

FILED ON

24 DEC 2019

46891/19

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2019

IN THE MATTER OF:-

THE NATIONAL COMMISSION FOR
PROTECTION OF CHILDREN RIGHTS

.....PETITIONER

VERSUS

STATE OF JHARKHAND & ORS.

.....RESPONDENTS

WITH

I.A. NO. _____ OF 2019
**(APPLICATION EXEMPTION FROM
FILING OFFICIAL TRANSLATION)**

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

ADVOCATE FOR PETITIONER: : MS. SWARUPAMA CHATURVEDI

SWARUPAMA CHATURVEDI

Advocate-on-Record
69, Lawyers Chamber
Supreme Court of India
New Delhi-110001
Tel:-23386286

To,
The Registrar,
Supreme Court of India
New Delhi.

Dated: 8.1.2020

Sub: Writ Petition (Civil) No. _____ of 2020
(Diary No.46891 of 2019)

THE NATIONAL COMMISSION FOR
PROTECTION OF CHILDREN RIGHTS

.....PETITIONER

VERSUS

STATE OF JHARKHAND & ORS.

.....RESPONDENTS

DECLARATION

All defects have been duly cured. Whatever has been added/ deleted/modified in the petition is the result of curing of defects and nothing else. Except curing the defects, nothing has been done. Paper books are complete in all respects.

Signature: 

Advocate-on-record/
Petitioner: (SWARUPAMA CHATURVEDI)

Code No: 2316

Dated: 20.1.2020

INDEX

S. No.	Particulars of Documents	Page No. of part to which it belongs		Remarks
		Part I (Content of Paper Book)	Part II (Content of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
1.	Court Fees	Rs.		
2.	Listing Proforma	A-A1	A-A1	
3.	Cover Page of Paper Book		A-2	
4.	Index of Record of Proceedings		A-3	
5.	Limitation Report prepared by the Registry			
6.	Defect List		A-4	
7.	Note Sheet		Na 1	
8.	Synopsis and List of Dates	B-R		
9.	Writ Petition under Article 32 of Constitution of India with Affidavits	1-16		
10.	APPENDIX: Section 15 of the Commissions for Protection of Child Rights Act, 2005	17		
11.	ANNEXURE P-1 A copy of the Newspaper Reports dated 4.7.2018 published in Indian Express	18		
12.	ANNEXURE P-2 A copy of the letter dated 10.07.2018 written by Petitioner to the Chief Secretary of Jharkhand	19-21		
13.	ANNEXURE P-3	22-24		

14.	<u>ANNEXURE P-4</u> A copy of the letter dated 09.08.2018 addressed to Chief Secretary of Jharkhand	25		
15.	<u>ANNEXURE P-5:</u> A copy of the letter by petitioner dated 09.08.2018 addressed to Missionaries of Charity	26-28		
16.	<u>ANNEXURE P-6:</u> A copy of the letter and information received by petitioner from Missionaries of Charity vide letter dated 08.09.2018	29-34		
17.	<u>ANNEXURE P-7:</u> A true translated copy of the statement of Usha Kiran Marandi dated 20.8.2018	35-37		
18.	<u>ANNEXURE P-8:</u> A true translated copy of the statement of Beronika Marandi dated 30.8.2018	38-39		
19.	<u>ANNEXURE P-9:</u> A copy of the summons dated 9.9.2019 issued to the District Magistrate Dumka	40-42		
20.	<u>ANNEXURE P-10:</u> A copy of the summons dated 9.9.2019 issued to the Superintendent of Police Jharkhand	43-45		
21.	<u>I.A. No. of 2019</u> Application exemption from filing official translation	46-47		
22.	Advocate letter		48	
23.	F/M		49	
24.	V/A		50	

A**PROFORMA FOR FIRST LISTING****SECTION - X****The case pertains to:**

Central Act: (Title)	Constitution of India
Section:	Article 32
Central Rule: (Title):	NA.
Rule No(s):	NA.
State Act: (Title):	NA
Section:	NA
State Rule: (Title):	NA.
Rule No(s):	NA.
Impugned Order: (Date)	Interim NA.
Impugned Final Order/Decree: (Date)	NA
High Court: (Name):	NA
Names of Judges:	NA
Tribunal/Authority: (Name)	N.A.

1. Nature of Matter: Civil

2.	(a) Petitioner/appellant No.:	The National Commission for protection of Children Rights.
	(b) e-mail ID:	NA
	© Mobile Phone Number:	NA
3.	(a) Respondent no.1:	State of Jharkhand & Ors.
	(b) e-mail ID:	NA
	© Mobile Phone Number:	NA
4.	(a) Main Category classification:	18 Ordinary Civil Matter
	(b) Sub Classification:	1807 Others
5.	Not to be listed before:	NA.

