

**(2000) 09 SHI CK 0009**  
**In the High Court Of Himachal Pradesh**  
**Case No : Criminal W.P. No. 25 of 2000**

Sumedha Kailash and Another

APPELLANT

Vs

Superintendent of Police and Another

RESPONDENT

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**Date of Decision :** 18-09-2000

**Acts Referred:**

**Citation :** (2001) 1 ShimLC 391

**Hon'ble Judges :** C.K. Thakker, C.J;M.R. Verma, J

**Bench :** Division Bench

**Advocate :** Sunita Sharma and Rahul Mahajan, for the Appellant; Sanjay Karol, General, M.L. Chauhan, D.A.G. for Respondent No. 1 and N.K. Thakur, for the Respondent

**Final Decision :** Allowed

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## Judgement

C.K. Thakker, C.J.—Admitted Mr. Sanjay Karol, Advocate General, alongwith Mr. M.L. Chauhan, Deputy Advocate General, appears and waives service of notice of admission on behalf of Respondent No. 1 and Mr. N.K. Thakur appears and waives service of notice of admission on behalf of Respondent No. 2. In the facts and circumstances of the case, the matter is taken up for final hearing today.

2. This petition is filed by two Petitioners. Petitioner No. 1 has stated that she is a Citizen of India and a member of executive body of South Asian Coalition on Child Servitude (SACCS). The said group is a public spirited social action group and is heading movement of identification, release and rehabilitation of the bonded and child labourers. Petitioner No. 2 is head of one of the families referred to in paragraph 5 of the petition who had come alongwith his family members and has been illegally detained.

3. The case of the Petitioners was that they were constrained to approach this Court by filing Public Interest Litigation alleging inter alia that several families mentioned in paragraph 5 of the petition have been illegally and wrongfully detained by Respondent No. 2 and that they are not allowed free movement.

4. In view of allegations of illegal detention, the petition was entertained. Notice was issued on September 7, 2000, by making it returnable on September 13, 2000. It was also mentioned that affidavit(s) in reply shall be filed by the Respondents on the next date of hearing.

5. On September 13, 2000, a statement was made at the Bar by the learned Counsel for Respondent No. 2 that none of the family members of the families mentioned in para 5 of the petition had been detained by Respondent No. 2. Reliance was sought to be placed on certain affidavits said to have been made by head of the family members. In these circumstances, we had passed an order that it is open to Respondent No. 2 to file a counter in this Court annexing the copy of such affidavits said to have been sworn by the respective head of family members.

6. At that stage, learned Counsel for the Petitioners requested the Court that the Court may ascertain from the persons who are said to have been illegally detained and a statement was also made that Petitioner No. 2 was prepared to bear expenses for bringing the families illegally detained so that their wishes could be ascertained. We, therefore, passed an order directing Respondent No. 1 to see that the persons alleged to have been detained by Respondent No. 2 could remain present before this Court. We also recorded that Petitioner No. 2 would bear the expenses.

7. In pursuance of the said order, today certain families were present in the Court, except family No. 12 headed by Purshotam alongwith his wife Kamla. It was stated even earlier by learned Counsel for Respondent No. 2 that the said family is no more with Respondent No. 2. The remaining 11 families were present alongwith family members and on being asked, all of them have stated that they did not wish to stay with Respondent No. 2 and wanted to go to their native places. So far as affidavit(s) is concerned, only Respondent No. 1 has filed an affidavit v herein it was stated that there was no illegal detention by Respondent No. 2 of any family. Respondent No. 2 has not filed any affidavit. As stated earlier, certain affidavits were sought to be relied upon by Respondent No. 2 but we had stated that it was open to Respondent No. 2 to file a counter affidavit in this court by annexing copies of affidavits said to have been sworn by heads of the family members. Since no such affidavit is filed, we have not taken affidavits said to have been filed by heads of family members. Respondent No. 2, however, has stated that he relies on the affidavit filed by Respondent No. 1.

8. In the facts and circumstances of the case, and in the light of the fact that we ourselves have ascertained the wishes of the persons who were present in the court that they do not wish to continue to work with Respondent No. 2, and they want to go to their native places, the only direction which can be issued in the present petition is that all the persons mentioned in paragraph 5 of the petition are at liberty to go anywhere they like. Neither Respondent No. 2 nor anyone else on his behalf or any other person will interfere with their liberty or freedom. It is also directed that in case of difficulty, it is open to the workmen or any of

them to approach Respondent No. 1 or any other officer authorised on his behalf who will secure his/their liberty and freedom, which will not be interfered with by any person including Respondent No. 2.

9. It was stated at the time of hearing of the petition by the learned Counsel for the Petitioners that the labourers were ill-treated and were beaten. We express no opinion on that aspect. However, it is open to such persons to raise grievance before an appropriate authority and the appropriate authority will decide the question in accordance with law. Writ petition is allowed to the above extent and stands disposed of accordingly. No costs.