

(2013) 10 KAR CK 0220

In the Karnataka High Court

Case No : Writ Petition No. 7413 of 2011 (GM-RES)

Odanadi Seva Samsthe

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 22-10-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 10 KAR CK 0220

Hon'ble Judges : V. Suri Appa Rao, J

Bench : Single Bench

Advocate : Shalini Patil, for the Appellant; Shweta Krishnappa, HCGP, for the Respondent

Judgement

V. Suri Appa Rao, J.—The petitioner which is a Non Government organization and progressive women organization at Mysore has filed this writ petition invoking the provisions of Article 226 of the Constitution of India to issue a writ of certiorari quashing the order No. WCD 79 SBB 2008 dated 02.02.2011 passed by the second respondent vide Annexure "L". By the impugned order dated 02.02.2011, the Department of Women and Child Department, Government of Karnataka, prohibited the petitioner-organization with immediate effect from implementation of any of the programmes of the Department of Women and Child Department. Challenging the aforesaid order passed by the Under Secretary to Government, Department of Women and Child Development, the petitioner-organization filed this writ petition to quash the same on the ground that the petitioner-organisation is functioning from the year 1993 and fighting for injustice caused to the women and taking up the issues for the welfare of the women and children to maintain and provide rehabilitation to prostitutes and children who are victims of such situation. The petitioner-organisation contends that so far they have rescued more than 1850 women and 400 children and they have been rehabilitated. It has reputed name in the Society and for the reference profile of the organization is enclosed at Annexure "A".

2. The petitioner further contends that the Rescue Foundation, Mumbai, sent a letter dated 24.02.2005 to the petitioner stating that few girls who were victims of human trafficking were referred to petitioner-organisation including the girl by name Parvati @ Asha who was rescued from a brothel house at Mumbai and the petitioner obtained a formal requisition from the victim and since then the said " Parvati became the inmate of the petitioner-organisation. The petitioner-organization got the blood test and psychological test done for the inmate Parvati on 25.02.2005 and learnt that she was suffering from HIV+ve and she was also of below average intelligence and associated with affective disorder. While so on 29.03.2006 the inmate Parvati was found missing from the organization and could not be traced inspite of their best efforts. Therefore on 01.04.2006 they lodged complaint to the jurisdictional police station and further enquired with the Rescue Foundation from where the said inmate was referred. So far the said Parvati is not traced. The petitioner organization made several representations to the Commissioner of Police, Mysore and other officials. They also made paper publication in the local daily. Subsequently the second respondent without affording any opportunity to the petitioner-organization to hear them and without holding proper enquiry passed order dated 02.02.2011 prohibiting from implementation of any of the programmes of the Department of Women and Child Welfare Department with immediate effect. The petitioner-organisation therefore submitted application to the Principal Secretary, Department of Women and Child Welfare Department, Government of Karnataka, requesting him to revoke the order passed against the petitioner-organisation stating that the impugned order dated 02.02.2011 passed by the second respondent deeply hurt the feelings of the petitioner-organisation who were striving hard to protect the interest of the women and children who are the victims of situation. But so far Principal Secretary, Government of Karnataka, has not considered the representation of the petitioner-organisation. Therefore, the petitioner-organization filed this writ petition requesting the Court to quash the impugned order dated 02.02.2011.

3. The learned Counsel for the petitioner submits that the petitioner-organisation is a non-government organization progressive women organization taking up the issues for the welfare of the women and children and providing rehabilitation. So far they have rescued more than 1850 women and 400 children who have been re-habilitated by the petitioner-organisation but for this incident of missing of Parvati no other incident took place. At the time of missing of the said victim Parvati, her mental condition was not stable and her IQ level was low. When she was examined by the Director of Women and Child Development Department in the year 2005, she has clearly stated that she was being looked after by the petitioner-organisation well and taking treatment. In spite of best efforts of the petitioner-Organisation and after lodging complaint with the police, the girl was not traced so far and police have not submitted any final report after investigation. It is further submitted that before passing the impugned order by the Government of Karnataka, no reasonable opportunity was given to the

petitioner to put forth their contentions. Right from 1993 to 2006, the petitioner-organisation is striving hard and collecting donations and taking up the rehabilitation work of the women and children. Due to the impugned order, the reputation of the organization has become impaired. The learned Counsel for the petitioner therefore contends the impugned order passed by the Women and Child Welfare Development is liable to be quashed.

4. Per contra, the learned Government Pleader submitted that the matter is of a serious issue, after conducting enquiry, the Department passed the impugned order prohibiting the petitioner-organisation with immediate effect from the implementation of any of the programmes. Therefore, there are no grounds to interfere with the order passed by the Department.

5. The organization having served for the welfare of the destitute women and children right from 1993 without any financial aid by the state Government or Central Government, the petitioner-organisation cannot be found fault with, for the missing of the girl Parvati since 29.03.2006 who was in the organization for about a year. But for the solitary incident the organization which is fighting for injustice caused to the women since 1993 cannot be prohibited from implementation of the programmes. Having regard to the above facts and circumstances, I feel it is a fit case to quash the order dated 02.02.2011 passed by the Under Secretary to Government, Department of Women and Child Development, Government of Karnataka, Bangalore, is therefore directed to consider the representation of the petitioner-organisation dated 10.02.2011 and pass appropriate orders after giving reasonable opportunity to the organization, within six months from the date of receipt of a copy of this order.