7. **Criminal Matters:**

a)Whether accused/convict has surrendered:	No
(b)FIR No. NA.	Date: NA.
©Police Station:	NA.
(d)Sentence Awarded:	NA
(e)Sentence Undergone:	NA

8. **Land Acquisition Matters:**

(a)Date of Section 4 Notification:	NA
(b)Date of Section 6 Notification:	NA
©Date of Section 17 Notification:	NA
9. Tax Matters: State the tax effect:	NA
10. Special Category (First petitioner/appellant only)	Senior citizen > 65 years SC/ST Women/Child Disabled Legal Aid Case In custody
11. Vehicle Number (in case of Motor Accident Claim matters):	NA

Dated: 24.12.2019

FILED BY:


 {SWARUPAMA CHATURVEDI}

B

SYNOPSIS & LIST OF DATES

The petitioner by way of present writ petition under Article 32 of the Constitution of India, 1950, seeks to draw attention of this Hon'ble Court towards the callous approach of the State of Jharkhand in protecting children from child rights violation. Petitioner being a statutory body is making the present petition acting as *parens patriae* of the aggrieved children. During course of inquiry by petitioner, shocking revelations were made by the victims which included the factum that the children were being sold in the Children Homes. These facts were emphatically brought to the notice of the state government but continuous attempts were made to sabotage and derail the inquiry. The present petition before this Hon'ble Court seeks enforcement of fundamental right of prohibition of trafficking in human beings guaranteed under Article 23 of the Constitution of India.

Petitioner, National Commission for Protection of Child Rights (NCPCR) (hereinafter referred as "commission"), is a statutory body under the Commissions for Protection of Child Rights (CPCR) Act, 2005 (hereinafter referred as "CPCR Act") and under the administrative control of the Ministry of Women & Child Development, Government of India. Petitioner's mandate is to ensure that all Laws, Policies, Programmes, and Administrative

C

It is most respectfully submitted that the Petitioner is preferring this instant writ petition for seeking appropriate direction from this Hon'ble Court to direct a Supreme Court monitored investigation by constituting Special Investigation Team (SIT) to carry out and conclude the investigation in issues raised herein in a time bound manner. It is further submitted that the Petitioner is preferring the instant writ petition for seeking appropriate direction from this Hon'ble Court for ensuring proper care of children under the Protection of Child Rights Act.

Brief facts leading to the present writ petition is that Petitioner/Commission, took suo motto cognizance of various newspaper reports, *inter alia*; "Ranchi: Sister of Missionaries of Charity arrested for illegal child trade" published in Indian Express on 06.07.2018. All news reports highlighted the issue of selling of children in shelter homes run by Missionaries of Charity.

Because of gravity of crime reported in newspapers and its impact on society at large and under the power provided to petitioner by virtue of Sec 13(1)(j) of CPC Act petitioner vide letter dated 10.07.2018 wrote to Chief Secretary of Jharkhand asking for a factual report along with authenticated copies of relevant documents within 30 days. Report asked by petitioner, *inter alia*; sought information on following specific points.

D

2. Total number of children and their legal status institution-wise(Orphan/Abandoned/Surrendered);
3. Whether all children have been produced before CWC(Child Welfare Committee)?;
4. Whether the organisations have been registered as per section 41 of Juvenile Justice Act of 2015. If not, reason and action taken against the organisation?;
5. Source of income of organization;
6. Action taken against the Sisters of Missionaries of Charity, Ranchi for selling the children.

On 24.07.2018, a member of Petitioner/Commission visited Nirmal Hriday centre of Missionaries of Charity, Ranchi and witnessed gross irregularities in their functioning.

All the irregularities found during the visit of a member Petitioner/Commission to Nirmal Hriday centre of Missionaries of Charity, Ranchi on 24.07.2018, was duly conveyed by the petitioner to the Chief Secretary and Director General of Police, of Jharkhand, vide its letter dated 01.08.2018. Petitioner also recommended the state government to initiate inquiry in the said matter.

On 25.07.2018 Petitioner received an email from Ex chairperson of Child Welfare Committee. The text of the email highlighted the fact that when attempts were made by Ex-Chairperson of Child Welfare

E

Justice Act. Further more Ex-Chairperson of Child Welfare Committee was also relieved from his duty.

In response to Letter dated 10.07.2018 written by Petitioner to Chief Secretary of Jharkhand, Additional Secretary cum Programme Director, Department of Women, Child Development and Social Security; furnished district wise information with regard to Missionaries of Charity, Jharkhand in tabular form vide letter no. 584 dated 27.07.2018. However, on proper scrutiny, certain discrepancies were found and the commission termed it unsatisfactory.

Petitioner vide letter dated 09.08.2018 addressed to Chief Secretary of Jharkhand sought further clarification on discrepancies found in the above mentioned tabular information. Petitioner requested to provide clarification within 10 days.

