

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

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THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

MONDAY, THE 27TH DAY OF MARCH 2023 / 6TH CHAITHRA, 1945

WP(C) NO. 33095 OF 2022

PETITIONER/S:

SUO MOTU

RESPONDENT/S:

- 1 THE SECRETARY TO GOVERNMENT
SOCIAL JUSTICE DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM**
- 2 THE DIRECTOR
WOMEN AND CHILD DEVELOPMENT DEPARTMENT,
GOVERNMENT OF KERALA, SPMU, POOJAPPURA,
THIRUVANANTHAPURAM**
- 3 THE MEMBER SECRETARY
KERALA STATE LEGAL SERVICES AUTHORITY, HIGH COURT
BUILDING, ERNAKULAM**
- 4 THE LABOUR COMMISSIONER
LABOUR COMMISSIONERATE, THOZHIL BHAVAN (LABOUR
COMPLEX), THIRUVANANTHAPURAM, KERALA**
- 5 THE EXCISE COMMISSIONER
EXCISE COMMISSIONERATE, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM - 695033**
- 6 STATE PROGRAMME HEAD, CHILD LINE INDIA FOUNDATION
SOUTH REGIONAL RESOURCE CENTRE, DOOR NO.70, 2ND
FLOOR, HARINI BUILDING, CHENNAI-600 029. ADDL. R6
IS SUO MOTU IMPEADED AS PER ORDER DATED
04/11/2022.
BY ADVS.
B.G.HARINDRANATH
SANDHYA RAJU
SARAYOO S.
V.MANU, SENIOR G.P.(GP-46)
V. TEKCHAND, SR. GP**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 27.03.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

J U D G M E N T

Murali Purushothaman, J.

This suo motu writ petition is initiated at the instance of Hon'ble Mr. Justice Shaji P. Chaly, Chairman, High Court Juvenile Justice Committee, taking note of the incident relating to the nomadic children begging or selling knick-knacks at busy junctions and tourist spots and also their plight that they should be taken care of, sent to shelter homes or repatriated.

2. When the matter came up for admission on 18.10.2022, this Court directed the respondents to take note of the contents of the Registry's note and file a statement/counter affidavit with supporting documents, setting out the steps taken to provide adequate and suitable care and protection to the children in need, and also the nomadic children found to be begging or selling knick-knacks at busy junctions and tourist spots. Respondents were further directed to furnish the details of the child care centres/centre homes, where the above kind of children are kept till the repatriation starts. The Member Secretary, Kerala State Legal Services Authority (KeLSA), Ernakulam, the 3rd

respondent, was directed to conduct a detailed enquiry into the incidents, which necessitated this Court to initiate the instant suo motu public interest writ petition under the caption "Protection and rehabilitation of children in streets" as well as the aspect of drug peddlers attempting to lure students outside school campuses.

3. On 04.11.2022, this Court suo motu impleaded the Programme Head, ChildLine India Foundation, the nodal agency of the Union Ministry of Women and Child Development, as additional 6th respondent in the writ petition, and also issued notice to the above respondent. Based on the letter dated 20.12.2022 furnished by the State Police Chief addressed to the learned Advocate General, which forms part of the record, the learned Senior Government Pleader submitted that 40 cases are registered against child labour and 5 cases are registered against child begging for the period from 2018 to 2022 in the State. By order dated 21.12.2022, we directed the learned Senior Government Pleader to furnish the details of cases registered against child trafficking and a memo has been filed stating that there are 37 cases involving 75 children registered in connection with child trafficking in the State, for the period from 2018 to 2022.

4. Learned Senior Government Pleader has filed a statement dated 03.11.2022 in the writ petition on behalf of the Secretary to the Government, Social Justice Department, Thiruvananthapuram, and the Director, Women and Child Development Department, Thiruvananthapuram, respondents 1 and 2, pointing out the major initiatives of the State to curtail down the children engaged in child labour and begging. It is stated that the 'Saranabalyam Project' is initiated by the State Government to ensure that the State is free from child labour, child begging, child trafficking and children in street situation, which provide emergency services for such children at risk, by appointing Rescue Officers for locating and rehabilitating the children. District Task Forces are also constituted with the District Collector as Chairperson, for monitoring and reviewing all activities related to prevention and protection of children from child labour, child begging, from being in street situation and child trafficking.

