

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Thirtieth day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.NAGAMUTHU
and
The Hon`ble Mr.Justice M.V.MURALIDARAN

WP(MD) No.20895 and 16273 of 2015

CHANGEINDIA REP. BY ITS DIRECTOR A.NARAYANAN,
NO.7C, DAFFODIL, CEEBROS GARDENS, ARCOT ROAD,
VIRUGAMBAKKAM, CHENNAI 600 092.

... PETITIONER IN WP(MD). 20895/ 2015

MOSE MINISTRIES REP. BY ITS ADMINISTRATOR,
JEYAM ABRAHAM, S/O. THANGADURAI, 20C/7, 20/8,
ANNA NAGAR, SUBRAMANIAPURAM, TRICHY.

... PETITIONER IN WP(MD). 16273/ 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 DIST 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 THE REGIONAL PASSPORT OFFICER,
TRICHIRAPPALLI.
(R10 SUO MOTU IMPEADED VIDE COURT
ORDER DATED 11.12.2015 IN WP(MD)
Nos.16273 and 20895
of 2015 by VRSJ & NKKJ) ... RESPONDENTS IN WP(MD). 20895/ 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, TIRUCHY.

7.THE REGIONAL PASSPORT OFFICER,
TIRUCHIRAPPALLI.

(R7 IS SUO MOTU IMPEADED VIDE COURT ORDER
DATED 11/12/2015 IN WP(MD)Nos.16273 and 20895/15
by VRSJ & NKKJ) ... RESPONDENTS IN WP(MD)No.16273/ 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.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.DINAKARAN, Advocate for the petitioner in WP (MD). 20895/ 2015, and of MR.B.PUGALENDHI, Additional Advocate General assisted by MR.M.GOVINDAN, Special Government Pleader on behalf of the Respondents 1 to 6 and of MR.N.SHANMUGASELVAM, Central Government Standing counsel for the respondents R8 & R10 and of MR.S. JAYAKUMAR, for the 7th respondent in WP(MD). 20895/ 2015 and of MR.ISAAC MOHANLAL, Senior Counsel for MR.M.SIDDHARTHAN, Advocate for the Petitioner in in WP(MD). 16273/ 2015 and of MR.MR.B.PUGALENDHI, Additional Advocate General assisted by MR.M.GOVINDAN, Special Government Pleader on behalf of the Respondents 1 to 6 and of MR.N.SHANMUGASELVAM, Government Standing counsel for the 7th respondent in WP(MD). 16273/ 2015, the court made the following order:-

[Order of the Court was made by S.NAGAMUTHU, J.]

The declaration of the rights of the child adopted in 1924 by the League of Nations states that "mankind owes to the child the best it has to give". The declaration of the rights of the child, 1959 and the convention on the right of the child, 1989 of the United Nations, ratified by our Country as well, contain legal standards, necessary for granting social, economic and cultural rights for the children. The Universal Declaration of Human Rights, 1948, the International Covenant on Civil and Political Rights and the Covenant of Economic, Social and Cultural Rights, 1966 are the other instruments that convey the rights of the child. The Government of India has acceded on the 11th December, 1992 to the convention on the rights of the child adopted by the General Assembly of United Nations which has prescribed a set of standards to be adhered to by all State parties in securing the best interest of the child.

2. The Hon'ble Supreme Court in Bandhua Mukiti Morcha Vs. Union of India reported in 1984 AIR 802 had to say this "Right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly, Clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of health and strength of workers, men and women, and of the tender age of children against

abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity....."

3. In the same judgment, in yet another paragraph, the Hon'ble Supreme Court has observed as follows:

"The child of today cannot develop to be a responsible and productive member of tomorrow's society unless an environment which is conducive to his social and physical health is assured to him. Every nation, developed or developing, links its future with the status of the child.

Neglecting the children means, loss to the Society as a whole. Children are deprived of their childhood-socially, economically, physically and mentally, the nation gets deprived of the potential human resources for social progress economic empowerment and peace and order. The Founding Fathers of the Constitution, therefore, have emphasized the importance of the role of the child and the need of its best development.

4. Despite the Central Government's concern towards the children, the enactment of various laws to protect the children and various judgments of the Supreme Court including the one referred to above, the petitioners in the Writ Petitions before us, served that much is yet to be adhered to by the Government and the plight of the children in need of care and protection has not been adhered so far.

5. The petitioner in W.P.(MD)No.16273 of 2015 is the Administrator of a Destitute Home running in the name of Mose Ministries, Trichirappalli from the year 1986 and according to the petitioner, the said Institution has been established with an intention to carry on charitable work and to aid destitute children. The Mose Ministries is a wing of Good Shepherd Evangelical Mission. The said Good Shepherd Evangelical Mission has been registered under the Companies Act, 1956 and from the date of formation, it has been running without any adverse remarks.

6. The Mose Ministries Children's Home was started by the above Organization in Usilampatti Town in Madurai District during December, 1994. When it was started, the Juvenile Justice Act of 1986 was in force. As per the said Act, for establishing such a Children Home, there was no licence or recognition required from any authority. Under the said Act, only Juvenile Home to house the children in conflict with Law alone was contemplated. Therefore, according to the petitioner, for running Mose Ministries Children's Home at Usilampatti, no licence was required from any authority and thus, the Home was started.

7. The Home made good progress and in due course, it came to house 89 children, most of whom are orphans. In other words, many children were abandoned children and the others were entrusted to the Home either by the parents or by the Social Activists. Most of the children, when they were brought to the Home, were less than one year of age. According to the petitioner, these children were all brought up in the said Home by providing all facilities including health care, food, education, etc.

8. It is further submitted by the petitioner that by repealing the Juvenile Justice Act of 1986, the Juvenile Justice (Care and Protection of Children) Act of 2000 came into being with effect from 01.04.2001. Even, under the said Act of the year 2000, there was no need for obtaining any licence or permission from the authorities to run the Children's Homes. However, Section 34 of the said Act was amended with effect from 22.08.2006, contemplating registration of these Children Homes.

9. The Juvenile Justice (Care and Protection of Children) Rules of 2007 was brought into force with effect from 26.10.2007. Rule 29 of the said Rules states that the State Government itself or in association with voluntary organizations, shall set up separate homes for children in need of care and protection, in the manner specified in the said provision.

10. Rule 70 speaks of certification or recognition and transfer of management of institutions and after care organizations. Similarly, Rule 71 speaks of registration under the Act. Sub-Rule (1) of Rule 71 states that all institutions and organizations running institutional or non-institutional care services for children in need of care and protection, whether run by the Government or voluntary organization, shall get themselves registered under Sub-Section (3) of Section 34 of the Act. (It needs to be remembered that Sub-Section (3) of Section 34 was introduced by means of amendment with effect from 22.08.2006). Sub Rule (2) of Rule 71 of the Rules states that all such institutions shall make application together with a copy each of rules, bye-laws, memorandum of association, list of governing body, office bearers, balance sheet of past three years, statement of past record of social or public service provided by the institution or organization to the State Government, who shall after verifying that provisions made in the institution or organization for the care and protection of children, health, education, boarding and lodging facilities, if any, vocational facilities and scope of rehabilitation, may issue a registration certificate to such organization under Sub-Section (3) of Section 34 of the Act.

11. According to the petitioner, in compliance with the said Rule 71, the petitioner made an application to the State Government in the year 2010, which was forwarded by the Social Welfare Officer to the District Social Welfare Officer, Trichy, for further action

in the matter on 22.04.2010. According to the petitioner, there was neither registration granted nor the application rejected by the State Government as required under Rule 71.

12. While so, the Tamil Nadu Juvenile Justice (Care and Protection of Children) Rules of 2001 was brought into force with effect from 17.01.2002. Chapter V of the Rules speaks of recognition and certification of Institutions. What is the procedure to be followed has been elaborately dealt with in Rule 56.

13. Rule 56-A is important for our discussion in these Writ Petitions, which states that running and maintaining of institutions for children in need of care and protection or offering Non-Institutional care services such as Adoption, Foster Care, Sponsorship, Child Trafficking, Children of Sexual Workers, Begging Children, Child sexual workers, Children of Leprosy affected persons and any other chronic illness, HIV infected and affected Children, migrant children, children of Bonded Labours, Street and Working Children, Child Victims of manmade and Natural Disasters either by Government or by Voluntary Organizations or Trust or Religious Institutions or any such other Organization shall be legally valid only if the Institution is registered to if it has not been certified or recognized by Government under section 34(3) of the Act. It further mandates that all institutions run by the Government shall also be registered under the Act. The Director of Social Defence shall be the authority to register such institutions functioning under various Departments except to institutions functioning under the Director of Social Welfare or State Commissioner for the Differently Abled. Rule 56-A was introduced with effect from 22.03.2012. Thus, until 22.03.2012, the Registering Authority was the State Government. It is also crystal clear that until 22.03.2012, the registration was not mandatory, though it was contemplated. For the first time, by introducing Rule 56-A with effect from 22.03.2012, it was made mandatory that all institutions including the Government institutions shall be registered under the Act. It is also stated that when an organization ceases to be an organization certified or recognized under Section 34 of the Act, the children kept therein shall under orders of the Director of Social Defence empowered in this behalf by the State Government either discharge absolutely or on such conditions as the officer may impose or transfer to some other institution established, certified or recognised under the provisions of the Act.

14. According to the petitioner, though his application was pending from the year 2010, no order whatsoever was passed on the said application, either granting registration or rejecting his application. However, he was running the said institution housing 89 children in the Home, taking care of them all, by providing education for them.