It is most humbly submitted that petitioner vide letter dated 09.08.2018 addressed to Missionaries of Charity sought following information within 15 days:

1. Total number of Child Care Institutions run by Missionaries of Charity in the country and the list of children living in such institutions in the category of orphan, abandoned and surrendered;
2. Whether all the institutions run by Missionaries of Charity have

F

4. Whether the children have been registered under Track the child or not?;
5. Whether all such children been produced and received in the various Homes of Missionaries of Charity on the orders of Child Welfare Committee.

Petitioner received a forwarded complaint from Ministry of Women and Child Development vide an email dated 17.08.2018. Complainant was Shri Darsh Choudhary, a Social and RTI activist. Complainant highlighted an intriguing and perilous facts which clearly shows attempts were made to sabotage the whole investigation. It was revealed that the Investigating Officer of CID who was in charge of investigating Missionaries of Charity case was himself an accused of engaging a minor girl into child labour and sexual assault in 2016 and Hon'ble High Court of Jharkhand took *suo motto* cognizance of the matter and directed necessary action against the CID officer.

Petitioner received information it sought from Missionaries of Charity vide letter dated 08.09.2018. Missionaries of Charity submitted its response along with the data sought by the commission. On proper scrutiny and examination of data/details provided by the Missionaries of Charity, following was found:

1. The Missionaries of Charity shared the details of only 78 Child

67

2. Out of 78 Child Care Institutions, 30 Homes were found that do not have registered children on Track child;
3. Two children homes in Uttar Pradesh and one home in West Bengal and one Home in Andaman have not produced children before CWC;
4. One home in Uttar Pradesh has applied for producing the children before Children Welfare Committee, but has not produced yet;
5. Various homes maintained by Missionaries of Charity are keeping children, who are neither surrendered nor abandoned or orphan, but are kept in the home.

Petitioner wrote various reminders letter dated 29.08.2018, 10.10.2018, 16.11.2018 and 24.01.2019 to Chief Secretary of Jharkhand seeking requisite information.

It is pertinent to mention here that on 30.08.2019 a team of NCPCR visited Dumka, Jharkhand for holding a camp in the aspirational districts identified by NITI Aayog to address the child rights violation complaints, there the Child Welfare Committee provided statements of two minor girls as recorded by child Welfare committee on request of District Administration, Ranchi. When the same was examined by the team of NCPCR it was found that both the minors

H

returned to their respective homes without babies. Further, in spite of these statements of victims being available on record no appropriate action has been taken by the authorities of Ranchi.

In the absence of any action on behalf of appropriate authorities, petitioner took cognizance of the matter and issued summons to District Collector and Superintendent of Police of Ranchi on 09.09.2019 to be present and provide explanation before the Commission on 17.09.2019, on following issues:-

1. Whether any action has been taken so far, on the basis of the statements of the victims recorded by Child Welfare Committee, Dumka, Jharkhand;
2. Whether any FIR was registered under the provision of POCSO Act, 2012;
3. What is the current status of the case;
4. Provide list of child victim's along with their status report and copies of statements recorded by CWC, who were placed in Nirmal Hriday, Ranchi, Jharkhand.

On 17.09.2019 Addl. Collector & Deputy SP, Ranchi presented themselves before the Commission on behalf of their respective authority and sought one month's time to submit their detailed response on the issues raised by the Commission.

Petitioner also received an email dated 22.10.2019 from Ms. Rupa

I

the MOC, she is now facing 4-5 false cases against her and is being harassed, hence, she requested the Commission to provide her help. It is pertinent to mention that FIR lodged against Missionaries of Charity is done on the initiative taken by Ms. Rupa Kumari, Chairperson, CWC Ranchi.

That when the petitioner did not receive any reply from the district administration/authorities, a reminder letter dated 30.10.2019 was issued to District Collector and 7 days time was granted to furnish the reply, but till date nothing has been received from their end.

Further, the Petitioner Commission considering the seriousness of the news report wrote to other States of the country and sought information with regard to working of Missionaries of Charity Homes in their States. But the reports from some States were found to be either full of discrepancies or unsatisfactory in nature. Hence, the petitioner has decided to invoke the provision of Section 15 of CPC Act, 2005 to approach the Hon'ble Supreme Court vide present Writ petition under Article 32 of the Constitution of India seeking enforcement of fundamental right of Prohibition of trafficking of human beings guaranteed under Article 23 of the Constitution of India. This petition before this Hon'ble Court seeks certain directions/writ to the Respondent authorities regarding protecting, welfare of rescued children & expeditious investigation in the matter to administer justice to victim children. Petitioner in the instant writ

J

Fundamental right of Prohibition of trafficking of human beings guaranteed under Article 23 of the Constitution of India cannot be trampled in any manner and it includes protection of children from trafficking, child prostitution and other related offence without any hindrance. Respondents have failed in discharging their statutory duty by not conducting further investigation with due diligence even after repeated request by the petitioner. Respondents failed completely in protection of Fundamental right guaranteed by the Constitution of India i.e. Protection from trafficking in human beings and forced labour guaranteed under Article 23 of the Constitution of India. Inaction and leniency on part of respondents amounts to violation of the statutory Act i.e., the Commission for Protection of Child Rights Act, 2005; the Protection of Children from Sexual Abuse Act, 2012 and Juvenile Justice (Care and Protection of Children) Act, 2015. It shows complete disregard to protection, safety and welfare of children. Also inaction on part of respondents comes under the ambit of arbitrariness and is violation of Art 14. In scheme of Constitution of India, the principles of natural justice are firmly grounded in Article 14 & Article 21 of the Constitution. Inaction that too of statutory duty on part of state or state machinery is just a manifestation of arbitrary action and is a violation of equality clause of Article 14.

