

(1989) 11 SC CK 0021

In the Supreme Court Of India

Case No : Writ Petition (Civil) No. 824 of 1988

Gaurav Jain

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 15-11-1989

Acts Referred:

Constitution of India, 1950 — Article 32

Citation : AIR 1990 SC 292 : (1989) 4 JT 315 : (1991) 1 SCALE 963 : (1989) 2 SCALE 1126 : (1990) SCC 709 Supp : (1989) 2 SCR 173 Supp

Hon'ble Judges : Ranganath Misra, J;P.B. Sawant, J;M. N. Venkatachaliah, J

Bench : Full Bench

Advocate : V.C. Mahajan, Gaurav Jain and Abha Jain, for the Appellant; Anil Dev Singh Indra Makwana, Rathin Das, K.R. Nambiar, A. Subhashini, A.M. Khanwilkar, A.S. Bhasme, R.K. Mehta, V. Krishnamurthy, S. K. Agnihotri, A.V. Rangam, Mahabir Singh and P.K. Pillai, Advs., for the Respondent

Final Decision : Disposed Of

Judgement

1. This application under Article 32 of the Constitution is at the instance of an advocate by way of a public interest litigation asking for direction to the respondents for making provision of separate schools with vocational training facilities and separate hostels for children of prostitutes. Notice was issued not only to the original respondents but at the instance of the Court also to all the States and the Union Territories. Many of them have responded and affidavits have been filed by way of return to the rule nisi.

2. Though Mr. Mahajan for the petitioner has pleaded that separate schools and hostels be raised for the children of the prostitutes, we are not inclined to accept the submission. Segregating prostitute children by locating separate schools and providing separate hostels, in our opinion, would not be in the interest of such children. It is said that prostitutes do not want to have children and ordinarily when children are born to them it is in spite of their desire not to rear children. But once such children are born to them, it is in the interest of such children and

of society at large that the children of prostitutes should be segregated from their mothers and be allowed to mingle with others and become part of the society. In fact, counsel appearing for several States have stated at the Bar the same way. We, therefore, reject the prayer for locating separate schools and hostels for children of the prostitutes.

3. Children of prostitutes should, however, not be permitted to live in inferno and the undesirable surroundings of prostitute homes. This is particularly so for young girls whose body and mind are likely to be abused with growing age for being admitted into the profession of their mothers. While we do not accept the plea for separate hostels for prostitute children it is necessary that accommodation in hostels and other reformatory homes should be adequately available to help segregation of these children from their mothers living in prostitute homes as soon as they are identified.

4. Legislation has been brought to control prostitution. Prostitution has, however, been on the increase and what was once restricted to certain areas of human habitation has now spread into several localities. The problem has, therefore, become one of serious nature and requires considerable and) effective attention.

5. We are of the view" that instead of disposing of this writ petition with a set of directions, a Committee should be constituted to examine the material aspects of the problem and submit a report containing recommendations to the Court on the basis of which further orders can be made. We accordingly direct that a Committee for such pur pose shall be set up and it shall examine the matter from various angles of the problem taking into consideration the different laws relevant to the matter and place its report before the Court within eight weeks from now. The Committee shall consist of:

1. Mr. V.C. Mahajan, Senior Advocate, New Delhi.
2. Mr. R.K. Jain, Senior Advocate, New Delhi.
3. Mr. M.N. Shroff, Advocate-on-Record, New Delhi. (He shall act as the Convenor".)
4. Mr. R.K. Mehta, Advocate-on-Record, New Delhi.
5. Dr. Deepa Das Women's Studies & Development center, Chhatra Marg, University of Delhi, Delhi-110007.
6. Smt. Sarla Mudgal, Kalyani, 5030, Kalidas Marg, Darya Ganj, New Delhi-110002.
7. Smt. Krishna Mukherji, All Bengal Women's Union, Research & Development Committee, 89, Elliott Road, Calcutta-700016.
6. The Union of India in the Ministry of Welfare, Department of Wonie'n & Child Development is directed to deposit in this Court a sum of Rs. 20.000/- for the present within two weeks to meet the expenses.
7. The matter shall be listed on 16th January, 1990 (Tuesday) for further orders

after the report is received.