15. While so, W.P.(MD)No.20895 of 2015 was filed before this Court by one Organization known as 'Change India', represented by its Director Mr.A.Narayanan. In the said Writ Petition, the petitioner has alleged that he is a Development Activist involved in social projects and advocacy for the betterment of the Society. He has further stated that the petitioner in the other Writ Petition has given the children housed in the said children Home Hebrew-Jewish names artificially by the Pastor on his own without the consent of the parents or any other official sanction obtaining birth certificate during the illegal and illegitimate means, instead of producing the children before the Statutory Juvenile Welfare Board/Child Welfare Committee. He has further stated that the said School is in contravention of the provisions of the Juvenile Justice (Care and Protection of Children) Act as well as the Tamil Nadu Juvenile Justice (Care and Protection of Children) Rules of 2001. He has further alleged that it appears that the children were illegally trafficked to and fro Germany and there is every likelihood of economic offences. He has further stated that the person responsible for the said Home appears to have committed various violations and offences. With these allegations, he filed the said Writ Petition seeking a direction to the seventh respondent, viz., the Central Bureau of Investigation, to investigate into the trafficking and illegal confinement of 89 girl children by the ninth respondent, viz., Pastor Gideon Jacob, Mose Ministries Complex and consequently, to direct the first respondent to restore the girl children living in the custody of the ninth respondent to their respective parents.

16. In that Writ Petition, by order dated 07.12.2015, a Division Bench of this Court, issued the following directions in paragraph No.77 of the order, which reads as follows:

"77. In view of the above, the writ petitions on hand are disposed of to the following effect:

(i) A Committee comprising of the District Collector of Tiruchirappalli as the Chairperson, the Chairman of the Child Welfare Committee of Tiruchirappalli, the District Child Protection Officer, the District Social Welfare Officer and two members of the Indian Council for Child Welfare, Tamil Nadu, nominated by its Chairperson Tmt.Chandra Devi Thanikachalam, shall forthwith take over the management and administration of the Home run by Mose Ministries.

(ii) The District Social Welfare Officer shall take over as the Caretaker of the Home immediately. If it is impossible, due to her other pre-occupations, she shall immediately nominate an Extension Officer working under her control as the Caretaker of the Children's Home. The Caretaker shall be available at the Home throughout the day so that the further directions issued hereunder may be implemented. If necessary the Caretaker may have a camp office in one of the rooms available in the

building where girls above the age of 18 are now located.

(iii) Neither Pastor Gideon Jacob nor anyone appointed or nominated by him shall hereafter visit the children's home or interfere with the management and administration of the children's home. They shall also cease to have any communication whatsoever with the children, by whatever means. The Caretaker shall ensure that the present management of the home does not get into contact with the inmates.

(iv) Mr. Jeyam Abraham, who has sworn to the affidavit in support of the writ petition filed by the institution, and who claims to be the Administrator of the Children's home, shall hand over all the records, registers, personal files, passports, medical records, etc. of the inmates to the District Child Protection Officer, immediately. If Pastor Gideon Jacob is in possession of any of the records, he shall also hand over the same to the District Child Protection Officer.

(v) The Indian Council of Child Welfare is requested to send atleast two of its volunteers for a period of two weeks to interact with the inmates and help the children get over any obsession that they have about the outside world.

(vi) The District Collector shall immediately nominate a duly qualified person to render counselling to the inmates on a day to day basis, to enable them to get assimilated into their families and eventually into the Society. The District Collector may seek the assistance of a recognised and well run children's home such as Annai Ashram in Tiruchirappalli, so that the Committee constituted hereunder is in a position to put atleast some of the children to regular schooling.

(vii) The Commissioner of Police, Tiruchirappalli, shall render all assistance to the Caretaker, as and when a request is made. The Commissioner shall also post women police officers in plain clothes, by rotation for ensuring the safety and security of the inmates of the home in both the premises. These officers may be drawn either from the Armed Reserve or from Tamil Nadu Special Police Special Battalion, but they should be officers having sensitivity to the needs of children who need care and protection.

(viii) The Committee shall take immediate steps to make enquiries in Usilampatti, Madurai District, and other areas, from where these inmates were procured by the institution at the time of their infancy. The Superintendent of Police, Madurai Rural District, shall render all assistance to the Committee

to trace out, to the extent possible, the parents and families of the inmates of the institution. But, the custody of the children shall not be handed over to the parents and families, even if they are identified, without getting orders from this court.

(ix) The Committee is requested to take all steps necessary to ensure that the children pursue regular education, from the stage where they discontinued the studies.

(x) The first meeting of the Committee shall be held on or before 09.12.2015 and complete the preliminary formalities such as the nomination of the Caretaker, posting of security, etc. and the District Social Welfare Officer shall file a report on 11.12.2015 about the status of implementation of this order.

(xi) Since the children have been brought up with a particular type of religious orientation, the Committee shall take a decision in its first meeting to devise methods to make necessary arrangements to enable the children to celebrate Christmas and New Year, in a manner befitting the occasions.

(xii) Since Pastor Gideon Jacob has apparently received foreign contributions, by showing these children to the donors, he is directed to place at the disposal of the Committee, a sum of Rs.6,00,000/- (Rupees six lakhs) immediately. Further directions in this regard will be issued by this Court on 11.12.2015.

(xiii) The Committee shall bear in mind that the object of this exercise is to ensure that as and when the children and other inmates are fit enough, physically, mentally and emotionally, to move out of this institution and either get back to their families or get into other institutions, they are liable to be so sent.

Call on 11.12.2015 for a status report from the District Social Welfare Officer."

17. Subsequently, when the matter came up for hearing on 11.12.2015, a Division Bench issued further directions as detailed below:

Pursuant to the orders passed on 07.12.2015, the Committee constituted by this Court has taken over the Home. A major portion of the directions has been complied with.

2. It is stated by Mr. R. Baskaran, learned counsel representing the institution that the institution has also complied with the order, by paying to the Committee a sum of Rs.6,00,000/-. While the first instalment was made on 09.12.2015, the second instalment was made on 10.12.2015.

3. Out of the children housed in the institution, 20 are attending schools, regularly. Even after the take-over of the institution, they are sent to schools. Insofar as the rest of them are concerned, the Committee shall find out the possibility of admitting them in schools in the regular curriculum, either in the current academic year or at least in the next academic year. Psychological counselling shall be arranged for, immediately.

4. It is stated by Ms. D. Geetha, learned counsel for the PIL Petitioner that some of the parents in Usilampatty area want to identify their children and stake a claim. They are permitted to meet the District Social Welfare Officer, Tiruchirappalli, and furnish their identities and make a formal request. The request may be processed, without allowing the parents to meet the children. The next stage regarding their request can be decided in the next date of hearing.

5. As per the earlier orders, passports of five children, aged below 18 years and five girls aged above 18 were produced. The column for providing the name of the father/guardian, is filled-up with the name of Pastor Gideon Jacob and in the column for filling-up the name of mother, it is written as "unknown". Therefore, the Regional Passport Officer, Tiruchirappalli, is suo-motu impleaded as a party. The counsel for the PIL Petitioner shall serve papers on the learned Assistant Solicitor General, appearing for the Regional Passport Officer. The ten passports are retained by this Court. Registrar (Judicial) is directed to keep the said ten passports in safe custody. Office is directed to carry-out necessary amendment.

6. In the status-report, the District Social Welfare Officer has listed some wishes of the children. They are as follows:

- For private studies tuition teachers.
- The above 18 and below 18 want to meet each other
- They want to go to church for quire and services
- They want to see their Pastor Gideon Jacob

7. It is stated by the learned Additional Advocate General that private tuition is being arranged by the Committee. The Committee will facilitate the girls above 18 years and below 18

years to meet. The other two requests cannot be considered for the present.

8. The District Social Welfare Officer, Tiruchirappalli, is directed to furnish, on the next date of hearing, the following information.

(i) The names and addresses of the Children's Homes functioning in Trichy District.

(ii) The details such as Registration Number assigned to any of those institutions under the Juvenile Justice (Care and Protection of Children) Act, 2000.

(iii) The list of unregistered institutions;

(iv) The institutions which are properly registered but whose applications for renewal are pending, along with the reasons for such pendency;

(v) The number of Children housed in each of those Homes.

(vi) The details, such as compliance or non-compliance of the provisions of the Act, by each of those Homes.

(vii) The number of unregistered institutions against which action has so far been taken and the stages at which such actions are pending.

(viii) Any other violations committed by them.

Post on 21.12.2015 at 2.15 p.m."

18. On 22.12.2015, a Division Bench passed the following interim order:

"Pursuant to the orders passed on 11.12.2015, the District Social Welfare Officer has filed a report, indicating the steps taken. The report is taken on record. Two volumes of typesets have also been filed. In the first volume, a report of a team of two members of the Indian Council of Child Welfare is also enclosed. The report needs to be extracted and hence we extract as follows:

"Report on our visit on 19-12 -15 to meet the Children in the Home run by Mose Ministries, Tiruchirapalli.

Mrs. Girija Kumarababu and Mrs. Valli Annamalai, 2 representatives of the Indian Council for Child Welfare -TN. visited the homes in Tiruchi on 19th Dec. 2015 and met with both the groups of children- 53 girls below the age of 18 years and 36 of them, who are above 18 yrs, at the two different homes wherein they are at present residing.

Mrs. Valli Annamalai was there even when the 1st committee meeting was held and was at the spot when the Government took over the charge of running these homes.

Detailed discussions and interactions with the

children and girls were conducted in both the homes. In both the centers group counseling was carried out and doubts of the children clarified.

The major worries of the children as expressed by them are:

1. They are upset about the publicity in Media about their home and their "Father". Some of them went to the extent of tearing up the paper into pieces.
2. They feel the govt. is unduly pressurizing their institution when they are all well taken care of by their "Father".
3. Both the groups are upset because they have been separated and housed in two different locations.
4. According to them they are being confined to their homes, like a bird in a cage, and all their classes and activities have been cut.
5. They are unable to go to church for their prayers conducted by their own pastor and are not allowed to meet up with their own sect of people.
6. Their joy has been shattered.
7. Though some of them would like to see the TV or movies most of them think it is wrong and sinful to do so and it may affect their "Father". They are vehemently vociferous about the repeated request to see the TV.
8. They do not like the stream of visitors who are new to them.
9. The older girls above 18 yrs. expressed their view that all of them would like to get married and start families like their Father. When asked how ' they would support a family they said their father had told them that there were thousands of churches in India and abroad and he would place them there and their material needs would be fulfilled.
10. They are unhappy because they are not able to be in touch with their founder.
11. The older girls said that they were eagerly looking forward to the verdict on 21st and if it was not to their satisfaction, would express their displeasure in a manner suitable to them. Since they are above 18yrs. they have been informed that they can go to the court directly.