As there is no other equally effective...

k

LIST OF DATES AND EVENTS

- 6.7.2018 Petitioner Commission took suo motu cognizance of various newspaper reports inter alia "Ranchi: Sister of Missionaries of Charity arrested for illegal child trade" published in Indian Express on 06.07.2018.
- 10.07.2018 Keeping in mind the gravity of the issue petitioner/commission by virtue of Sec 13(1)(j) of CPCR Act wrote to Chief Secretary of Jharkhand to provide a factual report along with along with authenticated copies of relevant documents within 30 days.
- Report asked by petitioner, inter alia; sought information on following specific points:
- I. Total number of organisations running under Missionaries of Charity in the State of Jharkhand;
 - II. Total number of children and their legal status institution-wise(Orphan/Abandoned/Surrendered);
 - III. Whether all children have been produced before CWC (Child Welfare Committee)?;
 - IV. Whether the organisations have been registered as per section 41 of Juvenile Justice Act of 2015. If

2

V. Source of income of organization;

Action taken against the Sisters of Missionaries of Charity, Ranchi for selling the children.

24.7.2018 A member Petitioner/National Commission for Protection of Child Rights (NCPCR) visited Nirmal Hriday centre of Missionaries of Charity, Ranchi and witnessed gross irregularities in their functioning.

27.07.2018 In response to letter dated 10.07.2018 written by Petitioner/Commission to Chief Secretary of Jharkhand, Additional Secretary cum Programme Director, Department of Women, Child Development and Social Security furnished district wise information with regard to Missionaries of Charity, Jharkhand in tabular form vide letter no. 584 dated 27.07.2018.

Petitioner/commission on proper scrutiny of the above mentioned tabular information found certain discrepancies and was not satisfied.

01.08.2018 All the irregularities found during the visit of a member Petitioner/Commission to Nirmal Hriday centre of Missionaries of Charity, Ranchi on

M

of Jharkhand, vide its letter dated 01.08.2018. Petitioner also recommended the state government to initiate inquiry in the said matter.

09.08.2018 Petitioner vide letter dated 09.08.2018 addressed to Chief Secretary of Jharkhand sought further clarification on discrepancies found in the above mentioned tabular information. Petitioner requested to provide clarification within 10 days.

09.08.2018 Petitioner vide another letter dated 09.08.2018 addressed to Missionaries of Charity sought following information within 15 days:

I. Total number of Child Care Institutions run by Missionaries of Charity in the country and the list of children living in such institutions in the category of orphan, abandoned and surrendered;

II. Whether all the institutions run by Missionaries of Charity have been registered as per section 41 of Juvenile Justice Act of 2015. If not, reason;

III. Registration status of the institutions and all its branches;

IV. Whether the children have been registered under Track the child or not?;

N

- 17.08.2018 Petitioner received a forwarded complaint from Ministry of Women and Child Development vide an email dated 17.08.2018. Complainant was Shri Darsh Choudhary, a Social and RTI activist. Complainant highlighted an intriguing and perilous facts which clearly shows attempts were made to sabotage the whole investigation. It was revealed that the Investigating Officer of CID who was in charge of investigating Missionaries of Charity case was himself an accused of engaging a minor girl into child labour and sexual assault in 2016 and Hon'ble High Court of Jharkhand took suo motu cognizance of the matter and directed necessary action against the CID officer.
- 29.08.2018 Petitioner sent a reminder letter dated 29.08.2018 to its earlier letter dated 09.08.2018 addressed to Chief Secretary of Jharkhand seeking further clarification on discrepancies found in tabular information provided to the petitioner.
- 08.09.2018 Petitioner received details/data it sought from Missionaries of Charity vide letter dated 08.09.2018.

0

- I. The Missionaries of Charity shared the details of only 78 Child Care Institutions instead of 80 Child Care Institutions;
- II. Out of 78 Child Care Institutions, 30 Homes were found that do not have registered children on Track child;
- III. Two children homes in Uttar Pradesh and one home in West Bengal and one Home in Andaman have not produced children before CWC;
- IV. One home in Uttar Pradesh has applied for producing the children before Children Welfare Committee, but has not produced yet;
- V. Various homes maintained by Missionaries of Charity are keeping children, who are neither surrendered nor abandoned or orphan, but are kept in the home.

