

(2009) 08 MAD CK 0205

In the Madras High Court

Case No : Writ Petition No. 12325 of 2009 and M.P. No. 1 of 2009

Development Education and Environment Protection Society
(DEEPS)

APPELLANT

Vs

Chief Secretary, Govt. of Tamilnadu and The Commissioner,
Social Welfare Commission

RESPONDENT

Date of Decision : 06-08-2009

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 2, 29, 30, 39

Citation : (2009) 08 MAD CK 0205

Hon'ble Judges : S.J. Mukhopadhaya, J;Raja Elango, J

Bench : Division Bench

Advocate : D.K. David Sundar Singh, for the Appellant; D. Sreenivasan, A.G.P.,
for the Respondent

Judgement

S.J. Mukhopadhaya, J.—This Writ Petition is purported to have been filed in public interest, for issuance of a Writ of Mandamus, to declare the entire process of Cradle Baby Recipient Scheme as illegal.

2. Though such a prayer has been made in the Writ Petition, a copy of the said Scheme has not been enclosed in the Writ Petition.

3. It appears that when the matter was brought to the notice of this Court on 7.7.2009, the Court noticed that the matter pertains to the Scheme "Cradle Baby Reception Centre", which has been introduced by the Government of Tamil Nadu in the year 1992 with an object of not only saving the female infants, but also rehabilitating them, who are thrown on the streets by the heartless parents for certain reasons. On the said date, the Court observed as follows:

The matter pertains to the scheme "Cradle Baby Reception Centre", which has been introduced by the Government of Tamil Nadu in the year 1992 with an object of not only saving the female infants but also rehabilitating them, who are thrown on the streets by the heartless parents for certain reasons. Though

learned Counsel appearing for the petitioner has attacked the very scheme itself as discriminatory and it would embolden such parents to throw the female infants in the Cradle, having regard to the fact that this scheme was introduced by the Government for the above said purpose, prima facie, we are of the view that the scheme cannot be interfered with. Nevertheless, the learned Counsel appearing for the petitioner has stressed that in most of the cases the infants are ill-treated and they are abused and there is no proper guidelines framed as to how these female infants are to be dealt with. As the matter is concerned about the female infants, who are thrown on the Cradle, we are of the considered view that the instruction of the Government is absolutely necessary as to the procedure adopted for dealing with those female infants. Learned Government Pleader is, therefore directed to file a detailed counter affidavit along with supported documents relating to the said scheme. Call this matter on 16.07.2009.

4. Today, when the Writ Petition was taken up, it is brought to our notice that after the said 1992 Scheme, a Central Act was enacted, known as "The Juvenile Justice (Care and Protection of Children) Act, 2000" (for short, "the JJ Act"). The JJ Act takes care of child whose parents have abandoned, as evident from Section 2(d)(v), which defines "child in need of care and protection".

Under Chapter III of the JJ Act, while Section 29 stipulates constitution of a Child Welfare Committee, u/s 30, the procedure, etc., in relation to the Committee have been mentioned. It not only takes care of those children kept in Children's Homes of the State Government, but also the Shelter Homes of reputed voluntary organisations recognised by the State Government. u/s 39, provision has also been made for restoration of a child to the parents/adopted parents/foster parents/guardian/fit person/fit institution. Under Chapter IV of the JJ Act, the process of rehabilitation and social reintegration has been laid down.

The Rule, known as "The Juvenile Justice (Care and Protection of Children) Rules, 2007" has also been framed by the Central Government to give effect to the provisions of the Constitution of India and relevant international instruments, as also the JJ Act, 2000, as amended in 2006. In the said Rules, not only "individual care plan" of juvenile has been stipulated, but the provisions have been made to set up Children's Homes, Shelter Homes, etc., and the manner in which the adoption can be made, has also been provided under the JJ Act and the Rules framed therein.

5. We have heard the learned Counsel appearing for the parties and noticed the relevant provisions of law.

6. In view of the fact that the petitioner has not enclosed the Tamil Nadu Cradle Baby Reception Centre Scheme, 1992, and that the said Scheme practically stands superseded by the JJ Act, 2000 (as amended)/Rules, we are not inclined to grant the relief as sought for in this case.

7. However, the petitioner and other social organisations are given liberty to approach the Child Welfare Committee u/s 29 of the JJ Act, if it comes to their

notice that one or other Children's Home or Shelter Home or any other Home is not taking care of the children in accordance with the JJ Act and the Rules framed thereunder.

8. The Writ Petition stands disposed of with the aforesaid observations. No costs. The Miscellaneous Petition is closed.