Our observations:

After careful consideration of the situation and understanding the emotional overtone, we feel the situation is still volatile. All girls who are currently minors as well as those who reached their adulthood had been systematically subjected to indoctrination or a sort of brain wash to surrender their entire life to be controlled by the so called

"FATHER" and their thinking process re completely different from those of girls of their age. This could have been done by repeatedly feeding certain information from their early formative years and effectively preventing any other information from reaching them. They are unable to differentiate between normal religious beliefs to pathological religious delusions. Hence it is a highly complex situation and no overnight solutions could be found. Attempt of any aggressive intervention / counselling could have negative impact. This matter needs to be dealt with a cautious approach under the supervision of highly qualified professionals. Further in our observation we noticed though the children and the adult looked physically healthy and normal, their home infrastructure is not anything great. Not much of privacy is provided for dressing up / for sleeping etc. Everything has to be done in a crowded dormitory where C.C.TVs were fitted with the monitor installed in the Father's dwelling place. This is a bizarre arrangement and an absolute invasion into their privacy. This matter needs to be investigated.

However in our observation the younger children seem to be less aggressive in comparison to the older ones and more open to suggestions from outsiders. Some of them are eager to go out and explore the outside world and are willing to be accompanied by the Govt. staff. They are happy with the arrangement for their food and safety. They are now eager to offer their help in the kitchen and cleaning the premises.

The interactions between the DSWO, Govt. personnel and duty PCs with the children seemed to be cordial. To us, there seems to be a remarkable difference in their attitude since the 1st meeting on the 9th.dec.

However the older girls are more cautious and well informed about the proceedings of the case.

Hence we place the following recommendation from the side of ICCW-TN before the committee:

1. It is recommended that an individual assessment of all Children be carried out.
2. The counseling needs to be on a one to one basis and given by the same person. This is very important as the children need to develop a trust base with the counselor.
3. We further recommend that the situation warrants a highly skilled counselor, as the thought process of the children are completely affected by the founder and they are unable to use their logical or intellectual skills to understand the situation. Hence we recommend you to request NIMHANS to depute a team of psychologists or psychotherapists to meet the children on a camp mode who can simultaneously train 2

counselors from Tiruchi selected by this committee.

4. We recommend that the CCTV cameras in both the homes be removed forthwith, including private areas, so that the communication between the girls and the founder or his team can be avoided.

5. All the older girls are staying in a home which is in reality the residence of Mr. Gideon Jacob. The older girls should be removed with immediate effect to new premises.

6. In our opinion, it may take a minimum of 3 months to assess, counsel and draw, an individual care-plan for every child/ young girl. Alternate arrangements need to be made for this period.

7. A really detailed medical check-up to be organized for every child/ young girl and appropriate medical records to be created.

8. The younger ones who are not in school to be mainstreamed into school after this period.

9. It seems evident that there are similar hostels run by the same umbrella organization in other cities like Madurai, Salem and Tharangambadi, etc. There seems to be a network and exchange of children, both sexes, between these organizations. This needs to be verified.

10. With the permission of the Court a thorough economic and auditing investigation need to be done to find out the size of funds this FATHER had received over the years using these girls, its expenditure, about his funding partners & their motives & etc.

2. Mr.Veera Raghavan Ramakrishnan, learned counsel for the Institution, came up with two requests for the present. The requests pertain only to Christmas Service and New Year Service that the children may be allowed to attend. The suggestions read as follows:

"SUGGESTIONS FOR CHRISTMAS SERVICE AND NEW YEAR SERVICE

1. It is suggested that the children and the young adults may be permitted to participate in the Christmas Service. The Christmas service begins at 12 midnight 24 December 2015 and ends at about 2:30 AM on 25 December 2015. About 3000 worshippers are expected to attend the service. The children and young adults generally participate and lead the service and sing carols on the stage. Pastor Gideon Jacob would completely stay away from the Christmas Service. He will not even be in Trichy.
2. New Year Service normally starts at 10 PM on the team in December and ends at around 3 AM the next day. The children and young adults not only participate but they also lead worship in this service. They would need to practice the songs that they are going to lead along with the

orchestra and choir. The practice is for 3 days commencing 28 December 2015. Normally the practice starts at 10 AM and continues till about 7 PM on the 28th, 29th and 30th of December. On the 31st of December practice will be from 10.00 a.m. to around 1.00 p.m.

3. Pastor Gideon Jacob will be reaching Trichy by 29th December 2015 night and will be in the church on 30 December. He lead the worship on 31st night and 1st January morning. He will leave Trichy on 2nd January 2016".

3. Taking into account the sensitivity of the issue, we have given our anxious consideration to the requests made by Mr. Veera Raghavan Ramakrishnan, learned counsel appearing for the Children's Home. Under normal circumstances, we would not have any hesitation to accede to the requests. As a matter of fact, in the main order passed by us in the writ petitions on 21.11.2015, we ourselves, without any specific prayer being made in this regard, directed the Committee appointed by us to arrange for the Christmas and New Year celebrations in a befitting manner. Therefore, we would certainly like the inmates of the Children's Home to celebrate these festivals in a grand manner.

4. But, as we have indicated very subtly in our order dated 21.11.2015 and which is also fortified by the observations made by the Members of the Indian Council of Child Welfare, the inmates of the Children's Home are today in a particular state of mind where they truly believe that this Home is their heaven and Pastor Gideon Jacob has come to redeem them. Therefore, we have issued certain directions to ensure that the inmates of the Children's Home are brought out of the obsession that has come to possess them over a period of time.

5. Pursuant to our order dated 21.11.2015, the inmates of the Children's Home did not have (at least to our knowledge) any direct contact with Pastor Gideon Jacob or his followers. We have taken a conscious decision to provide these disconnect so that the psyche of the inmates is freed.

6. In such circumstances, if we accede to the requests made by Mr. Veera Raghavan Ramakrishnan, learned counsel for the Children's Home, the disconnect that we have carefully crafted may get spoiled. Moreover, it is stated that some of the children are

little violent about the outcome of the case. Therefore, if the children create a ruckus in the Church, especially on an occasion where a religious congregation is on, the situation may become unmanageable for the District Administration and may be for the Court thereafter. Eventually, things may go out of control and may even derail all the efforts taken by us so far.

7. Therefore, we are of the considered view that in the best interest of the inmates of the Children's Home, we have no alternative except the painful option of rejecting the passionate appeal made by Mr. Veera Raghavan Ramakrishnan, learned counsel for the Institution.

8. Coming to the other issues on which the report of the District Social Welfare Officer seeks further directions, it is seen that the girls above the age of 18 years are living in a building, the first floor of which is also the residence of the Pastor. Though it is stated that the Pastor is not physically living there continuously, there are about 10 persons employed in the residence. Since there is a Girls Hostel, these employees cannot be allowed ingress and egress to the first floor of the building. Hence, the Committee appointed by us shall send those employees out.

9. The next issue to be addressed is the CCTV installations. It is stated that there are CCTV installations in certain areas where the girls may change clothes. The girls are staying only in a dormitory accommodation. Therefore, except those who change clothes in the washrooms, the others may perhaps use only the dormitory accommodation. The installation of CCTV cameras in those places may really intrude into the privacy of the girls and may also lead to serious allegations. It appears that the control of the CCTV installation is in the Pastor's house.

10. Therefore, the District Social Welfare Officer shall ensure that CCTV installations are available only in public areas in the building where the privacy of the girls will not be intruded and the girls will not be exposed to any kind of cyber attack. The control of the CCTV cameras shall be in the caretaker's room.

11. Coming to persons employed, it appears that the District Social Welfare Officer has engaged the services of 1 Cook and 2 Helpers in the building where girls below the age of 18 are housed. 1 Cook and 2 Helpers are employed in the other building where the

girls above the age of 18 are housed. But, these appointments are on casual basis and the District Social Welfare Officer may not be competent to engage their services continuously. Therefore, the Secretary to Government Social Welfare Department is directed to depute 2 women Cooks and 4 women Helpers.

12. The District Social Welfare Officer is also empowered to engage the services of plumbers, electricians, etc. whenever necessary for attending the day-to-day problems that may crop up. The payment for these people shall be made out of the amount deposited by Pastor Gideon Jacob, pursuant to our orders.

13. The District Collector shall ensure that good arrangements are made for the children to celebrate Christmas and New Year. The services of a Priest who belongs to the same denomination or a similar denomination may also be arranged, so that the inmates do not suffer any cultural shock.

14. Post on 08.01.2016, along with W.P.(MD) No.6876 of 2014."

19. On 23.12.2015, this Court issued further directions as follows:

"When the above matter came up yesterday for hearing, a request was made on behalf of Pastor Gideon Jacob for allowing the inmates of the Children's Home to attend Christmas service and New Year service in the very same Church. But, for reasons recorded by us in our order dated 22.12.2015, we turned down the request.

2. Today, the learned Special Government Pleader filed a memo seeking urgent directions from the Court, on the ground that all the 89 inmates of the Home have come to the streets and refused either to take food or to get into the Home. According to the memo filed by the learned Special Government Pleader, children demanded permission to attend Christmas service in the same Church and that unless this is permitted, they will not get back.