10.10.2018,
16.11.2018 &
24.01.2019

Petitioner wrote another letter dated 10.10.2018 to Chief Secretary of Jharkhand as reminder to its earlier letters dated 09.08.2019 and 29.08.2018 seeking requisite information. Also another reminder was sent by the petitioner to the Chief Secretary of Jharkhand vide letter dated 16.11.2018

P

30.08.2019 A team of NCPDR/Petitioner visited Dumka, Jharkhand for holding a camp in aspirational district identified by NITI Aayog to address child rights complaints, where Child Welfare Committee provided statements of two minor girls as recorded by Child Welfare Committee on request of District administration, Ranchi. When the same was examined by the commission it was found that both the minors in their statement has specifically mentioned that when they were sexually abused they were sent to the Shelter Home of Missionaries of Charity by their parents there they delivered their babies and returned to their respective homes without babies. Further, inspite of these statements of victims being available on record no appropriate action has been taken by the authorities of Ranchi.

09.09.2019 That in absence of any action on behalf of appropriate authorities the commission took cognizance of the matter and issued summons to District Collector and Superintendent of Police on 09.09.2019 to be present and provide explanation before the commission on 17.09.2019 on following

Q

- I. Whether any action has been taken so far, on the basis of the statements of the victims recorded by Child Welfare Committee, Dumka, Jharkhand;
- II. Whether any FIR was registered under the provision of POCSO Act, 2012;
- III. What is the current status of the case;
- IV. Provide list of child victim's along with their status report and copies of statements recorded by CWC, who were placed in Nirmal Hriday, Ranchi, Jharkhand.

17.09.2019

Addl. Collector & Deputy SP, Ranchi presented themselves before the Commission on behalf of their respective authority and sought one month's time to submit their detailed response on the issues raised by the Commission.

22.10.2019

Petitioner also received an email dated 22.10.2019 from Ms. Rupa Kumari, Chairperson, CWC Ranchi informing that since she took cognizance of complaint received in regard to selling of babies by the MOC, she is now facing 4-5 false cases

R

30.10.2019

When the petitioner did not receive any reply from the district administration/authorities, a reminder letter dated 30.10.2019 was issued to District Collector and 7 days time was granted to furnish the reply, but till date nothing has been received from their end.

24.12.2019

In the light of aforesaid, the petitioner has no option except to invoke the provision of Section 15 of CPC Act, 2005, which makes provision that the petitioner can approach this Hon'ble Court in such matters. Hence the instant Writ Petition is being filed this Hon'ble Court.

1

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2019
UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA

IN THE MATTER OF

THE NATIONAL COMMISSION FOR
PROTECTION OF CHILDREN RIGHTS
THROUGH ITS ASSISTANT DIRECTOR
HAVING ITS OFFICE AT:-
CHANDERLOK BUILDING,
5th FLOOR, 36, JANPATH ROAD
NEW DELHI-110001
Email : ncpcr@gov.in
Ph: 011-23478261

.....PETITIONER

VERSUS

1. STATE OF JHARKHAND
THROUGH CHIEF SECRETARY
1ST FLOOR, PROJECT BUILDING
DHURWA RANCHI- 834004
JHARKHAND
2. STATE OF ARUNACHAL PRADESH
THROUGH PRINCIPAL SECRETARY
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
SECRETARIAT, ITANAGAR, ARUNACHAL PRADESH
3. STATE OF WEST BENGAL
THROUGH PRINCIPAL SECRETARY
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
SECRETARIAT, KOLKATA, WEST BENGAL.
4. STATE OF ASSAM
THROUGH PRINCIPAL SECRETARY
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
SECRETARIAT, GUWAHATI, ASSAM.
5. STATE OF PUNJAB
THROUGH PRINCIPAL SECRETARY
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT

7. STATE OF BIHAR
THROUGH PRINCIPAL SECRETARY
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
SECRETARIAT, PATNA, BIHAR.
8. STATE OF ANDHRA PRADESH
THROUGH PRINCIPAL SECRETARY
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
SECRETARIAT, HYDERABAD, ANDHRA PRADESH.
9. STATE OF KERALA
THROUGH PRINCIPAL SECRETARY
DEPARTMENT OF SOCIAL WELFARE
SECRETARIAT, KERALA.
10. STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY
DEPARTMENT OF ~~WOMEN~~ AND CHILD DEVELOPMENT
SACHIVALAYA, MUMBAI, MAHARASHTRA

...CONTESTING RESPONDENTS

**WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA, 1950, BEFORE THIS
HON'BLE COURT**

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA AND
HIS COMPANION JUSTICES OF THE HON'BLE
SUPREME COURT OF INDIA.