5. It is stated that when children from other States are found as children in need of care and protection, steps are taken to repatriate them to their home state after completing all the necessary formalities by the District Child Protection Units. With the collaboration of

NGO's, four open shelters are operating to temporarily house children found on the streets, and the children can stay in these open shelters and receive education, food and shelter. A prevention plan is taken to identify vulnerable children, including those engaged in child labour and child begging, by developing a smart phone application. Steps have also been taken to create awareness against drug abuse, its prevention and de-addiction.

6. A statement dated 02.11.2022 has been filed on behalf of the Labour Commissioner, Thiruvananthapuram, the 4th respondent. Inviting the attention of this Court to the details of the inspections conducted by the Labour Department, it is stated that, with a view to eradicating the child labour in the State, especially in hotels, factories, fish peeling companies and shops and commercial establishments, joint inspections are being conducted by the officials of the Labour Department in coordination with Police, District Child Protection Unit and Child line. Apart from that, Inspectors of the Labour Department particularly verify the instances of child labour, if any, during the routine inspections under the various Labour Acts.

7. On behalf of the 5th respondent, the Excise Commissioner,

Thiruvananthapuram, a detailed statement dated 02.11.2022 has been filed, pointing out the awareness campaigns and preventive measures undertaken by the Excise Department against drug abuse, such as 'No to Drugs', 'Lahari Varjana Mission', 'Vimukthi' etc. Based on the recommendation given in the meetings of the Excise Commissioner with the Principals of Medical Colleges, Dental Colleges, Ayurveda, Sidha and Homeo Medical Colleges in the State to discuss the drug related issues in campuses and preventive measures, the State Education Department has ordered the formation of two Committees, namely, "Nerkootam" in College Campuses and "SRADHA" (Students' Rescue against Drug Habits and Addiction) in College Hostels to identify and prevent drugs gaining a foothold in these institutions.

8. It is stated that the Excise Department has introduced a scheme 'Unarvu' to tackle the menace of drug abuse among the students. The programme intends to construct basic amenities for various sports and arts in the selected schools which are most vulnerable to substance abuse disorders. Awareness programs are also being arranged in collaboration with the residents' associations and

Kudumbasree units. A scheme called 'Nervazhi' has been devised to eliminate drug abuse among students and to identify students at risk of drug use with the help of teachers and take corrective measures through precise and completely confidential interventions. Details of the enforcement operations done by the Excise Department are also given in the statement.

9. It is further stated that the Government have already taken necessary steps to implement the directions of this Court in the judgment dated 10.02.2021 in W. P. (C) No. 9001 of 2019. A high level meeting was convened at the instance of the Chief Secretary in this regard. Government have issued G. O. (Rt) No. 2441/2021/Home dated 10.09.2021 in implementation of the orders of this Court. An action plan has been prepared in this regard. Police Department, Social Justice Department, Local Self Government Department, General Education and Higher Education Departments, Taxes (Excise), Forest Department and Health Department were assigned specific tasks. It is also stated that the Excise Department is doing its best to curb the drug abuse and use of banned tobacco products among the students' community and will continue the efforts without any break.

10. State Programme Head, Childline India Foundation, South Regional Resource Centre, Chennai, the 6th respondent, has filed an affidavit dated 21.11.2022, wherein it is stated that CHILDLINE 1098 service is a twenty-four-hour emergency outreach service for children in crisis, which links them to emergency or long-term care and rehabilitation. CHILDLINE service was started in 1996 as a field action project under Tata Institute of Social sciences. The service aimed to support the children in streets to improve their education, health and safety. Over a period of time, the Government of India supported CHILDLINE through the Ministry of Social Justice and Empowerment. In the year 2000, the Ministry of Women and Child Development recognized CHILDLINE 1098 as the National helpline for children in distress and CHILDLINE India Foundation as the Mother NGO. The service is implemented through a partnership model between Government of India, Ministry of Women and Child Development, Childline India Foundation and District level Non-Governmental Organizations. This mechanism closely coordinates with the State Women and Child Development, as well as the local administration at district and sub-district levels.