3. In view of the difficulties faced by the District Administration and in view of the fact that all the 89 inmates are girls, we granted permission to the learned Special Government Pleader to move a memo as an application on an emergent basis, despite the fact that today, there is no sitting of the Court. The Registry also duly informed K.Ravichandrabaabu, J., who is nominated as the senior vacation Judge. The vacation is actually due to commence from today, namely 23.12.2015. But, today has been declared a working day for the Registry and the holidays would

technically commence tomorrow, namely 24.12.2015.

4. We have heard Mr.Sidharth, learned counsel appearing for the Children's Home and Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the State. Unfortunately, the learned Special Government Pleader could not serve a copy of the memo on the learned counsel appearing for the petitioner in WP(MD)No.20895 of 2015. But, the situation warranted that the District Administration could not bear the situation that was developing on the spot, particularly on the road with 89 girls staging a demonstration.

5. Fortunately, the District Administration avoided the logical consequences of such an action, by technically taking the inmates into custody and sending them to Home. The Administration has shown restraint without doing anything till an order is passed by this Court. This is why we took the memo for urgent orders.

6. In the course of hearing, which took place on a video call from the National Informatic Centre of the Madurai Bench, with we Judges conducting the hearing from Chennai, Mr.Veera Raghavan Ramakrishnan, learned counsel for the Children's Home also joined on a conference call. On his instructions, the concerned persons have spoken to the girls and the girls have now moved into the Church. Mr.Veera Raghavan Ramakrishnan, learned counsel appearing for the Pastor told us that the Pastor has assured to convince the children to get back into the Children's Home, before 10 o' clock tonight. The assurance of the Pastor is recorded.

7. In the course of the second lap of our hearing, we were informed that the local counsel Mr.Baskaran, who is available at Trichy, has made the children to get into the Church. Now, the children are inside the Church.

8. Mr.Sidharth, learned counsel shall file a memo tomorrow before the Vacation Officer informing the Court that the children have moved into their respective buildings in the Children's Home where they have been normally housed. The caretaker may permit the inmates above the age of 18 years to stay in the same building where the girls below the age of 18 years normally stay, tonight.

9. The Police is directed to keep round the clock vigil, so that there is no problem. We make it clear that it is the duty of Pastor Gideon Jacob to ensure that the inmates of the Children's Home respect the rule of law. He must also inform the inmates that any group of people who stage road rokos and demonstrations at public places, without proper

permission, would normally get arrested and prosecuted. But, neither the Administration, nor this Court would like the girls of the Home to face these consequences. Pastor Gideon Jacob shall duly inform the inmates that this attitude on the part of the District Administration and the Court shall not be seen as a sign of weakness.

10. Though of those 89 inmates, at least 35 of whom are above the age of 18 years, have put the District Administration and the caretaker to a lot of stress and put them in a fix today, and what they have done is actually an intimidatory tactic to achieve what they want, the Court as well as the District Administration and the caretaker would certainly remember, especially on this occasion what Lord Jesus said "Father! Forgive them: For they not know what they do" and no punitive action shall be taken against the girls. The caretaker and others shall not carry this incident in mind and shall continue to treat the inmates with all love and affection that would make the inmates turn a new leaf of life.

The memo is taken on record and disposed of accordingly."

20. On 29.12.2015, another Division Bench issued the following directions:

"This Miscellaneous Petition is filed seeking for permission to the inmates off the Children Home, to celebrate New Year Celebrations in their own Church as in the previous year.

2. Heard Mr.Veera Raghava Ramakrishnan, learned Counsel appearing for the petitioner and perused the materials placed before this Court which include two orders passed by the regular Division Bench consisting of V.RAMASUBRAMANIAN,J. and N.KIRUBAKARAN,J., dated 22.12.2015 and 23.12.2015. We have also noted that two writ petitions arising out of a common issue pending between the parties, are pending before this Court and various interim orders are being passed by the very same Division Bench time and again including by appointing a Committee to inspect and file a report. We have also noted that the said Committee filed the report which has been taken note of by the said Division Bench in its order dated 22.12.2015.

3. A perusal of the order further shows that the very same request as sought for in the interim application was already sought for and negatived by the Division Bench by passing a detailed order.

4. Though Mr.Veera Raghava Ramakrishnan, learned

Counsel appearing for the petitioner submits that this interim application can be considered by taking note of the change of circumstances, we do not find any reason, more particularly, legally sustainable one to entertain this application, especially under the circumstances when the very same prayer sought for in the writ petition earlier was rejected by the Division Bench and the said order has not been challenged further and is still in force.

5. We have also seen that the Division Bench has posted the matter on 08.01.2016 for further hearing. Needless to say that when the said Division Bench is monitoring the matter by passing periodical interim orders time and again including by appointing a Committee, this sort of filing of interim application before a different Division Bench, that too, during vacation, seeking for the relief which has already been rejected by the said Division Bench, cannot be entertained.

6. Moreover, as we could see from the order passed on 22.12.2015 that the Committee appointed by the said Division Bench of this Court was directed to arrange for Christmas and New Year Celebrations in a befitting manner by further observing that the inmates of the Children Home will celebrate those festivals in a grand manner, we are of the firm view that the interest of children at Home has been fully taken care of and order has been passed even in respect of Christmas and New Year Celebrations. Therefore we find that the present interim application is not maintainable and consequently, the same cannot be entertained. We would only advise the petitioner not to precipitate the matter any further by filing this sort of application.

7. Accordingly, we find no merit in this Miscellaneous Petition and the same is dismissed."

21. On 20.01.2016, a Division Bench of this Court passed the following order:

"When the matter was taken up on 11.1.2016, Ms.D.Geetha, learned counsel appearing for the petitioner in the public interest litigation filed notes of submissions. Mr.M.Siddharthan, the learned counsel appearing for the children's home, filed a memo. The District Social Welfare Officer and the Chairman of the Child Welfare Committee filed their reports along with certain documents.

2. In the memo filed on behalf of Mose Ministries, they have prayed for the issue of appropriate directions with regard to four specific issues. They are :

(i) To allow the management of Mose Ministries to engage the services of competent teachers to teach the children and young women, computer, painting, typing, singing and cooking and also to allow theology teachers to take classes

(ii) To allow the girls aged above 18 years to mingle freely with the girls below the age of 18 without any restriction

(iii) To engage the services of anyone of the Pastors named by the management to organize Sunday prayers and

(iv) To allow a wedding already fixed for 1st February 2016 to be solemnized between one of the inmates by name Ms.Esther with a person by name Mr.Gladdy.

3. In the notes of submissions filed on 12.1.2016 by the learned counsel for the public interest litigation petitioner, it is stated as follows :

(i) that as per the information received by the public interest litigation petitioner through a whistle blower, the information regarding the parents of 89 inmates is available with Pastor Gideon Jacob, but he is not revealing the same

(ii) that even according to the Child Welfare Committee, the names and addresses of the parents of all the 89 inmates are recorded in a register and kept in a cupboard, whose key is in the custody of one of the inmates, who is refusing to part with the same

(iii) that the member of the committee accidentally stumbled upon such a register, when the girl by name Evelyn allowed her a limited access to the cupboard and she has taken a photograph of the register in her mobile phone

(iv) that as per the report submitted in Tamil by the District Social Welfare Officer, the institution (Mose Ministries) procured the children through a nurse working in the Government Hospital at Usilampatti with the help of the President of the village panchayat, who was none else than the father of the nurse

(v) that the above facts go to establish a clear case of trafficking that require a thorough investigation by a specialised agency like the Central Bureau of Investigation

(vi) that the necessity to have an investigation is more pronounced in this case in view of the shocking revelation that the institution procured a total of 125 girl children, out of whom, only 89 are now available

(vii) that many of the parents have already approached the District Collector expressing a desire to take back their children

(viii) that according to the report of the Indian Council of Child Welfare, Mose Ministries is part of an

umbrella organisation that is running similar homes in other cities such as Madurai, Salem and Tharangambadi and hence, a detailed and thorough investigation is warranted, especially since the children involved are girls

(ix) that there were reports in the Press about four missing children from the very same institution, who were taken to Omen and the very fact that the children, who are not exposed to the outside world, are able to stage a dharna on a highway on 23.12.2015 go to show that they are being instigated through the girls above 18 years, by those in charge of the management and

(x) that there is an immediate need to conduct DNA tests so as to unite the children with their parents and also to have a medical examination conducted to find out whether there was any sexual abuse.

4. The District Social Welfare Officer has submitted one report containing the events that took place from 23.12.2015 upto 7.1.2016 and also the steps taken by the Committee. As per this report -

(i) The District Collector spent time from 7 PM to 8.30 PM on 24.12.2015 at the home and mingled with the children to enable the children to celebrate Christmas.

(ii) Though the children accepted the Christmas gifts, they refused to celebrate Christmas in the absence of Pastor Gideon Jacob.

(iii) The girls, above the age of 18, came to the building where the girls below the age of 18 are housed and all of them conducted a prayer meeting on 25.12.2015 for Christmas. Similarly, the children accepted the New Year gifts purchased by the Committee appointed by this Court, on 31.12.2015, but refused to celebrate New Year.

(iv) The children held a joint prayer meeting on the eve of New Year.

(v) Mr.R.Baskaran, the counsel for Mose Ministries, gained entry into the institution and distributed cakes to the children, but he went out upon being requested by the District Social Welfare Officer. When Mr.R.Baskaran attempted to go inside the institution and meet the children for the second time, he was not allowed entry, leading to a protest from the children.

(vi) Some persons, who were formerly employed in the institution, attempted to meet the children in the school, but they were denied entry.

(vii) Some persons claiming to be the parents, met the District Collector and submitted a petition that their children should be united with them.

(viii) Pursuant to earliest order passed by this Court, a Team went to Usilampatti, met the Joint Director of Health Services in the Government Hospital at Usilampatti and enquired about the details of children born in the hospital from 1990 to 2000.

(ix) The Team also met one Mr.Agni, former president of the village panchayat of Vadugapatti and came to know that he handed over some children to Mose Ministries, which was then functioning at No.5/4, Veerabadhira Nadar Street located in the 19th ward of the local panchayat.

