

(2025) 08 SC CK 0247

In the Supreme Court Of India

Case No : Civil Appeal No. 10544 Of 2025 (Petition For Special Leave To Appeal (Civil) No.6322 Of 2025)

Dasari Anil Kumar & Another

APPELLANT

Vs

Child Welfare Project Director & Others

RESPONDENT

Date of Decision : 12-08-2025

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2015 — Section 3, 36, 37, 38

Citation : (2025) 08 SC CK 0247

Hon'ble Judges : B. V. Nagarathna, J;K.V. Viswanathan, J

Bench : Division Bench

Advocate : Dama Seshadri Naidu, Dama Seshadri Naidu, M Srinivas R Rao, Abid Ali Beeran P, Sarath S Janardanan, Saswat Adhyapak, Namita Kumari, Ravi Shankar Jandhyala, Sravan Kumar Karanam, Neha Rai, M. Harshini, Kumar Abhishek, Vikramjit Banerjee, Rupesh Kumar

Final Decision : Disposed Of

Judgement

B. V. Nagarathna, J

1. Leave granted.

2. Being aggrieved by the common judgment dated 28.11.2024 passed by the Division Bench of the High Court for the State of Telangana in Writ Appeal Nos.1265 of 2024, 1277 of 2024, 1267 of 2024, 1266 of 2024, the appellants respectively are before this Court.

3. The appellants assailed the validity of the action of the police authorities in taking away the custody of the minor children from them as they claim to be the "adoptive parents" on the premise that it is without authority of law. The details of the cases as narrated by the Division Bench of the High Court in Writ Appeal Nos.1265 of 2024, 1277 of 2024, 1267 of 2024, 1266 of 2024 are extracted as under:

"In W.A. No.1265 of 2024, it is the case of the respondents No.1 and 2 that they are the adoptive parents of one minor girl child, namely D. Maanvika, who is aged about three years. It is their case that respondents No.1 and 2 were informed through a common friend that a nine days old baby girl is available for adoption. The aforesaid respondents therefore adopted the child on 30.03.2024, in accordance with the provisions of the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred to as, "the 1956 Act").

In W.A.No.1277 of 2024, the respondent No.1 claims that she has adopted a two days old baby girl, namely K. Un1a Maheshwari, from her biological parents on 15.11.2021, as they were not in a position to bring up the child.

In W.A.No.1267 of 2024, the respondents No. 1 and 2 assert they learnt through a common friend that a twenty days old baby girl, namely S.Rishika, is put up for adoption. Therefore, the said respondents adopted the said child on 26.01.2024 from her biological parents.

In W.A.No.1266 of 2024, the respondents No.1 and 2 claim to be adoptive parents of a minor child, namely B.Sresta. It is their case that they adopted the aforesaid two days old baby girl on 22.01.2024 from the biological parents."

4. In fact, there were petitioners, who are said to be "adoptive parents" in nine Writ Petitions before the learned Single Judge of the High Court, who sought a declaration that action of the Commissioner of Police, Rachakonda and Station House Officer, Medpally Police Station in forcibly and illegally taking the custody of the minor children from the appellants and handing them over to the Child Welfare Project Director and integrated Child Protection Services, Sishuvihar, Hyderabad on the basis of the First Information Report No.579 of 2024 dated 22.05.2024 was illegal, arbitrary and violative of Articles 14 and 20 of the Constitution of India.

5. The learned single Judge by his common order dated 23.09.2024 passed in W.P.Nos.22020, 19623, 21108, 21980, 21981, 17040, 22026, 22429 and 23727 of 2024 allowed the Writ Petitions and held that the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for brevity, "the Act"), did not apply to the fact situation of the cases and further the action of the police authorities in taking the custody of the children in question from the appellants herein who claim to be adoptive parents of the children in question was illegal and without authority of law. The learned single Judge of the High Court granted liberty to the appellants herein to adopt the procedure prescribed for continuation of the custody of the children with them by validly executing adoption deeds or by following any other procedure which would allow them to retain the custody of the children forever.

6. Being aggrieved by the said common order dated 23.09.2024 passed by the learned single Judge, the Child Welfare Project Director, Women, Children, Disabled And Senior Citizen and Welfare Department, Medchal, Malkajgiri District and Directorate of Women Development and Child Welfare Department,

represented by its Director, Yusufguda Main Road, Madhuranagar, Yusufguda, Hyderabad, had preferred the appeals. There were also intervening application in the Writ Appeals. By the impugned judgment, the Division Bench of the High Court for the State of Telangana disposed of the appeals by setting aside the order of the learned single Judge and observed in paragraphs 25 and 26 as under:

"25. The children in question are in the custody with the Committee since 22.05.2024. Therefore, presently in the obtaining factual matrix of the case, we are not inclined to disturb the custody of the children on account of non-compliance of Sections 36, 37 and 38 of 2015 Act. It is stated before us that social investigation has been completed.