11. It is further stated that CHILDLINE India Foundation is responsible for the expansion, periodic grant disbursement from the Union ministry, capacity building of the partner network, data management and evidence-based advocacy. The NGO has a head office at Mumbai and coordinates the services through 4 Regional offices which are located in Chennai, Mumbai, Delhi and Kolkata. In Kerala, CHILDLINE 1098 services are implemented through 31 Units. Out of them, four are Railway Child Help Desks situated at Trivandrum, Ernakulam, Thrissur and Kozhikode railway stations.

12. With respect to the Railway Child Help Desk Units, it is stated that in the year 2015, based on directions from the Delhi High Court, the Ministry of Railway and Ministry of Women and Child Development, developed a standard operating procedure to ensure care and protection of children in contact with Railway stations. The Standard Operating Procedure (SOP) has defined the role of various stakeholders, mainly railway officials, GRP/ RPF and to establish Railway Child Help desk units for children in contact with railway stations (CCRS). These children are mainly run away, migrated for labour in unsafe conditions, missing or abandoned children or

trafficked, etc. The children are found during outreach at the railway station by CHILDLINE staff or other stakeholders like Police, railway employees or passengers. As per the Standard Operating Procedure, the Child Help Desk unit functions on 24 hours basis, and any child who is found in need of care at the station is brought to Help Desk units managed by CHILDLINE and the children are provided emergency support services and emotional support. Then CHILDLINE will produce the children before the Child Welfare Committee. Based on the direction from CWC, CHILDLINE facilitates contacting the parents, understanding the home situation and helps in reuniting the children with their family. Details of the number of children rescued are also provided.

13. That apart, it is stated that the issue requires interventions in the source and destination States. The interventions need to be multipronged, with the identification of hotspots for preventive activities, and strict implementation of related acts for inter State migration, child labour and trafficking for labour. Opportunities should be provided for need based rehabilitation and vocational education and livelihoods support for victim and their families. The safety of such

children needs to be ensured by Juvenile Justice stakeholders. The labour laws need to cover the supply chain stakeholders who employ children, and product label should declare that they have not used child labour. Labour Department needs to maintain a directory of adolescent children employed in every district. Frequent visits are to be conducted to the workplace to ensure that the mandated procedures and wages are followed and that there is no child / adolescent exploitation in the workplace. District Child Welfare Committee needs to verify the documents produced to prove the age of the child. If the document is fabricated by agents, police need to take legal action against the agents. Child Welfare Committee and District Child Protection Units, with the support of CHILDLINE, need to take necessary steps to reunite the children with their families. The restoration and reintegration of the child should be done, where the source district administration should have an individual care plan and resources allocated. Frequent need-based training is required on trafficking for the authorities concerned, including the RPF and GRP, which imparts knowledge skill and helps them to have the right attitude.

14. The Member Secretary, Kerala State Legal Services

Authority, the 3rd respondent, has filed a report dated 12.03.2023 in the writ petition, which is reproduced:-

**Report submitted by the Member Secretary, Kerala State Legal
Services Authority
in
WP(C) 33095 of 2022 (S)**

In obedience to the direction of this Hon'ble Court, I am herewith submitting the following report;

On getting the order, I contacted the Child Line, Ernakulam and collected the details. They have furnished the copy of the Annual Report of the year 2021-22, report on rescue operation held as part of celebration of elimination of child labour week during 12th to 20th June, 2022 and copy of the letter given by the Rescue Officer, District Child Protection Unit to the Child Protection Officer, Ernakulam, with reference to the above case pending before the Hon'ble High Court. As per the Annual Report of the year 2021-22, Railway CHILDLINE Ernakulam rescued a total of 103 children from different railway stations in Ernakulam district. The report is extracted below;

Annual Report for the Year 2021-22

"Railway CHILDLINE Ernakulam rescued a total of 103 children from different railway stations in Ernakulam district in the financial year

2021-22. Most of the children were from Kerala and northeast part of India. The children were categorized as Missing, Runway, CSA, CNCP and Found Child.