(x) As per the statement of the former president of the village panchayat, the premises where Mose Ministries was located in Usilampatti was let out by one Mrs.Rani, the daughter of the former president of village panchayat and she herself was employed as a nurse in the Government Hospital. In the enquiry conducted with another staff nurse by name Mallika (now retired), it was revealed that whenever any children born in the Government Hospital were abandoned, a proper procedure of handing over the same to recognized adoption centres, after giving information to the police officials, was followed. Mallika claimed ignorance about the very existence of the institution Mose Ministries, when she was employed there and

(xi) When the Team made enquiries with persons residing in the neighbourhood where the institution was formerly located, they told the Team that the children were kept by five Germans, who were never in contact with the localites.

5. Mr.K.Chellapandian, learned Additional Advocate General produced the print out of the photographs, taken by the Child Welfare committee/ District Social Welfare Officer in her mobile phone, of a Register that was kept in a locked cupboard, whose keys were with one of the inmates by name Evelyn. The learned Additional Advocate General submitted, on instructions, that the register, into which, the committee/District Social Welfare Officer accidentally stumbled upon, when Evelyn permitted limited access to them, contained the details of parents of all the children. It also contained certain other details. But, the children were vociferous and they did not allow the District Social Welfare Officer to take the register into custody.

6. As we have indicated in the first paragraph of this order, the matter came up for hearing in the forenoon of 11.1.2016. From the Notes of submissions filed by the learned counsel for the PIL petitioner, the memo filed by the learned counsel for the institution and the reports filed by the District Social Welfare Officer, it became clear that a Register containing the details of the parents of the children was available in the children's home and that the immediate seizure of the said Register was essential.

7. Therefore, we passed over the case on 11.1.2016 with a direction to Mr.R.Baskaran, learned counsel for the institution, to speak to the concerned inmate

Ms. Evelyn through phone (mobile phone of the care taker of the institution) and direct her to hand over the said Register to the care taker. We also directed a Member of the Child Welfare Committee and a representative of the Church to be present at the spot to take an inventory of the records and the registers, so that both sides do not raise a dispute later.

8. On 12.1.2016, the Chairman of the Child Welfare Committee submitted a report stating that two members of the Child Welfare Committee went to the home. Pastor Selvaraj representing the institution was also present there. But, two girls by name Davaniya and Evelyn told them that the particular Register that they were looking for, was not any more available and that after the District Social Welfare Officer took the photographs of the register on 6.1.2016, the Register was taken away by one Ms. Esther on 10.1.2016 along with the keys of the cupboard.

9. Therefore, the care taker of the children's home could take into her possession, only the following documents :

| | Document Type | N u m b e r |
|--|--|---|
| | Children's particulars like educational documents, children's personal data, residence certificates, health report and photos in A4 sheets (xerox) | 1 2 (f o l i o s |
| | Registers | |
| | 1. Inmate attendance | 5 |
| | 2. Diet and expenses | 4 |

| | Document Type | N u m b e r |
|--|----------------------------------|--|
| | Children photo documents (xerox) | 2 (f i l e s) |
| | Photos | 5 5 N o s . |
| | Scan report of inmates (xerox) | 1 (f i l e) |
| | Building documents (xerox) | 1 (f i l e) |
| | Bills and receipts (xerox) | 2 (f o l l i o s) |

| | Document Type | N u m b e r |
|--|-------------------------------------|---|
| | Official letters (xerox) | 3 (f o l i o s) |
| | Official documents (xerox) | 1 (f i l e) |
| | Children's bio-data 2014 (xerox) | 1 (f i l e) |
| | General documents (xerox) | 1 (f i l e) |
| | Co-worker documents (xerox) | 1 (f i l e) |
| | Home particulars (xerox) | 1 (f i l e) |

| | Document Type | N u m b e r |
|--|--|---------------------------------|
| | Exam applications (xerox) | 8 c o p i e s |
| | Children's bio-data cover (for 6 children) (xerox) | 1 |
| | Adhar card and passport (xerox) | 1 |

10. In the light of what transpired on 11.1.2016 and the list of documents seized by the care taker and submitted to us on 12.1.2016, we heard the submissions of Ms.D.Geetha, learned counsel for the PIL petitioner, Mr.K.Chellapandian, learned Additional Advocate General appearing for the State and Mr.Veeraraghavan Ramakrishnan, learned counsel appearing for the institution.

11. In so far as the Register in question is concerned, Mr.Veeraraghavan Ramakrishnan, learned counsel appearing for the institution took time to get instructions from the Pastor. Thereafter, an affidavit is filed by one Mr.Jeyam Abraham, the Administrator of the institution. A specific stand is taken by the institution, in the said affidavit, with regard to the aforesaid Register. The affidavit is extracted in entirety, so that the stand taken by the institution can be tested for its veracity. Paragraphs 2 to 7 of the affidavit read as follows:

"2. I state that, pursuant to the directions of this Hon'ble Court, I contacted the children and young women in the home along with Advocate R.Baskaran over the telephone. I particularly spoke to Davinya, Esther and Evelyn who have been named in the aforesaid report. I repeatedly told the children and young women that they were not entitled to remove any document relating to the home presently in custody of the Child Welfare Committee. In case, any of them had taken any document from the bureau or elsewhere, I requested them to return the document immediately.

3. I state that the children and young women emphatically told me that they did not take any document

either from the bureau or elsewhere. Only the medical prescriptions required by Esther were seen and returned immediately by Esther.

4. I state that since the children and young women have denied taking the documents and it is possible that the documents are available in the bureau or among other documents with the Child Welfare Committee.

5. I further state that the documents referred in the aforesaid report were not registers but were notings of informal enquiries made about the children's parentage. I understand that copies of these documents are available with the Child Welfare Committee and with Change India and the said documents can be reconstructed.

6. I state that I am second to none in complying with the orders of this Hon'ble Court and in cooperating with the Child Welfare Committee. However, I state that it is unfortunate that the authorities should hand over the bureau key to one of the inmates and allow unsupervised access to the bureau. This has now exposed the children and the young women to needless suspicion.

7. Meanwhile, I am continuing to make enquiries about the document and will take efforts to locate the documents at the earliest, if indeed they have been taken by the inmates and will immediately report to this Hon'ble Court if the documents are available with the inmates."

12. To our mind and in our considered view, the seizure of the said Register appears to be of utmost importance. The print out of the photographs of some pages of such a Register, taken by the District Social Welfare Officer, contains a wealth of information about the identity of the parents of the inmates. For the present, we are not recording in this order, the contents of the print outs, as the same may tempt persons in possession of the Register, either to tamper with it or to destroy it or to tamper with the witnesses. But, suffice it to say that the management of Mose Ministries has not come to court with clean hands. In the affidavit filed by the institution, they have not denied the existence of such a Register. But they have taken a stand that it was only notings of informal enquiries made about the parentage of the children. The Administrator has also agreed in paragraph 5 of his affidavit that these notings could be reconstructed from the photo copies taken by the Child Welfare Committee and the PIL Petitioner. Therefore, a stage has now come for us to proceed to unearth the veracity of the allegations of trafficking, etc.

13. In the first detailed order that we passed, constituting a Committee to take over the management of the institution, we did not deal with and record any

finding with regard to certain serious allegations made in the affidavit in support of the PIL. There are a variety of reasons for this, one of them being, the state of mind of the inmates and the second being the urgent need to remove the inmates from the custody of those in management of Mose Ministries.

14. Therefore, much to the shock, dismay and discomfiture on the part of the PIL petitioner, we were postponing an enquiry into allegations of trafficking and abuse, since we were of the view (i) that so long as the inmates were in the state of mind that we have recorded earlier, no investigation would bring forth any result and (ii) that a ground work was absolutely essential before any investigation is undertaken.

15. But, we do not think that an order for an investigation by a specialised agency can be postponed anymore. In the affidavit filed on behalf of Mose Ministries in support of the writ petition filed by them in W.P.(MD)No. 16273 of 2015, they claimed that all the 89 inmates now available with them, were left at their doorsteps, without any clue about their parentage. But, this averment appears prima facie to be false. If this averment is actually false (subject to the outcome of an investigation), then the averment that there was trafficking, cannot be ignored or belittled. The refusal of the inmates of the home to hand over a very important Register or Notings (as the institution choose to call it) to the Committee appointed by this Court and the sudden disappearance of the same, raises serious doubts and casts a shadow of suspicion. Therefore, it is high time that we appoint a specialised agency, to investigate the allegations of trafficking and abuse.

16. Now, let us taken up for consideration, the requests made by Mr.Veeraraghavan Ramakrishnan, learned counsel appearing for Mose Ministries.

17. The first request made by the learned counsel for the institution is to allow the management to engage the services of competent teachers.

18. But, in the report filed by the District Social Welfare Officer, she has indicated that for children, other than those attending regular schools, tuition teachers have been engaged and that they are now slowly exposed to the outside world. Therefore, we do not wish to accede to the first request of the institution.

19. The second request is to allow the girls, aged above 18 years, to mingle freely with children below the age of 18. The third request is to engage the services of anyone of the Pastors named by the management to organize Sunday prayers.

20. But, both the above requests are not feasible of being granted. The video recording of what happened on 23.12.2015, when the inmates staged a road roko on the

public highway, shows that girls above 18 years are actually instigating girls below 18 years, at the behest of the persons in management of the institution. Today, a crucial register has disappeared only at the behest of girls above 18 years. Therefore, it is not possible for us to accede to the second and third requests.

21. In so far as the fourth request is concerned, it appears that Ms. Esther, whose wedding is proposed to be solemnized, has two siblings, both of whom are also housed in the institution. As per the report of the District Social Welfare Officer, her parentage is known and her father appears to have left behind properties to be inherited by her. Therefore, unless and until this girl comes out of her present mindset, understands her origins and takes an informed decision to marry anyone, the Court cannot give its seal of approval for a wedding arranged by Pastor Gideon Jacob.

