

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Suo Motu Writ (C) No.4/2020

IN RE CONTAGION OF COVID 19 VIRUS IN CHILDREN PROTECTION HOMES

(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)

(FOR GRANT OF INTERIM RELIEF ON IA 97311/2020 and FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 8311/2021 and FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 10286/2021)

Date : 15-11-2021 These matters were called on for hearing today.

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

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W.P.(Cr1.) No. 274/2020

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UPON hearing the counsel the Court made the following

O R D E R

IN RE: CHILDREN IN STREET SITUATIONS

Sharing the concern of the learned *Amicus Curiae* regarding the plight of the Children in Street Situations (for short 'CiSS') in the country, we directed the National Commission for Protection of Child Rights (for short 'the NCPCR') and the State Governments / Union Territories to give their suggestions regarding the manner in which CiSS are rescued and rehabilitated.

The NCPCR has filed compliance affidavit dated 13.10.2021, bringing to the notice of this Court SOP 2.0 prepared on 17.11.2020 to strengthen the processes and interventions regarding CiSS. This Court is informed that SOP 2.0 has been circulated to the State Governments / Union Territories. SOP 2.0 was prepared after identifying and categorizing CiSS into three broad categories:

1) Children without support living on the streets alone.

2) 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.

3) Children living on the streets with their families.

Broadly, SOP 2.0 consists of the following features:

- 1) Identification of issues and challenges faced by CiSS and their life on streets;
- 2) Recognizing and categorizing CiSS;
- 3) Categorization of children for appropriate interventions;
- 4) Process and procedures to be followed by authorities for ensuring care and protection to CiSS; and
- 5) Defining the role of each authority while dealing with the CiSS.

We are informed that 'Save the Children' mapped about two lakh children in the cities of Lucknow, Kanpur, Agra, Chandauli and Prayagraj in the State of Uttar Pradesh, Pune and Nashik in the State of Maharashtra, Kolkata and Howrah in the State of West Bengal and Delhi, whose rights to protection, education, health, water, sanitation and welfare have not been addressed so far.

The NCPCR has stated in the compliance affidavit that a virtual meeting was held with the officials and other stakeholders to formulate an action plan to rescue such children. The Commission has brought to our notice that none of the four States, in which two lakh children have been identified, has provided a report regarding the rescue and rehabilitation of such children.

This Court is also informed that the NCPCR has identified 51 religious institutions to rescue and rehabilitate children found on

streets, from child beggary and child labour. The Commission has developed a new link 'CiSS' on the Baal Swaraj portal for the purpose of receiving data of CiSS from all the State Governments / Union Territories to track their rescue and rehabilitation. There are six stages for rescue and rehabilitation of children as provided in the Baal Swaraj Portal - CiSS link, which are as follows:

"Identification of child's details at Stage 1 - Ensuring that the children in street situations are traced and identified. The first stage of the portal itself captures information regarding the present situation of the child, that whether the child is living alone in the streets or is living with the family. The information at first stage is comprehensive and provides for the reasons for the child to be living in the street, that whether the child is involved in child labour or whether the child is runaway. The present location and permanent address along with identification care details is also asked at first stage. It is to state that the first stage of the portal would give a preliminary background and present status of the child who is traced to be living in street situation. At the first stage itself, the children have been categorized under three broad heads: a. children without support living on the streets alone; b. children live on streets in the day and are back home in the night with their families in nearby slum/hutments; c. children living on streets with their families.

Knowing the social background of the child at Stage 2 - Stage 2 of the portal provides for filing of social investigation report of the child. After the child is identified, the DCPU then would prepare a social investigation report of the child on the orders of the Child Welfare Committee before which the child has been produced. The SIR form at stage 2 is to capture the following aspects related to the child:-

- i) present status of the child - orphan / abandoned / single parent.
- ii) The whereabouts of the child - single parent / relative / guardian / institution.
- iii) If the child was employed as child labour, then

details of employer and details of the wages earned by the child.

- iv) Disability of the child, if any.
- v) Family details and relationship with the family members.
- vi) Present living conditions and habits of the child.
- vii) Extra-curricular activities and personality traits.
- viii) Details of education - school name, class details, relationship with classmates and behaviour in school.
- ix) Mental, physical and health condition of the child.
- x) Whether the child has suffered any abuse or ill treatment.
- xi) Any financial assets and liabilities of the child or parents.
- xii) The benefit under Section 12(1)(c) of RTE Act, 2009 - if the child is not getting benefit under Section 12(1)(c) and is found to be eligible then the child is being recommended for benefit under Section 12(1)(c) of RTE Act, 2009 to the authorities.
- xiii) Observations of inquiry made by the DCPU in SIR - identification of the observations made by DCPU and to see whether the recommendations under Individual Child Care Plan has been made in line with the observations made in the SIR.

