

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)
Wednesday, the Thirteenth day of April Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.MANIKUMAR
and
The Hon`ble Mr.Justice S.S.SUNDAR

WP(MD) Nos.20895 and 16273 of 2015
and
MP(MD)Nos.1 and 2 of 2015

CHANGEINDIA

REP. BY ITS DIRECTOR A.NARAYANAN

...Petitioner in WP(MD)No.20895 of 2015

MOSE MINISTRIES REP. BY ITS ADMINISTRATOR,
JEYAM ABRAHAM

...Petitioner in WP(MD)No.16273 of 2015
and MP(MD)No.1 and 2 of 2015

- Vs. -

- 1 THE PRINCIPAL SECRETARY,
DEPARTMENT OF SOCIAL WELFARE,
GOVERNMENT OF TAMILNADU, SECRETARIAT,
FORT.ST.GEORGE, CHENNAI 9
- 2 THE DEPUTY SUPERINTENDENT OF POLICE -CB CID,
ANTI HUMAN TRAFFICKING CELL(ANTI VICE SQUAD),
FIRST FLOOR, BLOCK-3, ELECTRONIC COMPLEX,
SIDO INDL.ESTATE,GUINDY, CHENNAI 32
- 3 THE DISTRICT COLLECTOR,
COLLECTORATE, COLLECTOR OFFICE ROAD,
TRICHY 620 001
- 4 THE COMMISSIONER OF POLICE,
COMMERCIAL TAX BUILDING,
RACE COURSE ROAD, KAJAMALAI, TRICHY 620 020
- 5 THE DISTRICT SOCIAL WELFARE OFFICER,
COLLECTORATE BUILDING, TRICHIRAPPALLI DISTRICT 620 001.
- 6 THE CHILD WELFARE COMMITTEE,
GOVT.OBSERVATION HOME,
NO.34, EAST BOULEWARD ROAD, TIRUCHIRAPPALLI 2
- 7 THE DIRECTOR,
CENTRAL BUREAU OF INVESTIGATION(CBI)
ANTI HUMAN TRAFFICKING UNIT,
PLOT NO.5-B, 6TH FLOOR, CGO COMPLEX,
LODHI ROAD, NEW DELHI 110 003
- 8 THE UNION SECRETARY,
MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA, NORTH BLOCK, NEW DELHI 110 001
- 9 PASTOR GIDEON JACOB
MOSE MINISTRIES COMPLEX, RANGANAGAR,
SUBRAMANIAPURAM, TRICHY

10 THIS REGIONAL PASSPORT OFFICER,
TRICHIRAPPALLI.
(R10 SUO MOTU IMPLEADED VIDE COURT
ORDER DATED 11.12.2015 IN WP(MD)
Nos.20895 and 16723 of 2015)

...Respondent WP(MD)No.20895 of 2015

1 THE DISTRICT COLLECTOR,
COLLECTORATE OFFICE, TIRUCHIRAPPALLI DISTRICT.

2 THE SOCIAL WELFARE COMMISSIONER,
CHEPAUK, CHENNAI.

3 THE DISTRICT SOCIAL WELFARE OFFICE,
TIRUCHIRAPPALLI.

4 CHILD WELFARE COMMITTEE,
REP. BY ITS CHAIRMAN, HAVING OFFICE AT,
OBSERVATION HOME AT, BABU ROAD,
(EAST BOULEWAR ROAD), TIRUCHIRAPPALLI.

5 DISTRICT CHILDREN WELFARE UNIT
BY ITS CHILD WELFARE OFFICER, TIRUCHIRAPPALLI.

6 THE INSPECTOR OF POLICE,
K.K.NAGAR POLICE STATION, TIRUCHIRAPPALLI.

7 THE REGIONAL PASSPORT OFFICER,
TIRUCHIRAPPALLI.
(R7 SUO MOTU IMPLEADED VIDE COURT
ORDER DATED 11.12.2015 IN WP(MD)
Nos.20895 and 16723 of 2015)

... Respondent in WP(MD)No.16273 of 2015
and MP(MD)No.1 and 2 of 2015

Prayer in WP(MD). 20895/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 7th respondent Central Bureau of investigation to investigate into the trafficking and illegal confinement of 89 girl children by the 9th Respondent and consequently direct the 1st Respondent to restore the children living in the custody of 9th Respondent to their respective parents.

Prayer in WP(MD). 16273/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records on the file of the 3rd respondent pertaining to the order passed by him vide his proceedings in Se.Mu.No.821/A1/1025 dated 03.09.15 and quash the same as illegal and consequently directing the 1st to 3rd respondent to register the petitioner Mission under Juvenile Justice Act and Tamil Nadu Hostels and Homes for women and children (Regulation) Act 2014 in accordance with law based on the relevant records submitted by them within the period that may be stipulated by this Honble Court.

Prayer in MP(MD). 1/ 2015 in WP(MD).16273/2015 :

To grant Ad interim Stay of the impugned order passed by the 3 respondent vide his proceedings in Se.Mu.No.821/A1/1025 dated 03.09.15 pending disposal of the writ petition.

Prayer in MP(MD). 2/ 2015 in WP(MD).16273/2015 :

To hear the children and the young adults who are the inmates of the Childrens Home and thereafter pass suitable orders permitting them to Celebrate the New Year Services in their own Church as in the previous year.