THE HUMBLE WRIT PETITION OF
THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:-

1. The present petition is being filed by the Petitioner under

3

trafficking in human beings guaranteed under Article 23 of the Constitution of India. Petitioner/National Commission for Protection of Child Rights (NCPCR) (hereinafter referred as "commission") is a statutory body under the Commissions for Protection of Child Rights (CPCR) Act, 2005 under the administrative control of the Ministry of Women & Child Development, Government of India. The Petitioner's mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child.

2. That the fact and circumstances leading to the filing of present Writ Petition are as under:-

i) That Petitioner/Commission took suo motu cognizance of various newspaper reports inter alia "Ranchi: Sister of Missionaries of Charity arrested for illegal child trade" published in Indian Express on 04.07.2018. A copy of the Newspaper Reports dated 4.7.2018 published in Indian Express is annexed as **ANNEXURE P-1 (Pages 18 to Pages)**.

ii) That keeping in mind the gravity of crime reported in newspapers and its impact on society at large and power provided to petitioner/commission by virtue of Sec 13(1)(i) of

4

Jharkhand to provide a factual report along with authenticated copies of relevant documents within 30 days. Report asked by petitioner was, inter alia; sought information on following specific points.

- I. Total number of organisations running under Missionaries of Charity in the State of Jharkhand;
- II. Total number of children and their legal status institution-wise (Orphan/Abandoned/Surrendered);
- III. Whether all children have been produced before CWC (Child Welfare Committee)?;
- IV. Whether the organisations have been registered as per section 41 of Juvenile Justice Act of 2015. If not, reason and action taken against the organisation?;
- V. Source of income of organization;
- VI. Action taken against the Sisters of Missionaries of Charity, Ranchi for selling the children.

A copy of the letter dated 10.07.2018 written by Petitioner to the Chief Secretary of Jharkhand is marked and annexed as **ANNEXURE P-2 (Pages 19 to Pages 21)**.

- iii) That on 24.07.2018, a member Petitioner/National Commission for Protection of Child Rights (NCPCR) visited Nirmal Hriday centre of Missionaries of Charity, Ranchi and witnessed certain

5

- iv) That all the irregularities found during the visit of a member Petitioner Commission to Nirmal Hriday centre of Missionaries of Charity, Ranchi on 24.07.2018, was duly conveyed by the petitioner to the Chief Secretary and Director General of Police, of Jharkhand, vide its letter dated 01.08.2018. Petitioner also recommended the state government to initiate inquiry in the said matter.
- v) That in response to Letter dated 10.07.2018 written by Petitioner/ Commission to Chief Secretary of Jharkhand, Additional Secretary cum Programme Director, Department of Women, Child Development and Social Security furnished district wise information with regard to Missionaries of Charity, Jharkhand in tabular form vide letter no. 584 dated 27.07.2018. A copy of the letter dated 27.7.2018 received by the petitioner from Additional Secretary cum Programme Director is marked and annexed as **ANNEXURE P-3 (Pages 22 to Pages 24)**.
- vi) However it is most humbly submitted that petitioner Commission on proper scrutiny of the above mentioned tabular information provided by Additional Secretary cum Programme Director, found certain discrepancies and unsatisfactory.
- vii) That the petitioner vide letter dated 10.08.2018

6

information. Petitioner requested to provide clarification within 10 days. A copy of the letter dated 09.08.2018 addressed to Chief Secretary of Jharkhand is marked and annexed as **ANNEXURE P-4 (Pages 25 to Pages —)**.

viii) That The petitioner vide another letter dated 09.08.2018 addressed to Missionaries of Charity sought following information within 15 days:

- I. Total number of Child Care Institutions run by Missionaries of Charity in the country and the list of children living in such institutions in the category of orphan, abandoned and surrendered.
- II. Whether all the institutions run by Missionaries of Charity have been registered as per section 41 of Juvenile Justice Act of 2015. If not, reason.
- III. Registration status of the institutions and all its branches.
- IV. Whether the children have been registered under Track the child or not?
- V. Whether all such children been produced and received in the branches of Missionaries of Charity on the orders of Child Welfare Committee.

A copy of the letter by petitioner dated 09.08.2018 addressed to Missionaries of Charity is marked and annexed as

7

17.08.2018. Complainant was Shri Darsh Choudhary, a Social and RTI activist. Complainant highlighted an intriguing and perilous facts which clearly shows attempts were made to sabotage the whole investigation. It was revealed that the Investigating Officer of CID who was in charge of investigating Missionaries of Charity case was himself an accused of engaging a minor girl into child labour and sexual assault in 2016 and Hon'ble High Court of Jharkhand took suo motu cognizance of the matter and directed necessary action against the CID officer.

x) That the petitioner received information it sought from Missionaries of Charity vide letter dated 08.09.2018. Missionaries of Charity submitted its response along with the data sought by the commission. On proper scrutiny and examination of data/details provided by the Missionaries of Charity, following was found:

- I. The Missionaries of Charity shared the details of only 78 Child Care Institutions instead of 80 Child Care Institutions;
- II. Out of 78 Child Care Institutions, 30 Homes were found that do not have registered children on Track child;
- III. Two children homes in Uttar Pradesh and one home in West Bengal

8

- IV. One home in Uttar Pradesh has applied for producing the children before Children Welfare Committee, but has not produced yet;
- V. Various homes maintained by Missionaries of Charity are keeping children, who are neither surrendered nor abandoned or orphan, but are kept in the home.