22. Hence, all the four requests made by the learned counsel for the institution are rejected.

23. Now, coming to the issues that remains to be sorted out, there remains atleast three major issues, namely, (i) the medical examination of the children, (ii) the examination and counselling to be provided to the inmates by Experts from NIMHANS, and (iii) an investigation by a Specialised Agency into the allegations of trafficking, etc.

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 then, 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.

Post for reporting compliance in the second week of April, 2016."

22. On 13.04.2016, another Division Bench passed 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 then, 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."

23. Subsequently, there were similar orders passed which are not very relevant for our discussion in this matter.

24. On 06.06.2016, when the matter came up before a fourth Division Bench, this Court passed the following order:

"Heard Mr.Isaac Mohanlal, learned Senior Counsel as well as Mr.T.Arul, learned counsel for the petitioners, the learned Additional Advocate General assisted by the learned Special Government Pleader on behalf of the State, the learned Standing Counsel for the Central Bureau of Investigation, the learned counsel for the Union of India. We have also perused the counter affidavit filed in W.M.P.(MD)No.6515 of 2016 in W.P.(MD)No.20895 of 2015. We have also noted the various contents of the said counter affidavit and also noted the assertions of the learned Additional Advocate General that the officer-in-charge of the welfare home is not undertaking any visit particularly to the house where girls are inmates above 18 years beyond 09.00 p.m. in the evening. We have also noted that the Commissioner of Police, Trichy has ensured that a woman constable is posted at the welfare home on round the clock basis. However, the petitioner in W.P.(MD)No.16273 of 2015 is directed to make a further deposit of a sum of not less than Rs.5,00,000/- (Rupees five lakhs) as early as possible and at any rate on or before 27.06.2016 for maintenance and upkeep of welfare home.

2.For further consideration and noting the developments, post on 27.06.2016."

25. On 28.06.2016, the same Division Bench passed the following order:

"Heard Ms.D.Geetha, learned counsel for the petitioner, Mr.Issac Mohanlal, learned Senior Counsel learned counsel for the respondent and learned Additional Advocate General assisted by the learned Special Government Pleader on behalf of the State.

2.We have also had the benefit of interacting with Dr.N.Lalitharani, Professor of Pathology, K.A.P. Medical College, Trichy.

3.Before proceeding further in dealing with the

requests said to have been made by some of the parents of the inmates of the home (Mose Ministries) for restitution of their wards, we could consider that it would be appropriate to issue the following directions:-

"(i) Dr.N.Lalitharani, Professor of Pathology, with the assistance of any 3 or 4 female technicians, 10 names of whom have been furnished to us by the learned Additional Advocate General, shall collect blood samples from all the 89 inmates of the home. Let this task be completed in 4 to 5 days time between 10.00 a.m. and 12.00 noon. Dr.N.Lalitharani, Professor of Pathology, shall also ensure that the blood samples so collected are distributed in three separate sterile containers so that they could be utilised at any later point of time for the purpose of D.N.A finger printing test and also for the purpose of comparison, in case of a second opinion being required.

(ii) From an analysis of the data made available by Mr.Issac Mohanlal, we gather that excepting 13 children, all other inmates are 18+ years of age. Amongst these 76 children who are 18+ of age, if they need any assistance in the matter of pursuing higher studies of learning, they may leave a request in that regard in writing with the District Social Welfare Officer in charge of the home so that appropriate facilities for their higher studies can be explored.

(iii) Such of those parents who have come forward to take the custody of their respective children who are now staying in the home, they must necessarily file an application before the District Collector or the Commissioner of Police, Trichy or the District Social Welfare Officer in charge of the home, prima facie, identifying the girl child whom they want to take custody of. Upon receipt of any such application, blood samples shall be collected from both the parents under the supervision of Dr.N.Lalitharani, Professor of Pathology. Each such set of parents shall deposit a sum of not less than of Rs.4,000/- (Rupees four thousand only) for the purpose of getting the D.N.A finger printing test conducted along with the application.

(iv) The blood samples shall be segregated into three sealed bags. One of the samples shall be sent over to this Court to be kept with the Registry and the remaining two sealed sample boxes shall be kept either in the custody of the District Collector or the Commissioner of Police, Trichy.

(v) All the 89 inmates of the home are specifically hereby directed to co-operate with Dr.N.Lalitharani, Professor of Pathology and they shall part with their blood sample.

(vi) A detailed report may be made available to this Court by the District Social Welfare Officer on 12.07.2016."

4.Call this matter for further consideration on 12.07.2016."

26. On 19.07.2016, the same Division Bench passed the following order:

"Heard all the learned counsel concerned in the matter.

2. It is brought to our notice that in respect of three girls both their parents have parted with their blood samples and also made a request for referring their blood samples along with that of the child identified by them, whom they claimed to be their own child, for DNA finger printing test. In respect of one child, only the mother could give her blood sample, as it is alleged that the father is no more of that child. Now, these four sets of blood samples are available with the Medical College at Trichy. These samples, along with respective child's sample (which is already collected) be sent over to the Government Forensic Science Laboratory, Chennai for DNA finger printing test and for that purpose, we authorise the Central Bureau of Investigation, the investigating agency, to carry out that exercise. However, the Forensic Science Laboratory will make available its findings in respect of each set of the samples by tendering a separate opinion and present it in a sealed cover and all the separate sealed opinions to be put again in another sealed cover and sent over to the Registrar Judicial of this Bench of the High Court. We hope and trust that this exercise would be completed as early as possible, at any rate, latest by 22nd of August, 2016. Therefore, post this matter for further consideration on 24th August, 2016.

3. So far as any other parent(s) desiring to seek comparison of their blood samples with that of an identified child inmate of this Home, an appropriate application in that respect may be delivered to the District Magistrate and Collector, Trichy and upon such application, the Collector may pass appropriate orders as expeditiously as possible, preferable by the next working day so that the blood samples can be collected and a similar exercise, like the one which we have ordered today, may be carried out with a request to make available the findings of the Laboratory in a separate sealed cover to this Registry.

4. The inmates may be provided with the necessary cable network connection to the television sets by subscribing to the suitable channels.

5. Mr.Issac Mohanlal, learned Senior Counsel could

agree to our suggestion that before 15th August, 2016, a further sum of Rs.2,00,000/- (Rupees Two Lakhs only) will be deposited to spend for the well-being of the children.

Post on 24.08.2016."

27. At this juncture, it needs to be mentioned that with effect from 15.01.2016, the Juvenile Justice (Care and Protection of Children) Act, 2015 came into being repealing the Juvenile Justice (Care and Protection of Children) Act, 2000. Similarly, the Juvenile Justice (Care and Protection of Children) Rules, 2016 was also brought into force. But, these new Act and the Rules were not considered by the earlier Division Benches while passing interim orders as extracted supra.

28. While so, this matter came up before us (SNJ & MVMJ) on 26.10.2016, we passed the following interim order after hearing both sides:

"From the records available before us and from the submissions made by the learned counsel on either side, we find that Mose Ministries is not a registered Child Care Institution in terms of Section 41 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Though it is stated that the said institution was functioning even before coming into force of the said Act of the year 2015, there was no registration of the same under the Juvenile Justice (Care and Protection of Children) Act, 2000.

2.The learned senior counsel Mr.Isaac Mohanlal appearing for the institution would submit that as a matter of fact, a registration was made under Orphanages Act on 30.01.2008. He would further submit that they would pay Rs.5 lakhs to the institution for maintenance of the children. The said statement is recorded.

3. As per Sub Section 3 of Section 34 of the Juvenile Justice (Care and Protection of Children) Act, 2000, no institution to take care of the children will be conducted without a licence, notwithstanding anything contained in the other law for the time being in force. Thus, it is crystal clear that the Home in question has got no right to be as a Child Care Institution either under Section 41 of the Juvenile Justice (Care and Protection of Children) Act of 2015 or under the Juvenile Justice (Care and Protection of Children) Act of 2000. Therefore, in our considered view, since the Institution is an unregistered one, the children cannot be kept in the same. As per the Juvenile Justice (Care and Protection of Children) Rules, 2016, there are several specifications prescribed for registering such a Home, such as Medical Aid, Safety, Security, etc. Since it is doubtful as to whether these facilities are available satisfying the specifications and since it is not a registered Child Care Institution, in

our considered view, it may not be appropriate to allow the children to be kept in the same Home. It is needless to state that even for the Government to run such a Home, Registration is absolutely necessary U/S.41 of the Act.

4. During the course of argument, it has been brought to our notice that barring 11 children, the others have already attained majority and many of them even crossed 20 years of age. One female child is now aged 27 years. Thus, barring 11, others are major and they are no more children. They have got freedom to decide about their future and no one can compel them to reside at a particular place viz., Home. It is also brought to our notice that 34 parents have approached the authorities for DNA examination claiming parentage of the children. The results are still awaited.

5. At any rate, in respect of the major girls, since they have got freedom to decide about their future, we deem it appropriate to ascertain their willingness either to continue to remain in the Home for Women or to be freed. For that purpose, we are inclined to issue a direction to the learned Presiding Judge of the Children Court at Tiruchirapalli to visit the Institution (Mose Ministries), record the statement of all the inmates, including 11 children, who have not attained 18 years of age and ascertain the willingness of those who have completed 18 years of age already, as to whether they like to be in any Women Home or they want to be freed. In respect of the children, who have not completed 18 years of age, the Presiding Judge shall ascertain as to whether they are willing to stay in a Home known as Annai Ashramam, which is situated at Tiruchirapalli near the School where they are studying. While ascertaining the views of these inmates, the Presiding Judge shall maintain absolute confidentiality and they shall not be examined in the presence of others. The Presiding Judge shall ensure that inmates, while under examination by her, are free to speak according to their volition. The Presiding Judge shall submit a report, along with the statement of the inmates, to this Court on or before 09.11.2016.

6. The CBI may conduct the investigation and submit an appropriate final report either positively or negatively before the competent jurisdiction Court.

