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

+ W.P.(CRL) 1361/2021

RAJESH KUMAR

..... Petitioner

Through: Mr. S.D. Windlesh, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) & ORS. .... Respondents

Through: Ms. Surabhi Katyal and Ms. Shivani Sharma, Advocates for Ms. Richa Kapoor, ASC for the State with SI Mumtaz.

Mr. R.H.A Sikander, Advocate with Mr. Jayant Bhatia, Advocate for R-3.

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**ORDER**

% **22.11.2021**

1. The instant petition under Article 226 and 227 of the Constitution of India has been filed with the following prayers:

1) *Issuance of writ/ order/ direction in the nature of a writ of mandamus or of any other type of writ/direction/order to the respondents for conducting magisterial enquiry into recent escape/kidnapping of five minor girls from children home at bakhtawarpur. Delhi 110041 run by Kasturba Gandhi National Memorial Trust and other similar incidents reported in the past also: and*

2) *Issuance of writ/ order/ direction in the nature of a writ of mandamus or of any other type of writ / order/ direction in the nature of a writ of mandamus or of any other writ to the respondents to take over the child home being run by Kasturba Gandhi National*

*Memorial trust and to further blacklist the trust: and*

*3) Issuance of writ/ order/ direction in the nature of a writ of mandamus or of any other type of writ/order/direction to the respondents to initiate legal action against the criminal negligency on the part of the staff that resulted into frequent incidence of escape/kidnapping of minor hindu girls:*

*And*

*4) Issuance of writ/ order/ direction in the nature of a writ of mandamus or of any other type of writ to the respondents to immediately arrest the kidnappers of five minor girls on the night of 26/27 March, 2021 and take action against them as per the law: and*

*5) For issuance of writ/ order/ direction in the nature of a writ of mandamus or of any other type or writ / order/ direction to the respondents to arrest the accused responsible for illegally kidnapping five minor girls from the child home of KGNMT illegally detaining one of the minor girl at 1730-31, 4<sup>th</sup> floor Jodha Bai Extn and committing sexual assaults and thereafter converting the minor victim from Hinduism to Islam and organizing Nikkah: and*

*6) For issuance of writ/ order/ direction in the nature of a writ of mandamus or of any other type or writ / order/ direction to the respondents to grant maximum victim compensation to the victim of this case as admissible under the Nalsa's scheme of 2018. This Hon'ble may also be kind enough to please provide any other relief in favour of the petitioner and against the respondents as the court may dim fit and just in the facts and circumstances of the case.*

2. Learned counsel for the petitioner states that five (5) minor children aged between 13 to 16 years have been kidnapped on 27.03.2021 from Kasturba Gandhi National Memorial Trust, Bhakhtawarpur, Delhi – 110040 which is a home meant as a Child Care Institution and houses children who are in need of care and protection. He states that the petitioner is one of the five minor girls, who were kidnapped on 27.03.2021.

3. In the present petition a direction has been sought for conducting a Magisterial Enquiry into the affairs of the said institution as to how five children of vulnerable age escaped from that home.

4. The status report has been filed by the Assistant Commissioner of Police, District Investigation Unit, Outer North Distt, Delhi. The paragraph No.9 of the status report reads as under:

*9. In the present petition, the petitioner wants to get conducted Magisterial Enquiry into recent escape/kidnapping of five minor girls from children home at Bakhtawarpur Delhi.*

*“Keeping in view of the above allegations, KGNMT Bakhtawarpur, Delhi was visited and found that the building is about 40-45 Years old and due to the old structure of building the condition of rooms and windows are also not found good. The iron roads of the windows were found very weak. The back side boundary wall is about 8 feet high and also found in deteriorated condition. As per the present condition of the building it is very much possible that the inmates can escape easily front the above home. The staff of KGNMT Bakhtawarpur Delhi revealed that the CCTV cameras installed in rear side were recently installed only after the above incident of escaping of five minor girls. At present 63 girls are found lodged in the KGNMT Bakhtawarpur KGNMT Bakhtawarpur Delhi and total 16 CCTV cameras are found installed. No adequate security guard specially female guards are found deployed in KGNMT Bakhtawarpur Delhi. During enquiry front the staff of KGNMT Bakhtawarpur Delhi it was*

*revealed that total 14 incidents of escape of girls from KGNMT Bakhtawarpur Delhi including present escape of 5 minor girls had taken place. In all the previous 13 incidents also separate FIRs were registered for each incident. No active connivance/negligence of the staff of KGNMT Bakhtawarpur Delhi could be established till date in investigation for escape of 5 minor girls.*

5. The replies have also been filed by the Delhi Commission for Protection of Child right, who have been impleaded as respondent No.3 in the instant petition. In the said reply, the respondent No.3/ Delhi Commission for Protection of Child right has raised concerns on the way the institute is functioning. The paragraph Nos.11 and 12 of the said reply read as under:

*11. That after receiving unsatisfactory response from the CWC-X, the Commission sent a Letter dated 20.07.2021 to the Chairperson, Child Welfare Committee - X, Alipur, seeking a detailed report along with the Individual Care Plan prepared for the child by 30.07.2021. Copy of the Letter dated 20.07.2021 sent by the Commission to the Chairperson, CWC-X, Alipur is annexed herewith and marked as Annexure R-3/5 pages 14 to 14.*

*12. Since no response was received from the CWC-X, the Commission sent a reminder Letter dated 13.08.2021 to the Chairperson, Child Welfare Committee - X, Alipur, requesting the CWC to submit the requisite information on or before 20.08.2021. However, no response has been received by the Commission from the CWC-X till date. Copy of the Letter dated 13.08.2021 sent by the commission to the Chairperson, CWC-X, Alipur, is annexed herewith and marked as Annexure R-3/6 at pages 15 to 15.*

6. This petition cannot be confined only to the one incident of 26/27<sup>th</sup> March, 2021 where five (5) minor children escaped from the home. The overall functioning of the institutions has to be assessed to see as to whether the adequate measures have been provided in the homes so as to ensure that the children do not escape from such homes and what facilities have been provided to the children in the homes.

7. Let the Joint Director, Child Protection Unit, Department of Women and Child Development, be present in the Court for assisting the Court in giving directions to ensure better functioning of the various child care institutions.

8. List on 09.12.2021.

**SUBRAMONIUM PRASAD, J**

**NOVEMBER 22, 2021**

*S. Zakir*