
(1995) 08 MP CK 0011

In the Madhya Pradesh High Court

Case No : Writ Petition No. 449 of 1995

Mrs. Lilly Kutty

APPELLANT

Vs

State of M.P. and Another

RESPONDENT

Date of Decision : 22-08-1995

Acts Referred:

Juvenile Justice Act, 1986 — Section 16, 16(2), 4

Citation : (1995) 2 MPJR 95

Hon'ble Judges : Faizanuddin, J;D.M. Dharmadhikari, J

Bench : Division Bench

Advocate : Madhukar Rao with Mr. Subhash Verma, for the Appellant; Govind Singh A. A. G, for the Respondent

Judgement

The petitioner Mrs. Lilly Kutty. is a Staff Nurse in the J.A. Group of Hospitals at Gwalior. A female patient in the Hospital delivered a new-born female child and left it in the Hospital and the whereabouts of its mother are not known. The hospital authorities and the staff nurses looked after the child for a few days. The matter was reported to the local Police as also to the District authorities including the Collector. No action was taken. The petitioner who looked after the child and has now developed affection for the child has approached this Court with the request that as she is issueless, the child be given in adoption to her. She promises to rear the child and do all that is required to bring it up.

On this petition. We issued notice to the State authorities and in the meantime, allowed the petitioner to retain custody of the child and produce the child before us to show that she is being looked after well. We are happy to record that the petitioner and her husband have given all love and affection to the child and the child is reported to be hale and hearty.

The learned Additional Advocate General appearing in the case, took time to examine the legal position as to whether the child can be left to the care of the petitioner and whether she can be allowed to adopt the child. Both the counsel present before us. have pointed out that the matter should be dealt with by the

Juvenile Welfare Board, constituted u/s 4 of the Juvenile, Justice Act. 1986. Section 16 of the Act confers powers on the Board to make an order placing the juvenile under the care of parent, guardian or other fit person on executing a bond with or without surely to be responsible for the good behaviour and well being of the juvenile and for observance of such conditions as the Board may think fit to impose. In our opinion, the matter should be sent to the Board, statutorily constituted under the above enactment, to make suitable order in the best interest of the child to safeguard the welfare of the child. During the pendency of the case in this Court, we would like to record that the petitioner appears to be very eager to adopt the child and give it all love and affection as a natural child. It is also reported that the couple has no issues. She is a Staff Nurse and can well rear and look after the child. The matter may be considered by the Board by making suitable order u/s 16 (2) of the Act of 1986. We are informed that the Board has been constituted for Gwalior region, consisting of three members, namely. Sim. Dr. Ratna Prabha Dubey. Chairperson (now dead). Swami Shri Swarupanandji and Dr. G.S. Saxena. We are, therefore, disposing of this petition with a direction to the Juvenile Welfare Board consisting of the above persons to consider all facts and evidence produced before it for the purpose of making a suitable order u/s 16 of the 1986 Act. The members above mentioned are directed to convene meeting of the Board on 4th September. 1995 or on any other suitable date before expiry of September. 1995. Due intimation of the same be given to the petitioner by the Board. She shall appear before the Board with the child on a date to be given by the Board. We direct that a certified copy of the order be handed over to both the parties and to the Additional Advocate General who shall communicate the order to the Juvenile Welfare Board through the members above-named. The petitioner is directed to approach the Board on or before 4th September, 1995. 4. Put up on 29.9.1995 for the purpose of reporting the action taken by the Board