
(2011) 11 JH CK 0073

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 6823 of 2011

Susanna Kispotta

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-11-2011

Acts Referred:

Citation : (2011) 11 JH CK 0073

Hon'ble Judges : Prakash Tatia, J;P.P. Bhatt, J

Bench : Division Bench

Judgement

1. By the order of the Coordinate Bench dated 18th October, 2011, this writ petition(Habeas Corpus) has been converted into "Public Interest Litigation" after taking note of the fact that the missing boys could not be found out by the State police and thereafter the matter has been referred to Central Bureau of Investigation(C.B.I.) with direction that if other cases of similar nature are lingering unsolved, those cases should also be handed over to C.B.I.

2. In view of the above, office has raised a few objections with respect to the correction in the nature of the petition which appears to be done and it has been registered as Writ Petition (PIL) No.6823 of 2011 and if any other defect is there, learned counsel for the petitioner may correct the same within a period of one week.

3. In W.P.(Cr.) No.182 of 2008, which also stands converted into Writ Petition(PIL) No.6824 of 2011, by virtue of the order dated 18th October, 2011, passed in W.P.(PIL) No.6823 of 2011(original number W.P.(Cr.) No. 146 of 2011), the view expressed by the Coordinate Bench in the order dated 18th October, 2011 is fortified by the facts of the case in W.P.(PIL) No. 6824 of 2011 wherein three minor boys namely Akash Raj, Shashank Shekhar and Pawan Soni, who were of the age of near about 12 years and more, are missing since 30.03.2008 and F.I.R. was lodged against unknown persons which was registered as Gumla Police Station Case No.86 of 2008 dated 02.4.2008, corresponding to G.R. Case No.288 of 2008. In this case, looking to the gravity, vide order dated

16.11.2009, the Superintendent of Police, Gumla was directed to supervise the case.

4. Be that as it may, even then, the children are missing yet. We are also of the considered opinion that there are large number of similar cases wherein it has been alleged that children, girl or boys, and even adult girls are missing. In some of the cases, there are allegations against the named persons in the F.I.R. and in some cases, there are allegations against the certain criminals operating in certain areas of the State of Jharkhand. We are coming across reply filed by the State wherein plea taken was that some extremist activities are going on and they have put land-mines, therefore, it is difficult to search out the missing children, as because of the land-mines even vehicles have been blown up. In number of cases, concerned Superintendent of Police was directed to remain present in the Court and in number of cases, Director General of Police, Jharkhand was directed to look into the matter.

5. Jharkhand is a newly established fState and people, being down trodden members of Scheduled Castes and Scheduled Tribes, are living in the deep forest and because of the poverty, lack of education and other short-comings, the problem has been aggravated due to several reasons but at the same time, it is the State duty to provide security to the persons and more to the persons who cannot defence themselves, those are the children girls, irrespective of age, as alleged being member of Scheduled Castes and Scheduled Tribes.

6. Be that as it may, to know the gravity and to find out whether there is complete data-base information before the State Government at State level, we direct the learned counsel for the State to submit a report mentioning therein full details of the missing children, irrespective of gender and age, for whom any report in any form has been received by the State Government. In the report, it may be stated that from which date children are missing, their name and on what date report was lodged and whether the children were traced out or not and if there is allegation that children or such person himself/ herself is also engaged being member of any gang or terrorist group, it will not affect the investigation in any manner.

7. Learned counsel for the C.B.I. submitted that C.B.I. decided to challenge the order dated 18th October, 2011 passed in W.P. (PIL) No.6823 of 2011(original W.P.(Cr.) NO.146 of 2011) because of the reason that entire task of searching out the missing children will be handed over to C.B.I. and C.B.I. will be heavily burdened and may not be in a position to resolve the problem.

8. In view of the above statement of the learned counsel for the C.B.I., it is necessary to know what will be the volume of work so that appropriate order may be passed by this Court and State may also suggest the ways and means by which such problems can be avoided in future and what can be other line of action for tracing out the missing children.

9. At the request of the learned counsel for the State, let the matter be posted

on 12th December, 2011.

10. On or before that date, the above information be furnished to the Court and at the same time, if the files have not been handed over to C.B.I. in pursuance to the order of this Court, the State will continue to search out the missing children in addition to any effort made by C.B.I. and for that purpose, either both may work together or may work independently and there should be no delay because of the conflict situation in searching out the missing children by two different agencies.

11. Put-up this matter on 12th December, 2011.

12. Copy of this order be given to learned counsel for the petitioner, State as well as C.B.I.