A copy of the letter and information received by petitioner from Missionaries of Charity vide letter dated 08.09.2018 is marked and annexed as **ANNEXURE P-6 (Pages 29 to Pages 34)**.

- xi) That petitioner wrote another letter dated 10.10.2018 to Chief Secretary of Jharkhand as reminder to its earlier letters dated 09.08.2019 and 29.08.2018 seeking requisite information. Also another reminder was sent by the petitioner to the Chief Secretary of Jharkhand vide letter dated 16.11.2018 and 24.01.2019.
- xii) That on 30.08.2019, a team of commission visited Dumka, Jharkhand for holding a camp in aspirational districts identified by NITI Aayog to address the child rights complaints, where Child Welfare Committee provided statements of two minor girls as recorded by Child Welfare Committee on request of District administration, Ranchi. When the same was examined

9

sexually abused they were sent to the Shelter Home of Missionaries of Charity by their parents there they delivered their babies and returned to their respective homes without babies. Further, in spite of these statements of victims being available on record no appropriate action has been taken by the authorities of Ranchi. A true translated copy of the statement of Beronika Marandi dated 30.8.2019 is annexed as **ANNEXURE P-7 (Pages 35 to Pages 37)**. A true translated copy of the statement of Meeru dated 30.8.2019 is annexed as **ANNEXURE P-8 (Pages 38 to Pages 39)**

- xiii) That in absence of any action on behalf of appropriate authorities the commission took cognizance of the matter and issued summons to District Collector and Superintendent of Police on 09.09.2019 to be present and provide explanation before the commission on 17.09.2019, on following issues:-
- I. Whether any action has been taken so far, on the basis of the statements of the victims recorded by Child Welfare Committee, Dumka, Jharkhand;
 - II. Whether any FIR was registered under the provision of POCSO Act, 2012;
 - III. What is the current status of the case;
 - IV. Provide list of child victim's along with their status report

10

A copy of the summons dated 9.9.2019 issued to the District Magistrate Dumka is annexed as **ANNEXURE P-9** (Pages 40 to Pages 42). A copy of the summons dated 9.9.2019 issued to the Superintendent of Police Jharkhand is annexed as **ANNEXURE P-10** (Pages 43 to Pages 45).

- xiv) That On 17.09.2019 Addl. Collector & Deputy SP, Ranchi presented themselves before the Commission on behalf of their respective authority and sought one month's time to submit their detailed response on the issues raised by the Commission.
- xv) Petitioner also received an email dated 22.10.2019 from Ms. Rupa Kumari, Chairperson, CWC Ranchi informing that since she took cognizance of complaint received in regard to selling of babies by the MOC, she is now facing 4-5 false cases against her and is being harassed, hence, she requested the Commission to provide her help. It is pertinent to mention that FIR lodged against Missionaries of charity is done on the initiative taken by Ms. Rupa Kumari, Chairperson, CWC Ranchi.
- xvi) That when the petitioner did not receive any reply from the district administration/authorities, a reminder letter dated 30.10.2019 was issued to District Collector and 7 days time

- xvii) That petitioner has written to various states of country and sought correct information with regard to working of Missionaries of Charity. However reports given to petitioner were either full of discrepancies or unsatisfactory in nature.
- xviii) Hence, the petitioner has decided to exercise its power provided under Section 15 of CPC Act, 2005 to approach this Hon'ble Court in the matter.
- xix) Hence, this petition to seek indulgence of this Hon'ble Court in the interest of justice and to issue certain directions/writ to the Respondent authorities regarding protecting, welfare of rescued children & expeditious investigation in the matter to administer justice to victim children.
- xx) The petitioner/Commission, took suo motto cognizance of various newspaper reports, *inter alia*; "Ranchi: Sister of Missionaries of Charity arrested for illegal child trade" published in Indian Express on 06.07.2018. All news reports highlighted the issue of selling of children in shelter homes run by Missionaries of Charity.
- That the petitioner is government organization who is protecting the rights of the children in India and the petitioner herein has filed various types of matters in India for protecting the right of children, hence the petitioner have a legal nexus with the issues involved in the present petition.
- That the petitioner/commission has no personal gain, private motive or oblique reason in filing the present writ petition.
3. That the Petitioner is filling the present Writ petition under Article 32 of the Constitution of India before this Hon'ble Court seeking enforcement of fundamental right of Prohibition of trafficking in human beings guaranteed under Article 23 of the Constitution of India. This petition before this Hon'ble Court seeks certain directions/writ to the Respondent authorities regarding protecting, welfare of rescued children & expeditious investigation in the matter