All these children were produced before Child Welfare Committee and CWC did further proceedings like Sheltering, Restoration and Repatriation.

These are the following tabulated data of the Rescued cases.

STATE	NUMBER CHILDREN RESCUED
<i>Bihar</i>	7
<i>Gujarat</i>	1
<i>Tamil Nadu</i>	10
<i>Delhi</i>	3
<i>Jharkhand</i>	18
<i>Kerala</i>	29
<i>West Bengal</i>	5
<i>Odisha</i>	7
<i>Karnataka</i>	3
<i>Telangana</i>	2
<i>Rajasthan</i>	1
<i>Madhya Pradesh</i>	4
<i>Assam</i>	3
<i>Utter Pradesh</i>	7
<i>Maharashtra</i>	2
<i>Andhra Pradesh</i>	1

Case Interventions of children

<i>Restored</i>	80
<i>Sheltered 1</i>	15(absconded – 3)

<i>Permanently Sheltered</i>	<i>1</i>
<i>Repatriated</i>	<i>7</i>

<i>Male</i>	<i>Female</i>	<i>Total</i>
<i>70</i>	<i>33</i>	<i>103</i>

<i>CATEGORY</i>	<i>NUMBER OF CHILDREN</i>
<i>Missing</i>	<i>8</i>
<i>Runaway</i>	<i>33</i>
<i>CSA</i>	<i>1</i>
<i>CNCP</i>	<i>2</i>
<i>Found Child</i>	<i>20</i>
<i>Working Child</i>	<i>39</i>

Those mentioned above are the case intervention details that are Restored, Sheltered, prominently sheltered and Repatriated in Railway ChildLine, Ernakulam, during the annual year of 2021-22."

As per the report on rescue operation held as part of celebration of elimination of child labour week during 12th to 20th June, 2022, they had rescued and repatriated 8 children (all are from other States) from the 4 plywood companies in Ernakulam districts. The report is extracted below;

Report on rescue operations held as part of celebrations of elimination of child labour week during 12th to 20th June, 2022

As part of the 75th anniversary of independence, the National Commission for Protection of Child Rights directed to conduct programmes, including rescue operations in 75 locations across the country, to eliminate child labour. A district level task force meeting was held on 13.06.2022 at 03.00 pm at the chamber of the Additional District Magistrate to plan several programs in Ernakulam district. A consultant from NCPCR, DCPO, Nodal Officer, Protection Officer, Rescue Officer, representative of District Labour Officer, Deputy Director of Education, Special Juvenile Police Unit of both Rural and City, representative of Scheduled Caste/ Tribe Officer, District Medical Officer and members of Child Welfare Committee were attended the meeting.

On the above meeting, members unanimously decided to conduct rescue/ inspection in identified district hotspots, several awareness programmes for the public, employers and school/ college students.

According to the task force meeting on 14.06.2022, a combined rescue operation was held at Kuruppumpady, Perumbavoor (outskirts of Kochi City). A consultant from NCPCR, Protection Officer, Rescue Officer, Special Juvenile Police Unit (Rural), Child Line team members and Assistant Labour Officer participated in the rescue operations. The team inspected 5 companies and rescued 8 children who were engaged in hazardous labour at plywood factories.

