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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 18th August, 2020*

+ W.P.(C) 3622/2020

HARPAL SINGH RANA Petitioner

Through: Mr.Akhil Rana, Adv.

Versus

UNION OF INDIA & ORS. Respondents

Through: Ms.Shiva Lakshmi, Adv. for R-1/UOI.

Ms.Hetu Arora Sethi, ASC for GNCTD along with Mr.Arun Kr.Jha, Jt. Director, Mr.Premoday Khakha, Asstt. Director, Deptt. of WCD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

: **D. N. Patel, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

1. This Public Interest Litigation has been preferred with the following prayers:-

“i. That writ of mandamus may please be allowed directing the respondents to submit a detailed scheme provision for the education living and other prospects of life for orphans.

ii. Quota should be given to orphan kids while applying for admission in schools under the EWS quota.

iii. There should be a provision for the financial assistance be given to the persons who looking after the orphans.

iv. Pass any further order/s that this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. Having heard the learned counsel for the parties and looking to the facts and circumstances of the case, the Government of NCT of Delhi has

stated that orphan children have been granted admission by either in the private schools or in public schools.

3. The Government of NCT of Delhi has filed the status report dated 15th July, 2020. Paragraph 1 of the said status report is reproduced hereunder for ready reference:-

“1.That the present status report is submitted in compliance to the directions given by the Hon'ble Court on 02.07.2020. In this connection it is submitted that with regard to the directions given at para 6 and 7 of the Hon'ble Court order dated 02.07.2020 following information is given for kind perusal and consideration of the Hon'ble Court:

(i) Out of a total of 225 children being given admission in schools, the specific details of 25 orphan children amongst them is given below:

S.No.	Name of the Child	Age	Sex	Class and Name of the School in which admission was given	DCPU wise District
1.	Chandni Attar	14	Female	Class-9 Nicholson School, Kashmiri Gate	Central
2.	Beena	15	Female	Class-10, Chabi Ganj School, Kashmere Gate	Central
3.	Kajal Pandey	15	Female	Class-10, Chabi Ganj School, Kashmere Gate	Central
4.	Riyan	8	Male	Class- 4, Sarvodaya Bal Vidyalaya, Roshanara Road	Central
5.	Ganga Ram	14	Male	Class- 8, Sarvodaya Bal Vidyalaya, Morigate	Central
6.	Shabana	13	Female	Class-VII, Birla Arya Girls Senior Secondary School,	Central

				Kamla Nagar	
7.	Uttam	7	Male	Class- 3, East Delhi Municipal Corporation Primary School	North East & Shahdra
8.	Bhawana	8	Female	Class- 4, South Delhi Municipal Corporation School, Lajpat Nagar	South
9.	Deepak	13	Male	Class- 8, Sarvodaya Bal Senior Secondary School No.1, Mehrauli	South
10.	Jaswant	15	Male	Class- 8, St. Mary's School, Safdarjung Enclave	South
11.	Aarti	14	Female	Lady Nyoce Senior Secondary School, Feroz Shah Kotla, Delhi Gate	West
12.	Raj	10	Male	Class-5, NDMC School, EE-Slock, Jahangirpuri	North West
13.	Sarfaraz	16	Male	Class- 9, GBSS, E-Block Jahangirpuri	North West
14.	Babita	14	Female	Class-9, GSKV School, Alipur	North West
15.	Kajal	12	Female	Class-6, GSKV School, Alipur	North West
16.	Suraj	6	Male	Class-2 MCD School, Motia Khan, Paharganj	East
17.	Sita	17	Female	Class- 11, Government Girls Sr. Secondary School No.1, East of Kailash	South East
18.	Mani Thoi	17	Male	Class- 10 Government Boys Secondary School Garhi, Jharia Maria	South East
19.	Radha	16	Female	Class- 8, Government Girls Sr. Secondary	South East

