

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 222/2020

The National Commission for Protection  
of Children Rights

Petitioner(s)

VERSUS

State of Jharkhand & Ors.

Respondent(s)

O R D E R

The Petitioner-Commission (NCPCR) is constituted under the Commissions for Protection of Child Rights Act, 2005 for protection against violation of child rights and for matters connected therewith or incidental thereto.

Taking *suo moto* cognizance of a newspaper report dated 04.07.2018 alleging an instance of illegal child trade connected to an NGO in the State of Jharkhand, according to the Petitioner-Commission it wrote to Chief Secretary, Government of Jharkhand seeking a detailed report and status of action taken by the Government. In response, the Chief Secretary sent a report and outlined that an FIR had been lodged by Child Welfare Committee (CWC), Ranchi and that the matter was under investigation by CID, Government of Jharkhand. Material on record suggests that this specific case is registered at Sadar Anti Human Trafficking Unit P.S. as Case No.04/2018. Furthermore, Petitioner-Commission has averred that it sought reports of action of the concerned NGO from other states as

well but found their reports to be unsatisfactory.

Being dissatisfied with the alleged inaction and state of affairs, the Petitioner has preferred the instant writ petition seeking the following prayers::

- "a) issue a writ in the nature of Mandamus thereby directing a Supreme Court monitored time bound investigation of all such organizations in the State of Jharkhand to ensure protection of children;
- b) issue a writ in the nature of Mandamus thereby directing creation of Special Investigation Team in every State to investigate similar organisations to ensure that the Child rights violation are not happening in organisations located in other States;
- c) Issue a writ in the nature of Mandamus thereby directing the all States and Union territory to facilitate & cooperate with Child Welfare Committee so that they can work without hurdles;
- d) pass any such and further relief(s) or order(s) as may be deemed fit in light of above facts and circumstances."

We have heard learned senior counsel for the petitioner and perused the material on record.

The first prayer is for seeking a writ in the nature of Mandamus by the Supreme Court directing a Supreme Court monitored time bound investigation of all such organizations "in the State of Jharkhand to ensure protection of children". The second prayer is to issue a writ in the nature of Mandamus directing creation of a "Special Investigation Team" in every State to investigate "similar organisations" to ensure that the child rights violation are not happening in organisations located in other States. The third prayer is to issue a writ in

the nature of Mandamus directing the States and Union territory to facilitate and cooperate with Child Welfare Committee(s) so that they can work without hurdles and to pass any other relief(s).

Having heard learned senior counsel for the petitioner and bearing in mind the nature of reliefs sought, we find that the reliefs sought are, in the first place, vague and omnibus and therefore, can neither be entertained nor the said reliefs be considered. The writ petition is hence, liable to be dismissed.

Further, the NCPCR is a statutory body constituted under the provisions of the Commissions for Protection of Child Rights Act, 2005. Such a statutory body could not have filed the Writ Petition invoking Article 32 of the Constitution of India seeking the aforesaid prayers.

Article 32 is a vital provision of Part III of the Constitution which deals with fundamental rights and is a fundamental right by itself. This Court can issue directions or orders or writs including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-warranto, Certiorari, whichever may be appropriate for the enforcement of any right conferred by Part III. Citizens are entitled to appropriate relief under the provisions of Article 32, whenever there is a violation of any fundamental right. No doubt, when there is a violation of the fundamental rights, public interest litigation is also preferred by and on behalf of the citizens by public spirited persons which are also termed as social action litigation.

However, we find it strange that a statutory body, such as the petitioner in the instant case is invoking Article 32 of the Constitution for seeking the aforesaid reliefs. When Article 32 is meant for citizens to enforce their fundamental rights, the said Article cannot be the basis to file a Writ Petition by statutory authorities against a State/Union Territory for seeking directions in aid of discharging its functions under the statute. The said Article also cannot be the basis for statutory bodies or authorities to seek enforcement of "fundamental rights" against private citizens. The same is incongruous and not in accordance with what is envisaged under the Constitution.

Before parting with this writ petition, we however observe that under the provisions of the Commissions for Protection of Child Rights Act, 2005, the NCPCR as well as the State Commissions are empowered to carry out their functions in terms of Section 13; conduct enquiries in terms of Section 14 and take steps thereafter in terms of Section 15.

In the circumstances, we do not think that such vague and omnibus prayers could have been sought for by the petitioner-NCPCR herein in the present Writ Petition. Hence, the same is dismissed.

However, it is needless to observe that petitioner herein is empowered under the aforesaid Act to take steps for the protection of children in accordance with law.

.....J.  
(B.V. NAGARATHNA)

.....J.  
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;  
SEPTEMBER 24, 2024

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGSWRIT PETITION(S)(CIVIL) NO(S). 558/2019

BACHPAN BACHAO ANDOLAN

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ANR.

Respondent(s)

(IA No. 202183/2022 - AMENDMENT OF THE PETITION  
IA No. 29522/2023 - INTERVENTION/IMPLEADMENT  
IA No. 165099/2022 - INTERVENTION/IMPLEADMENT)

WITH

W.P.(C) No. 222/2020 (X)

(IA No. 15704/2020 - EXEMPTION FROM FILING O.T.)

Date : 24-09-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Jagjit Singh Chhabra, AOR  
Ms. Taruna Panwar, Adv.  
Mr. Aditya Goel, Adv.  
Mr. Abhaid Parikh , AOR

For Respondent(s) Ms. Tulika Mukherjee, AOR

Mr. Amrish Kumar, AOR  
Mr. Bijender Chahar, A.S.G.  
Ms. Swarupama Chaturvedi, Adv.  
Mr. Bhuvan Kapoor, Adv.  
Mr. Digvijay Dam, Adv.Mr. Abhimanyu Tewari, AOR  
Ms. Eliza Bar, Adv.Ms. Swarupama Chaturvedi, Sr. Adv.  
Mr. Abhaid Parikh, AOR  
Ms. Katyayani Anand, Adv.  
Ms. Saumya Singh, Adv.  
Mr. Aayush Shivam, Adv.  
Ms. Kavita Chaturvedi, Adv.

Mr. Manish Kumar, AOR

Mr. Sachin Patil, AOR

contd..

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Mr. H.S. Phoolka, Sr. Adv.  
Mr. Jagjit Singh Chhabra, AOR  
Mr. Bhuwan Ribhu, Adv.  
Ms. Rachna Tyagi, Adv.  
Mr. Saksham Maheshwari, Adv.  
Ms. Shashi, Adv.

Mr. Anjani Kumar Mishra, AOR  
Mrs. Hardeep Kaur Mishra, Adv.  
Mr. Praveen Mishra, Adv.  
Dr. Ravi Abhilash, Adv.

UPON hearing the counsel the Court made the following

O R D E R

W.P. (C) No. 558/2019

Application for amendment of petition is allowed and amended memorandum of Writ petition is taken on record.

The Writ Petition is disposed of in terms of the signed order.

Pending application(s) including the application(s) for Intervention/Impleadment shall stand disposed of.

W.P.(C) No. 222/2020

De-tag from W.P. (C) No. 558/2019.

The Writ Petition is dismissed in terms of the signed order.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA)  
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)  
COURT MASTER (NSH)

(SIGNED ORDERS ARE PLACED ON THE FILE)