ओर से संचालित किसी गृह में रखवा दिया जाए।

महिला की ओर से करीब एक माह पहले जिला बाल कल्याण समिति को यह प्रार्थना पत्र दिया, लेकिन अभी तक बच्चों को कहीं सुरक्षित शरण नहीं मिल पाई। महिला का कहना है कि उसके साथ सड़क पर रहने वाली दोनों बेटियां बड़ी हो रही हैं, जिनकी सुरक्षा को खतरा है और दो छोटे बेटे भी उसकी तरह ही दूसरों के रहम पर जिंदा है। इस स्थिति में बच्चे न तो सुरक्षित हैं और न ही उनका भविष्य सुधर सकता है। बच्चे फुटपाथ पर रहने के कारण पढ़ भी नहीं पा रहे हैं। ऐसे में इन बच्चों की देखभाल व संरक्षण के लिए सरकार के सहयोग की जरूरत है।"

The cutting of the newspaper is annexed as **Annexure-I**.

Poor implementation of laws and schemes is creating such situations in the State that a widow lady, residing at footpath in a tent, having four minor children, including two daughters, submitted an application before the Child Welfare Committee indicating therein that her children are residing in a tent on the roadside and she is afraid of any unwarranted and untoward incident may happen at any time with her daughters. Therefore, she requires the Government to place these children in a safe place for stay. This application was submitted by her a month back



but till date no protection has been provided to these children. The concerned official of CWC shows ignorance about this issue.

5. The Ministry of Women and Child Development (MWCD) launched its flagship scheme named "Mission Vatsalya" in 2022 for child protection scheme in India. Mission Vatsalya is a centrally sponsored scheme, wherein financial support is provided to the State Government/ UT Administration for delivering service as mandated under the JJ Act, 2015.

In India, the population of children below 18 years is 39 per cent and in Rajasthan, they constitute 43.6 per cent of the total State population. State of Rajasthan has formulated several policies to ensure comprehensive development of children and protection of their rights. The Rajasthan State Commission for Protection of Child Rights was also established on 23.02.2010 as an independent statutory mechanism for reviewing and implementing of laws and policies relating to children.

6. Vide notification dated 17th May, 2013, a separate and full-fledged Department, namely Department of Child Rights was established by the State to address child rights issues and Children Protection Programmes. As per the State Government, Rajasthan is the first State to have separate and independent department to address child rights issues. In spite of having several Child Laws and Policies, the welfare State has failed to discharge its duties in letter and spirit of the legislation.

7. Taking a serious note of the situation, this Court treat the newspaper report as a suo motu writ petition and direct the





Registry to treat the newspaper report published in the Rajasthan Patrika Newspaper as a Public Interest Litigation titled as :-

Suo Motu : In the matter of Children in need, care and protection

VERSUS

1. State of Rajasthan through its Chief Secretary.
2. Department of Child Rights, Jaipur through its Principal Secretary.
3. Rajasthan State Commission for protection of Child Rights, Jaipur through its Chairperson.
4. Child Welfare Committee, Jaipur through its Chairperson.
5. Union of India through the Ministry of Child Development and Welfare, New Delhi through its Secretary.
6. Rajasthan State Legal Services Authority, Jaipur through its Member Secretary.

8. Issue notice to the respondents. Rules is made returnable by two weeks. In the meantime, the respondents are directed to provide proper care, protection and attention to the children and the lady residing in the tent of the footpath, as per the provisions of law.

9. Time and again the Hon'ble Apex Court has taken suo-moto cognizance for protection of the rights of the children and issued several directions from time to time over a period of 10 years for protection of child rights in the case of Exploitation of Children in Orphanage in **State of Tamil Nadu Vs. Union of India** reported in **(2017) 7 SCC 578** and in the case of **Bachpan Bacho Andolan Vs. Union of India** reported in **(2011) 5 SCC 1**. The Hon'ble Apex Court has held that no child should be deprived of his fundamental rights given under the Constitution of India and





held that no child should be subjected to abuse, be it physical or emotional.

10. Let a report be summoned from the Chief Secretary of the State of Rajasthan; the Secretary of the Ministry of Child Development and Welfare, New Delhi; and Member Secretary, Rajasthan State Legal Services Authority, Jaipur about the effective steps taken by the State and the Union for protection of the children from all kinds of abuse and providing shelter homes and education and other facilities to the children who are residing at road side and the initiative taken for proper implementation of the Laws and Polices, related for rights and protection of the children.

11. This Court requests Mr.Virendra Lodha, Senior Advocate; Mr.Sunil Samdaria & Ms.Sonal Singh, Advocates; Mr.Manoj Sharma, Additional Advocate General; and Mr.R.D.Rastogi, Additional Solicitor General to assist the Court on the issue involved in this petition. Names of the respective counsel and their associates be reflected in the cause title.

12. Let a copy of this order be supplied to be respective counsels today under the seal and signatures of the Court Master for necessary compliance.

13. Appropriate directions would be issued to the respondent on the next date of hearing. List on 16.10.2024.

(ANOOP KUMAR DHAND),J

Solanki DS, DR