7. List this matter on 10.11.2016."

29. Again, when the matter came up for hearing, on 10.11.2016, we passed the following order:

"This Court directed the Presiding Officer of the Children Court, Tiruchirapalli to record the statements of inmates of the Home. She has sent statements of some of the

inmates. She has asked for time to record the statements of others. We have gone through the statements already recorded.

2. It appears that the Presiding Officer of the Children Court has not understood the purpose of enquiry ordered. She has recorded the statement as though the direction is to ascertain the condition of the Home or the treatment met out to inmates of the Home, at the hands of the pastor. The purpose of the enquiry is to ascertain the views of the inmates, who have completed 18 years of age, as to whether they are willing to go with their parents or they would like to be in any other Home run by the Government. But, the Presiding Officer has not ascertained this fact from any one of the persons from whom the statements have been recorded. Thus, we are not satisfied with the statements recorded. The Presiding Officer of the Children Court, Tiruchirapalli is, therefore, directed to revisit the Home, record the statements and ascertain the views of all the inmates about their willingness to go with their parents or to continue to be in any other recognized Home for that purpose and submit a report.

3. The learned Special Government Pleader appearing for the official respondents submitted that out of 89 inmates, 80 inmates attained majority and out of the said 80 inmates, the parents of the 45 inmates are willing to take them back. In respect of 10 others, though the parentage was identified, they are not willing to take them back. At any rate, according to the learned Special Government Pleader, the DNA report is necessary to ascertain the parentage and then, to allow the children to go with their respective parents.

4. As per the direction of this Court, the Deputy Director of Regional Forensic Laboratory, Madurai, has sent the DNA reports in a sealed cover. The Registry shall furnish a copy of these reports to the District Social Welfare Officer, Trichy, for further action.

5. Post the matter on 25.11.2016."

30. Today, when both the Writ Petitions came up for hearing before us, the Director of Social Defence Mr. Lalveena, I.A.S., Director of Social Welfare Mrs. Amuthavalli, I.A.S., the Regional Deputy Director of Social Defence, Deputy Superintendent of Police, CBI and other officials made appearance before this Court.

31. We have heard Mr. Isaac Mohanlal, learned Senior Counsel appearing for the petitioner in W.P.(MD)No.16273 of 2015 and Mr. R. Dinakaran, learned counsel appearing for the petitioner in W.P.(MD)No.20895 of 2015. We have also heard the learned Special Government Pleader Mr. M. Govindan, appearing for the official

respondents in W.P.(MD)No.20895 of 2015 and Mr.S.Jeyakumar, learned Special Public Prosecutor for CBI. We have also heard the learned Additional Advocate General Mr.B.Pugalendhi, assisted by Mr.M.Govindan, learned Special Government Pleader appearing for the official respondents in W.P.(MD)No.16273 of 2015. We have also perused the records carefully.

32. From the facts narrated herein above and from various interim orders passed by this Court on several occasions, as enumerated hereinabove, as of now, there is no controversy over the fact that as on the date when the first interim order was passed by this Court, in W.P.(MD)No.20895 of 2015, there were 89 inmates in Mose Ministries Children's Home at Trichy. Out of these 89 children, already 82 have completed 18 years of age. Thus, they are no more children in need of care in terms of the provisions of the Juvenile Justice (Care and Protection of Children) Act of 2015. They have got freedom to decide about their future. In order to ascertain the views of these children, who are now kept in the said Home, which is controlled and managed by the Governmental authorities, we directed the Presiding Judge of the Children's Home at Trichy, to record the statements of these girls. She has recorded the statements of these girls and she has produced the same before this Court.

33. A perusal of the report would go to show that many of them have even crossed 20 years and one girl, by name Eunice is aged 27 years and 9 months. All of them have been almost educated and they have passed 12th standard successfully. Many of them know English, Hindi and Typewriting. In the statement made to the District Judge, they have stated that they are willing to continue to be under the care and custody in the Mose Ministries Children's Home. Regarding the wishes of these girls, we cannot express any view, because, being majors, they have got freedom to decide about their future. But, as per the interim order passed by this Court, they are now confined in the very same Home. This, in our considered view, is not only illegal, but against the rights of these girls to enjoy freedom. When we expressed this, the learned Senior Counsel appearing for the petitioner in W.P.(MD)No.16273 of 2015 and the learned Special Government Pleader, on instructions, submitted that the wishes of these inmates (girls) could be ascertained and they would be allowed to decide about their future according to their own wishes without any intervention whatsoever from any quarters. The said statement is recorded. At this juncture, we need to look into Sub-Section (4) of Section 39 and Section 46 of the Act (2015) which reads as follows:

"39(4). The children in need of care and protection who are leaving institutional care or children in conflict with law leaving special homes or place of safety on attaining eighteen years of age, may be provided financial support as specified in section 46, to help them to re-integrate into the mainstream of the society."

46.After care of children leaving child care institution.- Any child leaving a child care institution

on completion of eighteen years of age may be provided with financial support in order to facilitate child's re-integration into the mainstream of the society in the manner as may be prescribed."

34. In view of these provisions, we direct that the wishes of these (inmates) girls who have completed 18 years of age shall be ascertained by the Director of Social Welfare Department, and if they want to leave the Home, the Government shall provide financial support, as stated in Section 46 of the Act and allow them to choose their abode according to their choice. If any such girl who has completed 18 years of age wishes to continue to have the protection, she may be kept in any Home for destitute run by the Government or any other recognized Home.

35. So far as the seven children are concerned, who have not completed 18 years of age, of course, they need care and protection, as provided under the Juvenile Justice (Care and Protection of Children) Act of 2015. At the same time, we cannot allow these children to be kept in Mose Ministries Children's Home, because, it has not been registered as provided under Section 41 of the Act, 2015. They need to be kept in a registered Home, either run by the Government or by any other organization.

36. The learned Senior Counsel Mr. Isaac Mohanlal submitted that considering the fact that these children are studying in St. Joseph High Schools, they may be allowed to be in any recognized Home or registered Home near the said School, so that, they may not experience any inconvenience to go to the School. During the course of hearing, we were informed that there is one recognized children home, by name Nagammai Children's Home (Nagammai Kulanthaigal Illam) run by Thanthai Periyar Maniyammai Trust) at K.K.Nagar, Trichirappalli. The officials and the learned Special Government Pleader have got no objection for keeping all these seven children in the said Home. Therefore, we have no hesitation to issue a direction to the respondents to keep these seven children, namely Estelle, Fabienne, Chiara, Larissa, Loreen, Amelie and Navina, in Nagammai Children's Home at K.K.Nagar, Trichirappalli.

37. It is submitted by the learned Senior Counsel Mr. Isaac Mohanlal that the application made by the petitioner seeking registration of the Home as a Children's Home has been pending with the State Government from the year 2010 onwards. But the learned Special Government Pleader submitted that the District Social Welfare Officer had not recommended for the registration of the said Home, as the Home does not satisfy the legal requirements. But the fact remains that no order of rejection of the application made by the petitioner was made. The learned Senior Counsel Mr. Isaac Mohanlal would submit that if the defects noticed by the Director of Social Defence are intimated to the petitioner, he is prepared to rectify the same and thereafter, his application could be considered by the Director of Social Defence, who is the competent authority, as of now, to grant registration.

38. The Director of Social Defence, who was present in Court, submitted that if all the formalities are complied with by the petitioner in W.P.(MD)No.16273 of 2015, his application could be disposed of by the Director, within a period of four weeks. The said statement is also recorded.

39. In view of the same, we are inclined to issue a direction to the petitioner in W.P.(MD)No.16273 of 2015-Mose Ministries, to submit all the required details and documents to the Director of Social Defence, within a period of four weeks from the date of receipt of a copy of this order. The Director of Social Defence shall inform the petitioner as to what are all the defects noticed and what are all the other documents required for being considered for grant of registration. After the above requirements are satisfied, the Director of Social Defence shall pass orders on the application of the petitioner, strictly in accordance with law, within four weeks thereafter.

40. It is also reported that in pursuance of the interim order passed by this Court, though the administration of the Home has been all along done by the officials of the Social Welfare Department, the petitioner, viz., Mose Ministries has paid so far Rs.28 Lakhs for running the Home by the Government. The same is recorded.

41. Now, turning to the investigation by the CBI, the Deputy Superintendent of Police has instructed Mr.S.Jeya Kumar, learned Special Public Prosecutor for CBI that the investigation is in progress. The details of the investigation, however, could not be disclosed. Mr.G.Kalaimani, Additional Superintendent of Police/CBI/Special Crime Branch, who made appearance before this Court, submits that he has been doing the investigation in the right direction by collecting materials and shortly, he would complete the investigation and file an appropriate police report, either positive or negative before the concerned jurisdictional Court.

42. But the learned Senior Counsel Mr.Isaac Mohanlal submitted that a time frame may be fixed for the CBI to complete the investigation. Though we are of the view that this Court cannot fix a time frame, so as to force the CBI to complete the investigation, the CBI should also be fair to expedite the investigation and to finalize a police report, because fair investigation includes speedy investigation as well, which by itself is a fundamental right guaranteed under Article 21 of the Constitution of India. Therefore, though we are not inclined to fix any time limit for the CBI to complete the investigation, we direct the CBI to expedite the investigation and preferably, file a final report within nine months. Since, as per the provisions of the Juvenile Justice (Care and Protection of Children) Act of 2015 as well as under the provisions of Protection of Children from Sexual Offences Act, 2012, the investigation is to be done by a woman officer, the Director of CBI shall forthwith transfer the investigation to an Officer not

below the rank of Deputy Superintendent of Police, who shall be a woman officer. The present Investigating Officer shall hand over the case diary to the woman officer to whom investigation is transferred and the said officer shall expedite the investigation and file a final report to the jurisdictional Court.