Identification of benefits and recommendations under the Individual Care Plan (ICP) of the child at Stage 3
- The form of Individual Child Care Plan is uploaded at Stage 3 which has to be filled after the Social Investigation Report has been made and the respective observations of SIR are then incorporated as recommendations in the ICP of the child. The Individual Child Care Plan is on the following parameters-

- i) Placement of child
- ii) After preparation of SIR, if there are any areas of concern, the intervenors for the same have to be proposed in the ICP.

iii) If the child is placed in an institution then the progress of the child where interventions had been proposed is also recorded in the ICP fortnightly.

iv) Property and Bank details of the child or the family, if any.

v) Job Compensation and Pension details of the parents, if any

vi) Education and Sponsorship details of the child.

vii) If the child is recommended for adoption by the CWC, then the details of the same.

viii) Restoration - Where restoration of the child is done to relative/guardian, the complete details of guardian/relative are to be uploaded and in cases where restoration of the child is done with the single parent, the details of the single parent are to be uploaded and in case the child is placed in Child Care Institution the reasons for doing so are recorded.

At Stage-4 the order of the Child Welfare Committee (CWC) is to be uploaded. This is to ensure that all children are being produced before the Child Welfare Committee and case and protection orders for each child is being passed. In case of restoration/repatriation of a child to another district, the concerned CWC of that district where the child is getting restored/repatriated will be getting notified through the portal and that respective CWC where the child's case has been transferred will have access to records of that child on the portal. This time for CiSS link, CWC will also be given access to the portal. This has been done keeping in view of the runaway and migratory population of children who are in street situations.

The schemes/benefits at Stage-5 which can be linked with the child or the family or the guardian have been listed which can be identified by the district authorities to be given to the beneficiary. These schemes include Central and State sponsored schemes which could be applicable for the benefit of the children in street situations and can strengthen the family of the child financially.

At Stage-6, a checklist for the follow-up of the child is given as per the three categories of the child identified in the SOP 2.0 of NCPDR."

Mr. K.M. Nataraj, learned Additional Solicitor General appearing for the NCPCR, submitted that the number of CiSS might be to the tune of 15 to 20 lakhs going by the identification of two lakh children in ten cities across four States.

During the course of hearing on the last date, the learned *Amicus Curiae* had brought to our notice that there are about 70,000 CiSS in Delhi alone. The Juvenile Justice (Care and Protection of Children) Act, 2015 deals with children in street situations and the steps that have to be taken by the concerned authorities for rescue and rehabilitation of the children. Realizing the magnitude of the problems that are faced by the distress CiSS, we direct the District Magistrates / District Collectors to take steps in accordance with SOP 2.0 that has been formulated by the NCPCR.

The Secretary, Department of Women and Child Welfare of each State shall be the nodal officer to ensure that all the District Magistrates / District Collectors take prompt action for implementation of SOP 2.0 formulated by the NCPCR.

The process has to start with immediate action being taken by the authorities for identification of CiSS and thereafter, providing the required information to the NCPCR for the later stages as well. The State Governments / Union Territories are directed to promptly attend meetings that are held by the NCPCR and offer their suggestions, apart from voicing their concerns, if any, in implementation of the SOP 2.0.

The Registry is directed to register a fresh Suo Moto Writ (C) file titled "In re: Children in Street Situations", under which the abovementioned issue shall be taken up hereafter.

List the matter on 13.12.2021.

IN RE: CHILDREN IN NEED OF CARE AND PROTECTION DUE TO LOSS OF PARENTS DURING COVID-19

Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the Union of India, seeks two weeks' time to seek instructions on the points raised in the Note for Hearing on 15th November, 2021 filed by the learned *Amicus Curiae*.

List the matter on 29.11.2021.

In the meanwhile, the District Magistrates / District Collectors are directed to ascertain the educational status of those children who are eligible for the benefits under the PM Cares Fund and expeditiously consider the applications of those children who have not yet received approval and forward the same to the Government of India.

The Registry is directed to amend the title of SMW (C) No. 4 of 2020 to "In re: Children in need of Care and Protection due to Loss of Parents during Covid-19".

IA 106490/2021

List the application on 29.11.2021.

(MEENAKSHI KOHLI)
ASTT. REGISTRAR-cum-PS

(ANAND PRAKASH)
BRANCH OFFICER