				School No.1, East of Kailash	
20.	Krishna	14	Male	Class- 4, A. M. Saraswati Bal Mandir, Lajpat Nagar	South East
21.	Devendar Kumar	18	Male	Class- 12, G.L.T Saraswati Bal Mandir, Nehru Nagar	South East
22.	Pooja	14	Female	Class- 9, Govt. Girls Senior Secondary School, Ambedkar Nagar	South East
23.	Pankaj Kumar	17	Male	Class-9. Govt. Boys Senior Secondary School, Dwarka	South West & Najhagarh
24.	Anju	18	Female	Class-11 Govt. Girls Senior Secondary School Dichao Kalan	South West & Najhagarh
25.	Kajal	17	Female	Class-12 Baba Ram Dev Higher Secondary School, Prasad Nagar	New Delhi

In addition to the details provided in the above table, the table given below gives district wise total number of orphans who were given admissions in school between the period 01.04.2019 to 31.03.2020:

S. No.	Name of the District	Total number of orphan children given admission in school
1.	Central	26
2.	North East & Shahdara	01
3.	South	36
4.	West	01

5.	North West -II	02
6.	North	54
7.	East	13
8.	South East	64
9.	South West & Najhafgarh	39
10.	New Delhi	16
		225

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4. The said Status Report filed by the Department of Women and Child Development, Government of NCT of Delhi also contains details of 28 orphans who have been provided employment between 01.04.2019 and 31.03.2020. The employment has been secured in various sectors, including hospitality, teaching and in non-governmental organisations.

5. Similarly, the Department of Social Welfare, Government of NCT of Delhi has also filed a Status Report dated 15.07.2020, giving details of the educational and employment status of the residents of Asha Kiran Homes, which are operated by the said Department.

6. The respondent No.1/Union of India has also filed its counter affidavit. The relevant paragraphs of the said counter affidavit reads as under:-

“2. That the Ministry of Women and Child Development is implementing a Centrally Sponsored Scheme i.e. Child Protection Services Scheme (CPS, erstwhile ICPS), through the State Government/UT Administrations on predefined cost sharing financial pattern. It is a component of the Umbrella Integrated Child Development Scheme. The objective of the Scheme is to provide the security net of statutory and service delivery structure to the children in difficult circumstances. It

also aims at reduction of vulnerabilities to situation and actions, that lead to abuse, neglect, exploitation, abandonment and separation of children from parents by focusing on (a) improved access to quality child protection services, (b) raised public awareness about the reality of child rights, situations and physical and social protection in India, (c) clearly articulated responsibilities and enforced accountability for child protection, (d) established and functional structure at all levels for delivery of statutory and support services to children in difficult circumstances and (e) operational evidence based monitoring and evaluation.

3. That Children rendered orphan or destitute fall within the category of "Children in need of care and protection" as described in the JJ Act. The above mentioned scheme aims to provide preventive, statutory care and rehabilitation services to children who are in need of care and protection and those in conflict with law as defined under the Juvenile Justice (Care and Protection of Children) Act, 2015. It is a centrally sponsored scheme, providing financial support to state Government/UT Administrations, for delivering services as mandated under the JJ Act and Juvenile Justice (Care and protection of Children) Model Rules, 2016 thereunder for children, either themselves or through suitable NGOs. The primary responsibility of execution of the Act, as such, lies with the State/UTs.

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5. It is humbly submitted that the primary responsibility and execution of the Juvenile Justice (Care and Protection of Children) Act, lies with the States/UTs. Section 27 of the JJ Act, 2015 talks about the duties of the States/UTs in relation to children in need of care and protection. Section 27 (1) has been reproduced herein under;

Section 27(1) The State Government shall by notification in the Official Gazette constitute for every district, one or more Child Welfare Committees for exercising the powers and to discharge the duties conferred on such Committees

in relation to children in need of care and protection under this Act and ensure that induction training and sensitization of all members of the committee is provided within two months from the date of notification.”

7. In view of the aforesaid facts and circumstances of the case, especially looking into the fact that 225 orphan children have already been given admission in the private as well as Government schools, we see no reason to monitor this case any further. It is expected from the respondents that they shall continue to arrange for admissions of the orphan children in private as well as in Government schools, and for their employment, as they have already done so far.
8. With these observations, the writ petition is disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

AUGUST 18, 2020/ 'anb'