

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-10-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.1856 of 2015
And
MP Nos.1 and 2 of 2015
And
WMP No.26873 of 2018

Eternal Word Trust Represented by its
Managing Trustee, A registered Charitable
Trust, No.11-F, Murugesan Nagar,
Villivakkam,
Chennai – 600 049.

... Petitioner

vs.

1. The State of Tamil Nadu,
Represented by Secretary to Government,
Social Welfare Department,
Fort St. George,
Chennai – 600 009.

2. The Deputy Director (Child Welfare),
Directorate of Social Welfare,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Thiruvallur District,
Thiruvallur.

4.The Revenue Divisional Officer,
Ambattur Taluk,
Ambattur,
Thiruvallur District.

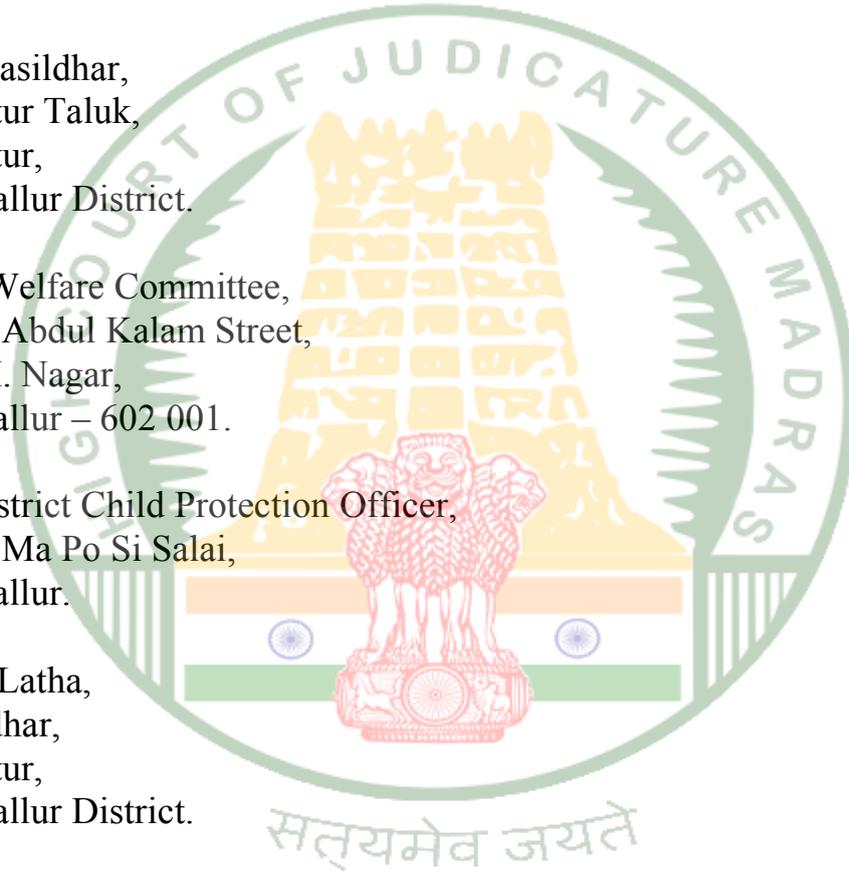
5.The Thasildhar,
Ambattur Taluk,
Ambattur,
Thiruvallur District.

6.Child Welfare Committee,
No.13, Abdul Kalam Street,
M.D.M. Nagar,
Thiruvallur – 602 001.

7.The District Child Protection Officer,
No.18, Ma Po Si Salai,
Thiruvallur.

8.Mrs.K.Latha,
Thasildhar,
Ambattur,
Thiruvallur District.

9.Mr.Israel Jebaraj
(R-9 impleaded vide order of
Court dated 08.10.2021 in
WMP No.28618 of 2017 in
WP No.1856 of 2015)



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.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the proceedings of the fifth respondent in Na.Ka.5441/2014/C1 dated 21.01.2015 and quash the same.

For Petitioner : Mr.George Graham for
M/s.Devadason and Sagar

For Respondents-1 to 7 : Mr.C.Kathiravan,
Government Advocate.

For Respondent-8 : No Appearance

For Respondent-9 : Mr.R.Bhagawat Krishna

ORDER

The order dated 21.01.2015 passed by the fifth respondent is under challenge in the present writ petition.

2. The petitioner is a Public Charitable Trust which came into existence on 05.04.1999, pursuant to the Deed of Declaration registered as document No.528 of 1999.

3. The learned counsel for the petitioner-Trust states that the

fifth respondent along with other officials, threatened the petitioner-Trust and directed them to close down the Children Home. The petitioner sent a complaint to the Chief Secretary regarding the high handedness shown by the fifth respondent.

4. However, in respect of such allegations, this Court cannot conduct an enquiry in the present writ petition, as the same is filed challenging the proceedings of the fifth respondent dated 21.01.2015, which states that during the inspection, the Authorities found that 24 male children and 25 female children were kept under the custody of the petitioner-Trust without obtaining proper permission.

