

ITEM NO.4

COURT NO.5

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SMW(C)No.4/2020

IN RE CONTAGION OF COVID 19 VIRUS IN
CHILDREN PROTECTION HOMES

Petitioner(s)

VERSUS

Respondent(s)

(Mr. Gaurav Agrawal, Advocate (A. C))

IA No. 64373/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 106490/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 74294/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 86654/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 66078/2021 - CLARIFICATION/DIRECTION
IA No. 75234/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 13962/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 74593/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 9708/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 56612/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 66729/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 105604/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 9678/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 66079/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 105407/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 8020/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 29795/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 103990/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 74139/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 79258/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 29743/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 66077/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 103479/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 76604/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 14581/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 103339/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 61484/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 76104/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 14448/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 65469/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 87334/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 59084/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 75739/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 14077/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 65158/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 106492/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 30270/2021 - EXEMPTION FROM FILING O.T.
IA No. 74135/2020 - EXEMPTION FROM PAYING COURT FEE

IA No. 86651/2021 - INTERVENTION APPLICATION
 IA No. 74292/2020 - INTERVENTION APPLICATION
 IA No. 66075/2021 - INTERVENTION APPLICATION
 IA No. 58712/2020 - INTERVENTION/IMPLEADMENT)

WITH

W.P.(Cr1.) No. 274/2020 (PIL-W)
 (IA No. 10286/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 8311/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 97311/2020 - GRANT OF INTERIM RELIEF)

Date : 26-10-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
 HON'BLE MR. JUSTICE B.R. GAVAI

For the parties : By Courts Motion
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 Ms. Shristi Agnihotri, Adv.

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Mr. Raj Bahadur, AOR

State of
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 Mr. Sumeer Sodhi AOR
 Mr. Arjun Nanda, Adv.

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Mr. Abishek Jebaraj, Adv
Ms. Nupur Raut, Adv.
Ms. Sanjana Grace Thomas, Adv

2.1
Respondent(s)

Mr. Nishanth Patil, AOR
Ms. Shubhika Saluja, Adv.

UPON hearing the counsel the Court made the following
O R D E R

On 26.08.2021, directions were given for completion of inquiries by the Child Welfare Committees and continuation of education of children who have become orphans or who have lost an earning parent during Covid-19. Affidavits/status reports filed by the State

Governments have been received by the Amicus Curiae who requests for a week's time to examine the status reports and submit a note for consideration of this Court.

In respect of the recording of evidence of child witnesses through video conferencing, the learned Amicus Curiae in consultation with Ms. Anitha Shenoy and Ms. Shristi Agnihotri, learned counsel appearing for the petitioner, has submitted a draft Standard Operating Procedure (SOP). The draft SOP shall be sent to the State Governments and all the High Courts for their comments. Response may be filed within a period of two weeks from today. The finalization of the SOP shall be taken on 15.11.2021.

The learned Amicus Curiae has submitted a note on rehabilitation of street children. He has referred to a Standard Operating Procedure for Care and Protection of Children in Street Situations prepared by the National Commission for Protection of Child Rights in the year 2020 (NCPCR SOP). In the said document, NCPCR relied upon the National Plan of Action for Children, 2016 and the Commission for Protection of Child Rights Act, 2005 to highlight the need for rehabilitation of Children in Street Situations (CiSS).

Section 2(14) of the Juvenile Justice (Care & Protection of Children) Act, 2015 (JJ Act) defines "child in need of care and protection". Clause (ii) thereof includes a child who is found working in contravention of labour laws

for the time being in force or is found begging, or living on the street' within the fold of the definition of "child in need of care and protection". NCPCR has broadly categorised three types of CiSS, which are:

(a) children without support living on the streets all alone; (b) children who stay on the streets in the day and are back home in the night with their families who reside in nearby slum/hutments; and (c) children living on the streets with their families.

Section 31 (1) of the JJ Act provides for production of a child in need of care and protection before the Child Welfare Committee by any of the following persons:

- (i) any police officer or special juvenile police unit or a designated Child Welfare Police Officer or any officer of District Child Protection Unit or inspector appointed under any labour law for the time being in force;
- (ii) any public servant;
- iii) Childline Services or any voluntary or non-governmental organisation or any agency as may be recognised by the State Government;
- (iv) Child Welfare Officer or probation officer;
- (v) any social worker or a public spirited citizen;
- (vi) by the child himself; or
- (vii) any nurse, doctor or management of a nursing home, hospital or maternity home.

Section 30 (xii) of the JJ Act obligates the Child Welfare Committee having information about CiSS within their jurisdiction to reach out to them.

The NCPCR has suggested in the SOP that teams can be constituted by statutory bodies like SCPCRs and the district child protection mechanism for conducting survey or adopting other means to collect information/data on Children in Street Situations and carry out rescue operations within the ecosystem created by the JJ Act.

Mr. K.M.Nataraj, learned ASG appearing for the NCPCR, submitted that the SOP for rehabilitation of CiSS has been circulated to the State Governments. Information on the implementation of the NCPCR SOP by the State Governments is not readily available. NCPCR is directed to submit a status report to this Court on the steps taken by the State Governments/Union Territories and the statutory bodies under the JJ Act regarding the implementation of the SOP, within a period of two weeks from today.

The State Governments/Union Territories are also directed to file a status report on the rehabilitation of Children in Street Situations in accordance with the SOP, within a period of two weeks from today.

List this matter on 15.11.2021 at 2.00 p.m.

(B.Parvathi)
Court Master

(Anand Prakash)
Court Master