Following is the list of companies and children rescued;

<i>Sl. No.</i>	<i>Details of company</i>	<i>Details of children rescued</i>	<i>Native State</i>
<i>1</i>	<i>Decan plywood, Nellimolam, Rayamangalam</i>	<i>1. Ashikul Islam 2. Roshibul Islam</i>	<i>Assam Assam</i>

2	<i>Eco wood export Rayamangalam, Pulluvazhi</i>	3. <i>Bigas Gogal</i>	<i>Assam</i>
3	<i>Indo regal ply Keezhillam</i>	4. <i>Manas Bordoloi</i>	<i>Assam</i>
4	<i>Three star plywood, Vaikara, Ashamanoor</i>	5. <i>Ram Sankar Nayik</i> 6. <i>Akash Malik</i> 7. <i>Karthi Battia</i> 8. <i>Ashmiith Sahi</i>	<i>Orissa</i> <i>Assam</i> <i>Orissa</i> <i>Orissa</i>

The rescued children were produced before the Child Welfare Committee and placed in childcare institutions. Assistant Labour Officer filed a case against employers and CWC instructed state police to charge an FIR against the companies.

On 18.06.2022 Saturday, a joint rescue drive was conducted on railway station Aluva. Protection Officer, Rescue Officer Team members of the Special Juvenile Police Unit and Railway Childline members participated and rescued 2 children under the age of 14. The children were produced before CWC and placed at childcare institution. They were transported from Jharkhand for child labour at cardamom plantations in the Idukki district. The following are details of children rescued.

- 1. Santhoshi Marandi, 13 years, Sushil Marandi Panchayath, Katangi Dumka – Jharkand – 814146.*
- 2. Ram Marmu, 13 years Sabul Nurmu, Chandradih, Damruat, Dodda Jharkand – 814153.*

Individual Care Plan for above ten children are being prepared, after completing legal procedures all the children will be rehabilitated according to rehabilitation plan.

The above described is the detailed report of rescue operations conducted in the Ernakulam district as part of the celebration of elimination of child labour week.

As per the letter issued by the Rescue Officer to the District Child Protection Officer, with reference to the above case, they rescued 2 children, who were found selling pens at Marine Drive area, Ernakulam. They were rescued and rehabilitated through the Child Welfare Committee, Ernakulam. They have also found 3 children along with their family. They have given proper advice on the necessity of giving protection and education to the children. English translation of the letter is extracted below;

*Rescue Officer,
District Child Protection Officer,
Ernakulam.*

*District Child Protection Officer,
Ernakulam.*

Sub:- Protection of street children – conducting rescue drive - Reg.

*Ref:- 1. Letter No.DWCD/4899/2022-ICPS dated 11/11/2022 issued by
the Director,*

Woman and Child Development.

2 Kerala High Court WPC No.33095.

*3. Letter No.6136/TD/2022/ECS dated 25.11.2022 issued by the
Ernakulam Centre Assistant Commissioner.*

Attention is invited to the above references. On 29.11.2022 at 10.00 am, there was meeting in the office of Assistant Commissioner under the leadership of Ernakulam Centre Assistant Commissioner, Rescue Officer (Saranabalyam) of District Child Protection Unit, Protection Officer IC, Outreach Worker, Addl. Labour Officer, members of Special Juvenile Police City Unit, Childline Workers etc. and conducted combined inspection to the

area starting from High Court Water Metro Station to Subash Park, Marine Drive. At the time of inspection, children aged about 8 and 6 years were found selling pens. They speak Hindi and on interaction with them it is revealed that they are not accompanied by their parents and found in unsafe conditions. They were rescued and produced before the Child Welfare Committee. The Child Welfare Committee has placed them in the childcare institution. On the same day on further inspection, found 3 children along with family from other States. As they were accompanied by family, they were given proper advice regarding the necessity to provide protection and education for the children.