26. However, it is necessary to issue the following directions:

(1) The Committee shall pass an order in terms of Section 37 of the 2015 Act within a period of two weeks from the date of receipt of copy of the order passed today.

(2) Some of the adoptive parents have filed an seeking adoption of the children. The competent authority is directed to decide the application seeking adoption within a period of four weeks from the date of receipt of copy of order passed today.

(3) Needless to state that the custody of the children shall be subject to outcome of the aforesaid directions."

7. Hence, these appeals.

8. We have heard learned senior counsel for the appellants and learned counsel for the respondents and learned ASG at length. We have perused the material on record.

9. The details of the "Adoptive parents" and the children are provided by learned senior counsel for the appellants in a tabular form, which is reproduced as under:

SL

No.

SLP No.

NAME AND

OCCUPATION OF PARTIES

DISTRICT & STATE OF RESIDENCE OF PARTIES

NAME OF THE BABY

DATE OF ADOPTION

DATE OF CONFISCATION

1.

SLP (C) No. 6322

of 2025

P1- Dasari Anil kumar (Occupation - Assistant Engineer- Scientific Assistant, Bhabha Atomic Research Centre)

P2- Bezawada Sathya (Occupation- Customer Associate, State Bank of India)

Prakasam District, Andhra Pradesh State

D. Maanvika

30.03.2024

22.05.2024

2.

SLP (C) No. 4342

of 2025

Sole Petitioner - Kandala Padma

(Occupation - Village Organization Assistant)

Husband - Late Kandala Venkat Reddy (Passed away on 05.05.2023, after the adoption)

Nalgonda District, Telangana State

K. Uma Maheshwari

15.11.2021

22.05.2024

3.

SLP (C) No. 6426

of 2025

P1 - Shulla Mallesh (Occupation - Senior Graphic Designer, BRK News)

P2- Sowla Sruthi (Occupation - Pharmacist in Apollo Pharmacy)

Medchal-Malkajgiri District, Telangana State

S. Rishika

26.01.2024

22.05.2024

P1 - B Santosh (Occupation - Assistant Project Manager, GMMCO Limited)

4.

SLP (C) No. 6605

of 2025

P2- Dasari Jagadeeswari Devi

(Occupation- Quality Designer - I, Electronic Arts Games India Pvt. Ltd.)

Hyderabad, Telangana State

B. Sresta

22.01.2024

22.05.2024

10. Having heard learned senior counsel for the appellants and learned counsel for the respondents, we find that ends of justice would be served in the instant case by directing return of the above-mentioned children to the "adoptive parents". We also say so by invoking our powers under Article 142 of the Constitution in the peculiar facts of the case.

11. This is in the interest of the children owing to the bonding between the "adoptive parents" and the respective children. This is by following the principle of the best interest of the child; principle of family responsibility; principle of safety, positive measures, principle of Institutionalization as a measure of last resort, principle of repatriation and restoration, which are also enunciated as general principles in Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

12. For ease of reference, the aforesaid principles are extracted as under:

"3. General principles to be followed in administration of Act.- The Central Government, the State Governments, the Board, the Committee, or other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:

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(iv) Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

(v) Principle of family responsibility: The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.

(vi) Principle of safety: All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.

(vii) Positive measures: All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.

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(xii) Principle of institutionalisation as a measure of last resort: A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.

(xiii) Principle of repatriation and restoration: Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest."

13. In the circumstances, we direct the respondent-authorities to handover the custody of the children to the respective "adoptive parents" on or before 14.08.2025 by 05:00 PM.

14. However, as a safeguard and in the best interest of the children, we direct that the Member Secretary of the State Legal Services Authority and/or the Member Secretary of the District Legal Services Committee, within whose jurisdiction the "adoptive parents" reside to seek reports on the welfare and progress of the child from the respective "adoptive parents" on a quarterly basis starting from November, 2025 onwards. The Member Secretary of the State Legal Services Authority and/or the Member Secretary of the District Legal Services Committee will also be at liberty to depute a Child Welfare Expert to inspect the home where the child and the "adoptive parents" reside. This is to ensure the welfare and progress of the children who have been returned to the "adoptive parents".

15. We again clarify that we have passed the aforesaid order in the best interest of the children concerned in the instant case as they have been with their adoptive parents for a few months upto three years in these cases.

16. A copy of the said report may also be submitted to the jurisdictional Child Welfare Committee.

17. It is needless to observe that the aforesaid order has been passed not only in the best interest of the children concerned, but also by invoking Article 142 of the Constitution of India so as to do complete justice in the matter.

18. It is also needless to observe that this order would not come in the way of any other proceeding that has been initiated by the respondent(s)-authorities.

The appeals are disposed of in the aforesaid terms.