43. Before parting with this case, we would like to highlight certain aspects of the matter. During the course of the hearing, as we have already extracted, in the 13 Districts falling within the territorial jurisdiction of this Bench, according to the Regional Deputy Director of the Social Defence, there are 594 children Homes, wherein 11,155 children are kept. Out of these 594 Homes, only 348 Homes are registered Homes, as required under the Juvenile Justice (Care and Protection of Children) Act of 2015. Out of the remaining 246 children Homes, applications have been received from 144 Homes for registration. As per Section 41(3) of the Act, from the date of application, the State Government may grant provisional registration, which may extend only for a period of six months. But, no such provisional registration has been given by the Government to any Home which has made application for registration. Thus, all these Homes are functioning without registration which is an offence under the Act. The remaining are 102 Homes, which are running without any registration and without even making any application. Out of these 102, already 2 Homes have closed their business on their own and 10 Homes have been closed by the authorities. Thus, there are 90 Homes which are run without any registration and without making any application for registration.

44. Roughly, there are about 5,000 children kept in these unregistered Homes. As per the Act and as per the Rules, these children cannot be kept in these unregistered Homes. In other words, persons who are keeping them are liable for punishment.

45. The Director of Social Defence submitted that so far as 144 applications, which are pending with him, he would pass final orders in all those applications strictly in accordance with law and after following the procedure established, within a period of four weeks from today.

46. So far as the 90 Children Homes, which are run without any registration and without even making any application, we direct the Director of Social Defence and its subordinates to take appropriate legal action. At the same time, the interest, welfare, health and education of these children shall be protected by the Director of Social Defence and they shall not be harmed either physically or emotionally.

47. It is also brought to our notice that in Madurai City, there is a Home run by the Department of Social Defence. The said Home is known as 'Annai Sathya Home', near Gandhi Museum at Madurai. There are 130 children, as of now, kept in the said Home. But the sanctioned strength of this Home is to house 300 children. The

Regional Deputy Director, who made appearance before this Court, told us that the said Home is run in a rented building, which can house only 35 children going by the norms prescribed under the Rules.

48. Rules 29 to 38 of the Juvenile Justice (Care and Protection of Children) Model Rules of 2016 issued by the Central Government prescribe physical infrastructure, clothing, bedding, toiletries and other articles for the children, sanitation and hygiene, daily routine, nutrition and diet scale, medical care, mental health, education, vocational training and recreational facilities. The Regional Deputy Director would state that these requirements are not available in the present Annai Sathya Home for 300 children. He would state that the said Home could accommodate only 35 children. Thus, it is crystal clear that in a place, which could accommodate only 35 children, 130 children are kept, which, in our considered view, is not only a serious violation of the provisions of the Juvenile Justice (Care and Protection of Children) Act of 2015 and the Juvenile Justice (Care and Protection of Children) Model Rules of 2016 and also a serious human rights violation, including violation of the child rights. We wonder as to how the Government could violate the mandate of the law thereby committing offences.

49. When this was pointed out, the learned Special Government Pleader submitted that a place has been earmarked for constructing a Home to accommodate 300 children with all required facilities. But the construction has not yet commenced for want of allotment of funds by the Government. If once fund is allotted by the Government and construction is completed, then, the said Home would satisfy the legal requirements, so as to accommodate 300 children.

50. In our considered view, the state of affairs in Annai Sathya Home is really horrible and we are hopeful that the Government would take adequate steps forthwith to ensure that the rights of these children including their human rights are protected by housing them in an appropriate Home, which satisfies all the requirements under the Rules.

51. We are also told that the "Tamil Nadu Hindu Religious and Charitable Endowments Department" is running three such children's Homes in three different places. These Homes do not have registration as required under the Act. Mr.VR.Shanmuganathan, the learned Standing Counsel for the Hindu Religious and Charitable Endowments Department, who was present in Court, on instructions, submitted that the applications made by these three Homes run by the Tamil Nadu Hindu Religious and Charitable Endowments Department are pending with the Director of Social Defence from the year 2012. However, there is no provisional registration also.

52. Here again, it is really unfortunate that three such Homes run by the Governmental Institutions are without registration and the applications made by them are kept pending without any action being taken for the past four years. So far as the infrastructure

facilities and other requirements, as prescribed under these Rules, Mr.VR.Shanmuganathan, learned Special Government Pleader submitted that all such facilities have been provided by the Tamil Nadu Hindu Religious and Charitable Endowments Department and it is a matter of verification. We are hopeful that the Director of Social Defence would take steps to consider the applications of these Homes and pass orders, within eight weeks from the date of receipt of a copy of this order. We are also informed that in these three Homes run by the Tamil Nadu Hindu Religious and Charitable Endowments Department, 100 students are kept. Their safety, security and welfare should also be protected.

53. During the course of the proceedings, the Director of Social Welfare Department has produced the details of the abandoned children, who were taken from the Cradle Baby Scheme of the Government, which was introduced in the year 1992. The following are the details of the children, who were taken by the Government by the Social Welfare Department under the said Scheme:

சமூக நலத்துறை, குழந்தைகள் நலப்பிடிவு தொடர்பில் குழந்தைத் திட்டத்தின் மூலம் பெறப்பட்ட குழந்தைகள் விவரம் (1992 முதல் 2016-2017)

| வ.எண். | வருடம் | ஆண் | பெண் | மொத்தம் |
|--------|-------------------|-----|------|---------|
| 1. | 1992 | 0 | 150 | 150 |
| 2. | 2001-02 | 26 | 119 | 145 |
| 3. | 2002-03 | 57 | 411 | 468 |
| 4. | 2003-04 | 76 | 495 | 571 |
| 5. | 2004-05 | 80 | 426 | 506 |
| 6. | 2005-06 | 72 | 420 | 492 |
| 7. | 2006-07 | 56 | 320 | 376 |
| 8. | 2007-08 | 58 | 285 | 343 |
| 9. | 2008-09 | 66 | 263 | 329 |
| 10. | 2009-10 | 54 | 197 | 251 |
| 11. | 2010-11 | 34 | 152 | 186 |
| 12. | 2011-12 | 50 | 139 | 189 |
| 13. | 2012-13 | 70 | 142 | 212 |
| 14. | 2013-14 | 68 | 151 | 219 |
| 15. | 2014-15 | 69 | 204 | 273 |
| 16. | 2015-16 | 69 | 109 | 178 |
| 17. | 2016-17 (October) | 32 | 49 | 81 |
| | Total | 937 | 4032 | 4969 |

54. Out of these children, according to the statistics available, upto October, 2016, 4,771 children have been given in adoption within the country and 431 have been given in adoption to foreign countries. It is stated that at present, there are 15 specialized adoption agencies functioning in the State of Tamil Nadu

in the field of inter-country adoption. Among them, five have been recognized as Central Adoption Resources Authority, New Delhi, to handle inter country adoption also. The statistics show that abandoning the children more particularly, female children, is on the increase. It appears that some more measures, which are more effective, should be taken by the Social Welfare Department to bring a change in the mind set of the people, more particularly, in the minds of the people living in Usilampatti area, where such incidents are more in numbers. We are hopeful that the Government shall take serious note of the above situation and provide sufficient funds and also create more number of Agencies, so that, they can go deep into these areas and bring in social change among the people.

55. Having highlighted the situation prevailing in this State, we are unable to restrain ourselves, without expressing our anguish and displeasure over the way in which the rights of these children have been dealt with by the officials of the Departments of Social Defence and Social Welfare and the Government of Tamil Nadu. We are only reminded of the words of Gabriel Mistral, the Nobel Laureate. He said:

"We are guilty of many errors and faults, but our worst crime is abandoning the children, neglecting the foundation of life. Many of the things we need can wait. The child cannot; right now is the time his bones are being formed, his blood is being made and his senses are being developed. To him, we cannot answer 'tomorrow'. His name is 'today'."

56. We are hopeful that the officials would realize their responsibilities in this piquant situation prevailing and act swiftly, without postponing any action for tomorrow.

sd/-

30/11/2016

/ TRUE COPY /

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

TO

- 1 THE DISTRICT COLLECTOR
COLLECTORATE OFFICE,
TIRUCHIRAPPALLI DISTRICT.
- 2 THE SOCIAL WELFARE COMMISSIONER,
CHEPAUK, CHENNAI.
- 3 THE DISTRICT SOCIAL WELFARE OFFICE,
TIRUCHIRAPPALLI.
- 4 THE CHAIRMAN, CHILD WELFARE COMMITTEE
HAVING OFFICE AT, OBSERVATION HOME AT, BABU ROAD,
(EAST BOULEWAR ROAD), TIRUCHIRAPPALLI.

- 5 THE CHILD WELFARE OFFICER,
DISTRICT CHILDREN WELFARE UNIT
TIRUCHIRAPPALLI.
- 6 THE INSPECTOR OF POLICE
K.K.NAGAR POLICE STATION, TIRUCHY.
- 7 THE REGIONAL PASSPORT OFFICER,
TIRUCHIRAPPALLI.
- 8 THE PRINCIPAL SECRETARY
DEPARTMENT OF SOCIAL WELFARE,
GOVERNMENT OF TAMILNADU, SECRETARIAT,
FORT.ST.GEORGE, CHENNAI 9.
- 9 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.
- 10 THE COMMISSIONER OF POLICE,
COMMERCIAL TAX BUILDING, RACE COURSE ROAD,
KAJAMALAI, TRICHY 620 020.
- 11 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.
- 12 THE UNION SECRETARY
MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
NORTH BLOCK, NEW DELHI 110 001.
- 13 PASTOR GIDEON JACOB
MOSE MINISTRIES COMPLEX,
RANGANAGAR, SUBRAMANIAPURAM, TRICHY.

COPY TO:

THE REGISTRAR (JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC to M/S.M.SIDDHARTHAN, Advocate, SR.No. 74721

ORDER
IN

WP (MD) No.20895 and 16273 of 2015
Date :30/11/2016

AM/SS3/SAR-3/05.01.2017/1P/16C