GROUND

- A. BECAUSE inaction on part of respondents comes under the ambit of arbitrariness and is violation of right to equality guaranteed by Art 14 of the constitution. Inaction that too of statutory duty on part of State or State machinery is just a manifestation of arbitrary action and is a violation of equality clause of Art. 14.
- B. BECAUSE fundamental right to live with human dignity is ensured to everyone in this Country under Art 21 of the constitution of India and in the facts and circumstances of the case, most of the States and the institutions of the nature mentioned in this petition are becoming instrumental of the violation of this right and infact violating the same on regular basis.
- C. BECAUSE fundamental right of Prohibition of trafficking in human beings guaranteed under Article 23 of the Constitution of India cannot be trampled in any manner. It is most respectfully submitted that Prohibition of trafficking in human beings includes protection of children from trafficking, child prostitution and other related offence without any hindrance.
- D. BECAUSE respondents failed completely in protection of Fundamental right guaranteed by the Constitution of India i.e.

- E. BECAUSE Respondents have failed miserably in discharging their statutory duty by not conducting further investigation with due diligence even after repeated request by the petitioner and it is most respectfully submitted that the violation can happen in both ways, firstly by action of the State or State body and secondly by inaction of the State or State body also.
- F. BECAUSE respondents have failed in discharge of their statutory duty by not disclosing true picture of investigation. No one including petitioner is aware of the status/stage of investigation/enquiry and the petitioner has only option to pray this Hon'ble Court to pass appropriate directions in order to protect rights of children.
- G. BECAUSE inaction and leniency on part of respondents amounts to violation of provisions of the statutory provisions i.e., the National Commission for Protection of Child Rights Act and the total carelessness about duty regarding protection of children and after such inaction, not responding to instructions/summons to the Commission has lead to to invoke the statutory provision to approach this Hon'ble Court before the similar situation arises in other State, the Hon'ble Court's indulgence would be necessary as one cannot deny from the possibility of the similar conditions in other States.

children, which is an important duty of the welfare State. The inaction and lack of accountability is alarming and in this situation indulgence of this Hon'ble Court is warranted.

- I. BECAUSE attempts have been made to sabotage and derail the investigation by the State and therefore, there is necessity to have a fair and impartial investigation to save nascent children's life and dignity. It is most respectfully submitted that such inquiry could save number of children about whom facts could not yet come in the light due to lack of appropriate response of the States.
- J. BECAUSE truth of this gut wrenching and chilling incident has tentacles throughout Country and one cannot hope to get true fact in investigation by any State authority, specially after non-cooperation of States to all efforts of the petitioner, only the Court monitored investigation can bring real facts and the truth before this Hon'ble Court.
- K. BECAUSE there is no other equally efficacious alternate remedy available to the Petitioner for the relief prayed for in this petition.
4. That the petitioner has no filed any such or similar petition before this Hon'ble Court or any other Court of India for seeking same relief.

PRAYER

In light of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) issue a writ in the nature of *Mandamus* thereby directing a Supreme Court monitored time bound investigation of all such organizations in the State of Jharkhand to ensure protection of children;
- b) issue a writ in the nature of *Mandamus* thereby directing creation of Special Investigation Team in every State to investigate similar organisations to ensure that the Child rights violation are not happening in organisations located in other States;
- c) issue a writ in the nature of *Mandamus* thereby directing the all states and Union territory to facilitate & cooperate with Child Welfare Committee so that they can work without hurdles;
- d) pass any such and further relief(s) or order(s) as may be deemed fit in light of above facts and circumstances;

AND FOR THIS ACT OF KINDNESS THE PETITIONERS SHALL
EVER PRAY

DRAWN AND FILED BY

{SWARUPAMA CHATURVEDI}
ADVOCATE FOR THE PETITIONER

16

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2019

IN THE MATTER OF:

THE NATIONAL COMMISSION FOR
PROTECTION OF CHILDREN RIGHTS

.....PETITIONER

VERSUS

STATE OF JHARKHAND & ORS.

.....RESPONDENTS

AFFIDAVIT

I, G. Suresh, Assistant Director of the National Commission for Protection of Children Rights office at Chanderlok Building, 5th Floor, 36, Janpath, New Delhi do hereby solemnly affirm and declare as under:-

1. That in my aforesaid official capacity am well conversant with the facts and circumstances of the case, hence competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying Synopsis and List of Dates at pages B to R, Writ Petition at pages 1 to 16, paras 1 to 5 and I.As and state that the averments made therein are true and correct to the best of my knowledge and belief.
3. That the annexures annexed to the petition are true and correct copies of their respective originals.

G. Suresh

DEPONENT

VERIFICATION:

Verified at New Delhi on this the 24th day of December, 2019 that the contents of the above affidavit are true and correct to the best of my knowledge belief.

G. Suresh