5. In view of the fact that 5-1/2 years lapsed, to ascertain the present status, this Court directed the Competent Authority, namely, the District Child Protection Officer , Thiruvallur to conduct an inspection and file status report. Such an order is passed in view of the fact that the impugned order states 24 male children and 25 female children were under the custody of the petitioner-Trust illegally. Pursuant to the orders of this

Court, the District Child Protection Officer, Thiruvallur, filed the Status Report, dated 08.10.2021, wherein paragraph-2, which reads as under:-

“2. The seventh respondent DCPO Mrs.M.Nishandhini, Protection Officer Mrs.K.Malarvizhi (Institutional Care) Protection Officer Mrs.S.Sangeetha (Non Institutional Care), Legal cum Probation Officer Mrs.D.Sangeetha, and sixth respondent Child Welfare Committee Member Mr.Kanagaraj, inspected the Eternal Word Trust Children's Home located at Zion Street, Saraswathi Nagar, Thirumullaivoyal, Chennai-62 on 06.10.2021 at 10.45 a.m. At the time of inspection Mrs.Esther, a female employee was cleaning the Girls Home with the help of some staffs. None of the girl children were present in the Home and they did not maintain any records and thereafter we conducted an Inspection in Eternal Word Trust Boys Home located at Saraswathi Nagar, 7th Lenin Street, Thirumullaivoyal, Chennai-62 on 06.10.2021 at 11.30 a.m. At the time of Inspection, the Home was Guarded by one Mr.Usman Ibrahim appointed through the Don Bosco Security Service. None of the Boys were present in the Home and no records were

maintained.”

Thus, it is made clear that as of now no children are in the custody of the petitioner.

6. The learned counsel appearing on behalf of the impleaded respondent No.9, raised an allegation that some portion of the property belongs to the impleaded respondent No.9 and civil suits are also filed and they are pending. However, in respect of such civil disputes, it is for the parties to adjudicate the same before the Competent Civil Court of Law with reference to the documents and the evidences.

7. The petitioner raises many allegations against the official-respondent, namely, Tahsildar, Thiruvallur. The impugned order states that the petitioner was under the illegal custody of 24 male children and 25 female children. As of now, as per the Status Report, no children are in the custody of the petitioner. Thus, the genuineness of such allegations, cannot be gone into by this Court in the present writ petition, that too, after this length of time.

8. This being the factum, the petitioner cannot run any such Children Home without obtaining proper permission from the Competent Authorities in the manner known to law. As such, the impugned order lost its relevance as no children are in the custody of the petitioner as of now as per the Status Report filed by the District Child Protection Officer, Thiruvallur and thus, no further consideration is required in the present writ petition.

9. The Competent Authorities are bound to conduct periodical inspections as it is their duty mandatory. Any lapses, negligence or dereliction of duty in this regard, are to be viewed seriously by the Higher Authorities.

10. Protection of Children is of paramount importance and the duty of the State enshrined under the Constitution of India. The interest of minor children at no circumstances be compromised by the State and the Authorities Competent. Thus, the jurisdictional respective District Child

Protection Officers and other Authorities are directed to conduct periodical inspection of such Homes, so as to ensure the living conditions, facilities provided and the administration of such Homes by the persons concerned and submit report to the Higher Officials for the purpose of pursuing any actions if required under law.

11. It is made clear that in the event of failure on the part of the Competent Authorities in conducting periodical inspections, the Head of the Department and the Government shall initiate appropriate actions against all such officials.

12. This sort of complaints are frequently received by the High Court due to lack of periodical inspection. If the periodical inspection is conducted in a routine manner by the Authorities concerned, such situations would never arise or at least would have been avoided. Thus, the seriousness involved regarding the interest of the minor children is to be considered by the Government and the Head of the Department and all appropriate actions are to be initiated.

13. With the above observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

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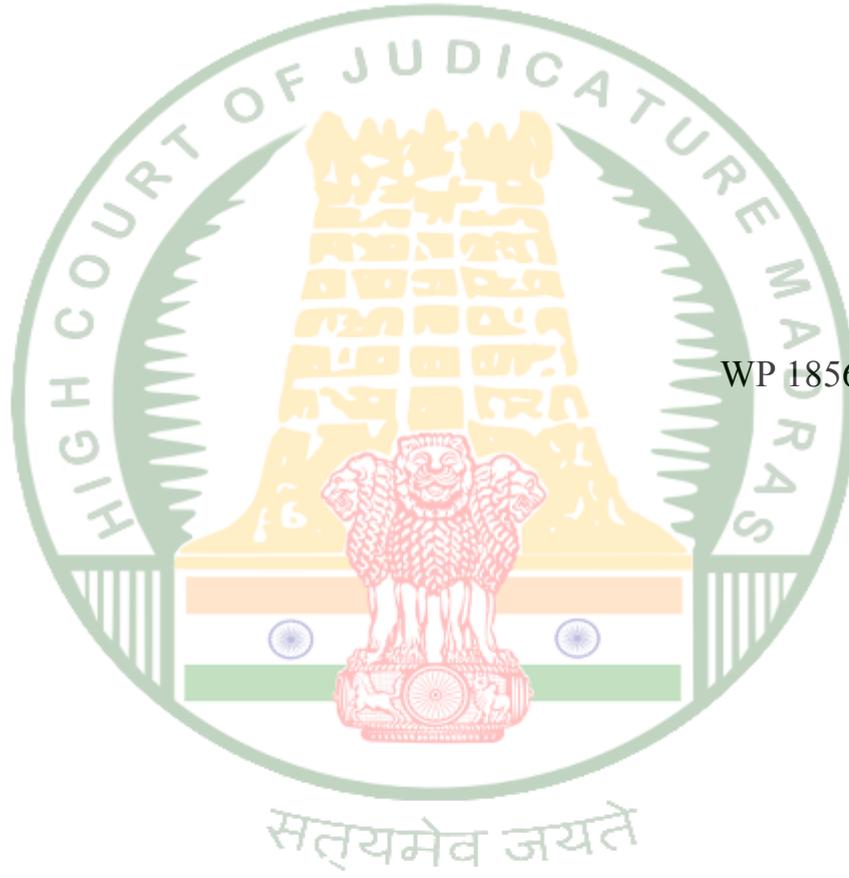
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