ORDER: These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.D.GEETHA, Advocate for the petitioner in WP(MD)No.20895 of 2015 and of Mr.K.Chellapandian, Additional Advocate General Assist by Mr.M.Govidan, Advocate on behalf of the Respondents 1 to 6 and Of Mr.S.Jeyakumar, Advocate for the 7th Respondent and of Mr.G.R.Swaminathan, Additional Solicitor General, for the 8th Respondent and Mr.Isaac Mohanlal, Senior counsel for Mr.R.Baskaran for the 4th Respondent in WP(MD)No.20895 of 2015 and of Mr.Isaac Mohanlal Senior Counsel for Mr.M.Siddharthan, Advocate for the Petitioner in WP(MD)No.16273 of 2015 and of Mr.K.Chellapandian Additional Advocate General Assist by Mr.M.Govindan, Special Government Pleader for the Respondents 1 to 6 in WP(MD)No.16273 of 2015 the court made the following order:-

Orders have been issued by this Court on 20.01.2016, wherein the following directions have been issued:-

"24.Therefore, the following order is passed:

(i)The Joint Director of the Central Bureau of Investigation, Rajaji Bhavan, Chennai - 600 090, is directed to depute a team, headed by an officer of the rank of Deputy Superintendent of Police, specialised in anti-human trafficking issues, to hold an investigation into the allegations of trafficking as well as other allegations of abuse. The Team may include, to the extent possible, lady officers.

(ii)The Team so nominated shall take the assistance of a team of Experts from NIMHANS, Bangalore, to speak to the children, counsel them and first liberate the children from any obsessive mind set if they have.

(iii)After first carrying out the above task through a team of Experts from NIMHANS, the Team shall look into the other allegations of abuse, etc.

(iv)Immediately upon taking up the investigation, the Team shall make enquiries with hospitals in Usilampatti, the Nurses and Doctors employed therein and find out the method adopted by the institution for procuring children. The photo copy of the Register/Notings, taken by the Child Welfare Committee, shall be made use of by the team to proceed with this part of the investigation.

(v)The Team shall also arrange for DNA tests to be conducted upon persons who have now lodged claims with the District Collector that they are the parents of those children. DNA Tests shall also be conducted upon the children in respect of whom a claim is made by the so-called parents.

(vi)The Team shall file a Report before this Court in three months. Till them, the present arrangement shall continue.

(vii)The institution has already deposited a sum of Rs.6,00,000/- with the Committee appointed by this Court. The institution shall deposit another sum of Rs.4,00,000/- (Rupees four lakhs) with the Committee."

2.On the last occasion, when the matter came up for hearing, Mr.K.Chellapandian, learned Additional Advocate General submitted that pursuant to the aforesaid order, a sum of Rs.6 lakhs was deposited by Moses Ministries, petitioner in W.P.(MD)No.16273 of 2015, on 14.12.2015 and a further sum of Rs.4 lakhs was remitted on 09.02.2016. He has further submitted that the official respondents, put in-charge of the home, have spent more than the amount deposited. On this day, the District Social Welfare officer, Trichirappally has filed an affidavit to that effect and that the same shall be taken as part of record. Learned Additional Advocate General also submitted that there are about 89 children, in the home in various age groups.

4.Considering the welfare of the children, care and protection to be provided and the expenditure to be incurred, he prayed for a direction against Moses Ministries to make considerable payment.

5.Responding to the above Mr.Issac Mohanlal, learned Senior Counsel appearing for the petitioner in W.P.(MD)No.16273 of 2015 submitted that a sum of Rs.6 lakhs would be paid by way of Demand Draft drawn in favour of the District Social Welfare Officer, Trichirappalli District, for the above said cause.

6.Submission of the learned Senior Counsel appearing for both parties is placed on record.

7.In addition to the above, Mr.Issac Mohanlal, learned Senior Counsel submitted that there are some allegations in the home, complaints have been sent to the members of the church. At this juncture, we are not inclined to deal with the same, unless and until an affidavit is filed to that effect.

8.In the light of the above submission, Moses Ministries, petitioner in W.P.(MD)No.16273 of 2015 is directed to hand over a Demand Draft for Rs.6 lakhs, drawn in favour of the District Social Welfare Officer, Trichirappalli, in-charge of the home by Tuesday (19.04.2016) and on receipt of the same, the District Social Welfare Officer, Trichirappalli, is directed to spend the said sum, towards the welfare of the children, care and protection and health etc., and maintain proper accounts therefor. The petitioner, Moses Ministries is permitted to file an affidavit on the oral submissions made. Mr.Jeyakumar, learned counsel appearing for CBI is also directed to file a report as directed in the earlier order, dated 20.01.2016.

Post the matter on 22.04.2016.

sd/-
13/04/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

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DEPARTMENT OF SOCIAL WELFARE,
GOVERNMENT OF TAMILNADU, SECRETARIAT,
FORT.ST.GEORGE, CHENNAI 9
- 2 THE DEPUTY SUPERINTENDENT OF POLICE -CB CID,
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- 11 THE SOCIAL WELFARE COMMISSIONER,
CHEPAUK, CHENNAI.
- 12 THE INSPECTOR OF POLICE,
K.K.NAGAR POLICE STATION, TIRUCHIRAPPALLI.

+2. C.C. to M.SIDDHARTHAN, Advocate SR.No.21238

ORDER
IN
WP (MD) Nos.20895 and 16273 of 2015
and
MP (MD) Nos.1 and 2 of 2015
Date :13/04/2016

AM/NGM.SS/SAR-I/15.04.2016/5P/15C