
(2006) 12 PAT CK 0008
In the Patna High Court
Case No : Criminal W.J.C. No. 545 of 2005

Balsakha, Non-Governmental Organisation	APPELLANT
Vs	
State of Bihar and Others	RESPONDENT

Date of Decision : 05-12-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 34, 376

Citation : (2007) 2 PLJR 71

Hon'ble Judges : Navaiti Pd. Singh, J

Bench : Single Bench

Advocate : Shashank Shekhar and Nand Kishore Singh, for the Appellant;
Harendra Pd. Singh and Kumar Amitesh Chandra, for the Respondent

Judgement

Navaiti Pd. Singh, J.—Heard. This application is by Balsakha, a non-governmental organisation, which, inter alia, has the object of working in the field of child rights and child welfare in the State of Bihar and Jharkhand. They filed this writ application on coming to know that one Anil Oraon, an inmate of Bettiah Remand Home had died on 22.11.2003. Their enquiry reveals that the boy, who was about 10 years old had been accused in a case under. Section 376/34 IPC and put in the Remand Home. In the Remand Home he was continuously sick as per statements of other inmates and allegedly because of neglect and in absence of proper medical treatment he ultimately died. This Court taking cognizance of the matter, issued notice and called for various records and affidavit. Without going into much detail suffice it to say that it is not a case of criminal negligence but surely it cannot escape the ambit of negligence and care which was required in respect of a child of about 10 years old separated from his parents.

2. When juveniles, who are conflict with law or otherwise and put in Remand Home they are not to be treated as criminals or pest and sent there to be exterminated or terminated; because of their tender age they have not acquired sense of propriety and allegedly misled into being in conflict with law and for their protection they are put in Remand Home. It is not by way of punishment.

Once this is accepted even the officials of the Remand Home have to act like foster parents to the juvenile. It is expected that they would counteract with the juveniles in the same manner as they would with their own children, of course, within the financial and other parameter available. In case they feel that care is due but cannot be given because of any constraint, then it is for them to bring it to the notice of their higher authority or the State Government who are bound to consider the same, and make adequate provisions for the same.

3. In the present case records reveal that after the boy was brought in the Remand Home his health was deteriorated day by day. I have examined various registers and documents which were ordered to be produced in original. They revealed that he had been from time to time attended by doctor. On the face I feel that though care had been extended, it was not adequate, not because the juvenile died but because his death was preventable. Once it was found that he was regularly falling sick, he needed greater care and attention both in day to day living as well as medically. This is the least expected of the State which is a Welfare State and Remand Home and such detentions are by authority of law. I am sure if greater attention and sensitivity was there, the boy would not have lost his life. The authorities must be trained to realize their responsibilities. The State would have well advised to monitor in regular manner check up of boys. Monitor their weight, height from the time they come and their health status all along the period for which they are in Remand Home. In the present case if this was done, records would have revealed that the boy was losing weight instead of growing in the age of growth, that would have drawn the attention of the authorities that there was something wrong and had to be attended. Nothing of this sort was ever done. Nothing of this sort was ever being done in any Remand Home or Juvenile Detention Centre. I, therefore, direct the State to make the Civil Surgeons and the District Judges responsible for monitoring the health and height of the juveniles kept therein, as it is the direct responsibility of the State in this regard. The State officials should do it at regular intervals at least once a month visit the Remand Home without notice, so that they can monitor in surprise visit the actual state of affairs.

4. In the present application unfortunately, nothing more can be done. This writ application is thus disposed of with the aforesaid observation.

5. Let a copy of this order be forwarded to the Home Secretary, Govt. of Bihar, for taking suitable action that such incident do not recur.

6. In any view of the matter as it cannot be disputed that the boy had been remanded to the Remand Home and he died in almost one year being there, it cannot be said that the State has no responsibility in the matter. Even though I have held that there was no criminal negligence, the care that was required was not fully given. State was the guardian of the boy, in question, and as such it is a fit case in which the parents of the boy are entitled to be compensated. I am informed at the bar that parents are too poor to exercise any right of their own as they are incapable to exercise their rights. In such a situation it is a fit and

proper case in which I award a compensation of Rs. 50,000/- which shall be paid to the parents of the deceased boy. It will be the responsibility of the Collector of the district to see that the said amount is deposited in fixed deposit in the name of the parents and on six month basis the interest accrued thereon will be made available to the parents. The Collector may consider getting the said deposit made in the post office in monthly income scheme to the maximum amount permissible therein. The post office, if possible, would be the village post office where the parents of the boy reside or post office of their choice. In the event of death of any of the parents after five years from the deposit the entire deposit then would be given to the surviving parent absolutely. This writ application is accordingly disposed of.