

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HON'BLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 35401 OF 2022

Between:

1. Smt Konduru Vandana Raju, W/o Sri.Konduru Harinath Raju Aged about 35 years, Occ: Pvt Service, Presently residing Flat No. 209, Endecos Alladin county CZECH Colony, Opp: Lane Gokul Theatre, Erragadda Sanath Nagar Hyderabad 500 018
2. Konduru Bhavika, minor represented by her mother Smt Konduru Vandana Raju W/o Sri.Konduru Harinath Raju Aged about 7 years, Occ: Student, Presently residing Flat No. 209, Endecos Alladin county CZECH Colony, Opp: Lane Gokul Theatre, Erragadda Sanath Nagar Hyderabad 500 018

Petitioners

AND

1. State of Telangana, represented by its Principal Secretary, Home Secretariat Hyderabad - 500 063
2. Director General of Police, Government of Telangana DGP Office, Lakdikapul Hyderabad 500 004
3. Commissioner of Police, Basheerbagh Hyderabad 500 029
4. Mrs Badugula Sumathi, IPS, DIG, Women Safety Wing She Teams Office Lakdikapul Hyderabad 500 004
5. Konduru Harinath Raju, S/o Sri Konduru Satyanarayana Raju Aged about 47 years, Occ: Pvt Employee, Presently residing at Flat No. 501, Akruthi Annex Czech Colony, St No. 4, Sanathnagar Hyderabad 500 018 Aadhar Card No. 271334159726 Mobile No. 9618856096 Email . harinath.raju@gmail.com
6. Child Welfare Committee, Government of Telangana Represented by its Chairman NH-163, Tirmala Arcade Nimboli Adda, Kachiguda Hyderabad 500 027
7. The Principal, Chinmaya Vidyalaya School Sandeep Many Kailas, Kundan Bagh Begumpet Hyderabad 500 016

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the 4th Respondent and the 6th Respondent in interfering with the matrimonial dispute between the petitioner and the 5th Respondent as wholly arbitrary and illegal and consequently direct them not to interfere with the matrimonial dispute pending in OP No. 1441 of 2022 on the file of the 1st Additional Family Court, City civil Court, Hyderabad.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased direct the Principal to permit the second petitioner to attend the school unhindered by the interference

of the 4th Respondent and pass order or orders that this Hon'ble Court may deemed it fit. pending disposal of the above WP.No.35401 of 2022, on the file of the High Court. ✓

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI.S.SHARAT KUMAR Advocate for the Petitioners and GP for Home for Respondents 1 to 3 and GP for Child Welfare for Respondent No.6 and Sri.M.V.S.Sai Sharan, learned counsel for Respondent Nos.4&5 the Court made the following. ✓

ORDER

Rule nisi. Call for records. ✓

Notice returnable in four weeks. ✓

Learned Government Pleader for Home takes notice on behalf of respondent Nos.1 to 3. ✓

Learned Government Pleader for Child Welfare Committee takes notice on behalf of respondent No.6. ✓

Sri M.V.S. Sai Sharan, learned counsel, takes notice on behalf of respondent Nos.4 and 5. ✓

Learned counsel for the petitioners is permitted to take out personal notice to respondent No.7 by RPAD and file proof of service. ✓

Learned counsel for the petitioners submits that in view of the disputes between the 1st petitioner and the 5th respondent, the 1st petitioner was necked out from the house of the 5th respondent and she is residing separately from the last two months and at that time the minor daughter i.e., the 2nd petitioner herein, was with the 5th respondent. He submits that in spite of best efforts, the 1st petitioner could not meet her child/the 2nd petitioner and thereafter she received a call from the school stating that the child is in a very disturbed condition and she is not mingling with the other children. He submits that the 1st petitioner brought the child with the knowledge of the 5th respondent. Learned counsel submits that at the instance of the 4th respondent, who is sister-in-law of the 1st petitioner and who is the DIG, Women Safety Wing, the respondent police have acted in a high handed manner and in fact the Child Welfare Committee has issued a notice to the 1st petitioner and directed her to produce the child. The 1st petitioner appeared through advocate and submitted that the Child Welfare Committee has no jurisdiction to entertain such a plea. In spite of that, an order

has been passed on 22.08.2022, wherein they have ordered to rescue the child with the help of local police and child line for further care and protection. Thereafter, in the night they have directed the petitioner not to leave the city without their permission and she has to take care of the child. Learned counsel submits that in the evening when the 1st petitioner left from the Child Welfare Committee and went along with the Child to Taj Mahal Hotel, where police personal in 50 numbers came there and created a high drama and they behaved in a very rash manner with ever one and tried to take away the child. He submits that there are video recordings in that regard. Learned counsel appearing on behalf of the petitioners, who was present there, also tried to stop this high handed action, in fact, the police have abused the learned counsel and also tried to take him into custody. Learned counsel submits the respondents have no authority or jurisdiction to behave in such a highhanded manner and interfere with the family affairs of the petitioner.