Regarding the second issue i.e., “drug peddlers are attempting to lure students outside campuses”, the District Legal Services Authorities (DLSAs) were directed to collect details of the vulnerable schools in each district from the Excise department, have meeting with the Excise department, police and other stakeholders including school managements and PTA and to chalk out a plan to prevent drug peddlers. Accordingly, the DLSAs have taken steps. They have collected the details of vulnerable schools and some DLSAs have already convened meetings of the concerned departments and other stakeholders and taken steps for close monitoring. As per the report of the Secretary, DLSA, Alappuzha, department of Police and Excise have already taken effective measures including formation of Anti-drug Clubs in the schools with the participation of teachers, students, and PTA officials. The

Excise department is conducting routine patrolling in these areas. The Regional Transport Officer, Alappuzha had given awareness classes to the drivers about drug abuse. They have already conducted an Anti-drug Campaign in the bus stand, auto stand etc. The DLSA, Alappuzha had already released a short film for awareness against drug abuse.

As per the report of the Secretary, DLSA, Idukki, they have convened meeting of the stakeholders. They have taken steps such as;

- i. Close observation by the school authorities during break time.
- ii. Decided to increase the number of patrolling teams by the Police and Excise departments.
- iii. Decided to form a monitoring committee to conduct periodic inspection in the nearby shops.
- iv. Decided to conduct awareness programmes against drug abuse.

As per the report of DLSA, Thrissur, they have already convened meeting with Police, Excise and Transport departments. They have unanimously decided to closely monitor vulnerable schools.

As per the report of DLSA, Palakkad, School Vigilance Committees were constituted in all High Schools and Higher Secondary Schools in Palakkad, headed by the headmaster and includes the members such as teachers, office bearers of PTA, School Protection Group members, students, social workers, officials of the concerned departments such as Police, Excise etc. They have decided to strengthen the Vigilance Committee by

conducting a meeting of the Committee once in every month. The Transport department is sensitizing the youth to the matter of drug abuse.

As per the report of DLSA, Pathanamthitta, it was discussed in the DLSA meeting. The Police department has already created an App known as '*Yodhaavu*' for providing information regarding the drug abuse. The Excise department is also forming Anti-drug Clubs in the educational institutions. The department has deployed its officials for effective monitoring of the vicinity of the schools and colleges which are vulnerable.

The other DLSAs have informed that since the schools are closed for the Christmas vacation, they will take necessary steps in this regard by convening meeting just after re-opening the institutions after the vacation. After getting the reports of all other DLSAs, a further report will be submitted before the Hon'ble High Court, at the earliest.

Taking on record the report dated 12.03.2023, the Member Secretary, Kerala State Legal Services Authority, the 3rd respondent, is directed to review the steps undertaken by KeLSA periodically and obtain periodical reports from CHILDLINE and DLSAs. The Secretary to the Government, Social Justice Department, Thiruvananthapuram, the 1st respondent, is directed to monitor and review the initiatives of the Government to curtail down the children

engaged in child labour, begging and child trafficking, as well as the awareness campaigns and preventive measures of the Excise Department against drug abuse.

Accordingly, the writ petition is closed.

Sd/-
S. MANIKUMAR
CHIEF JUSTICE

Sd/-
MURALI PURUSHOTHAMAN
JUDGE

Eb

///TRUE COPY///
P. A. TO JUDGE

APPENDIX OF WP(C) 33095/2022

PETITIONER EXHIBITS

**EXHIBIT P1 ORDERS OF THE HON'BLE THE CHIEF JUSTICE
DATED 17.10.2022 DIRECTING REGISTRY TO
INITIATE PIL**

**EXHIBIT P2 INDIAN EXPRESS NEWSPAPER ARTICLE DATED
15.10.2022**

**EXHIBIT P3 MALAYALA MANORAMA NEWSPAPER ARTICLE
DATED 16.10.2022 AND ITS ENGLISH
TRANSLATION**

RESPONDENT ANNEXURES

**ANNEXURE R5(B) A TRUE COPY OF G.O.(RT)
NO.2441/2021/HOME DATED
10.09.2021(TOGETHER WITH THE ANNEXED
ACTION PLAN)**

**ANNEXURE R5(A) A TRUE PHOTOCOPY OF THE LETTER NO.
EXC/3078/2022-EX.A.8 DATED 12.10.2022
ISSUED BY THE EXCISE COMMISSIONER, WITH
TRUE ENGLISH TRANSLATION**