Sri M.V.S.Sai Sharath, learned counsel appearing on behalf of respondent Nos.4 and 5, submits that omnibus allegations are made by the petitioners by taking the name of an advocate. He submits that as stated in the affidavit, the application filed under Section 13-B of Hindu Marriage Act was not drafted in a manner as stated by the petitioners and the 1st petitioner herself came voluntarily for counselling. He submits the 1st petitioner without even informing the 5th respondent has taken away the child from the school. As the child was not taken care of by her properly, they have approached the Child Welfare Committee and under Section 29(2) of the Juvenile Justice (care and Protection of Children) Act, 2005, the Child Welfare Committee has jurisdiction to entertain a complaint when it comes to their notice about the ill-treatment of a child, who is in need of care. He submits that right from the last two months the child is with the father and now the 1st petitioner has taken away the child. He submits he will come up with a counter-affidavit.

The admitted facts are that in view of the strained relationship between the 1st petitioner and the 5th respondent, they are staying separately. As submitted by the petitioner, she was necked out from the house, the child is

staying with her father and about two months back she has taken her from the school. According to the 1st petitioner, she has informed the 5th respondent and according to the 5th respondent, the 1st petitioner has not informed him. With regard to the jurisdiction and power of the Child Welfare Committee, after filing the respective counters that aspect will be looked into. At this stage, the welfare of the child is the paramount consideration.

In the Chambers had interaction with the girl, where the girl has expressed that she is willing to stay with her mother. Hence, unless and until appropriate proceedings are initiated seeking custody of the girl, the 2nd petitioner shall be in the custody of mother and the respondents shall not interfere with their life. If the 5th respondent wants to have the custody of the girl, it is open from him to move an appropriate application before the appropriate Court. The father can interact with the girl over phone and meet the girl on every Sunday between 10.00 a.m. and 01.00 p.m.

As far as the high handed action on behalf of the police is concerned, the Director General of Police (DGP) shall look into this aspect. Learned counsel for the petitioner shall hand over the pen drive containing the videos. The manner in which they have behaved and why such a huge number of police are present before the Taj Mahal Hotel and why they have interfered in this case, what has transpired on 22.08.2022 at Taj Mahal Hotel shall be enquire into, shall take necessary steps and shall file a detailed counter affidavit.

Now, as far as the 7th respondent is concerned, when the child is admitted in the school and just because of the disputes between the parents, the 7th respondent school cannot deprive the child's right to education as it is submitted by the learned counsel for the petitioners that that the Principle has asked the 1st petitioner not to send the girl for a couple of months.

In the interest of girl, the 7th respondent is directed to permit the girl to attend the school forthwith.

List on 11.10.2022 for counter.

//TRUE COPY//

SD/- N. SRIHARI
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. The Principal Secretary, Home, State of Telangana, Secretariat Hyderabad - 500 063
2. Director General of Police, Government of Telangana DGP Office, Lakdikapul Hyderabad 500 004
3. Commissioner of Police, Basheerbagh Hyderabad 500 029
4. Mrs Badugula Sumathi, IPS, DIG, Women Safety Wing She Teams Office Lakdikapul Hyderabad 500 004
5. Konduru Harinath Raju, S/o Sri Konduru Satyanarayana Raju Presently residing at Flat No. 501, Akruthi Annex Czech Colony, St No. 4, Sanathnagar Hyderabad 500 018 Aadhar Card No. 271334159726 Mobile No. 9618856096 Email . harinath.raju@gmail.com
6. The Chairman, Child Welfare Committee, Government of Telangana NH-163, Tirmala Arcade Nimboli Adda, Kachiguda Hyderabad 500 027
7. The Principal, Chinmaya Vidyalaya School Sandeep Many Kailas, Kundan Bagh Begumpet Hyderabad 500 016 (RR-1 to 7 by RPAD)
8. One CC to SRI. S SHARAT KUMAR Advocate [OPUC]
9. Two CCs to GP FOR HOME (TG), High Court Of Judicature at Hyderabad. [OUT]
10. Two CCs to GP FOR CHILD WELFARE (TG), High Court Of Judicature at Hyderabad. [OUT]
11. One spare copy

HIGH COURT

LK.J

DATED: 13.09.2022

NOTE: LIST ON 11.10.2022 FOR COUNTER

W.P.NO.35401 OF 2022

DIRECTION

