

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 22.11.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.35102 of 2016

and

W.M.P.No.30255 of 2016

Administrator,
Isha Yoga Centre,
Velliangiri,
Coimbatore – 641 114.

...Petitioner

Vs

Tamil Nadu Commission for Protection of
Child Rights,
No.183/1, E.V.R.Periyar Road,
Poonamalli High Road,
Kilpauk,
Chennai – 600 010.

... Respondent

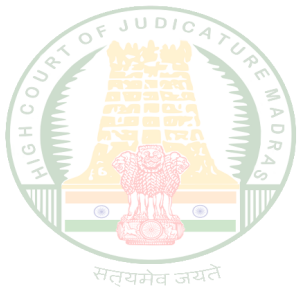
PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the Respondent Commission in Case No.496/TNCPCR/2016 dated 21.09.2016 and quash the same.

For Petitioner

: Mr.A.M.Amutha Ganesh
For M/s.Norton and Grant

For Respondent

: Mr.C.Jaya Prakash
Government Advocate



ORDER

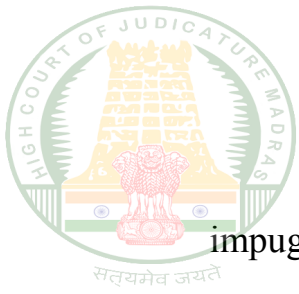
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The writ petition is filed, questioning the validity of the summons issued by the Tamil Nadu Commission for Protection of Child Rights under Section 14 (1) of the Commission for Protection of Child Rights Act, 2005.

2. The petitioner submits that 'Isha Foundation' is a Trust, founded by Sadhguru Jaggi Vasudev on 07.01.1992. The Isha Foundation runs 9 Schools in the rural areas and mostly in Tsunami affected areas. Further, they have adopted about 31 Government Schools under its 'School Adoption Programme'.

3. The petitioner states that the children, who all are undergoing training in the foundation are taught basic elements of English and elementary mathematics, required for living. The Foundation imparts Vedic knowledge by following the Gurukula System of education, where students lived and learned in proximity of their guru under the Guru-Shishya Parampara. The children are brought up in an atmosphere of dedication, discipline and focus, whereby each aspect of the child's lifestyle is carefully chosen to orient them towards their inner nature.

4. The learned counsel for the petitioner states that on receipt of the

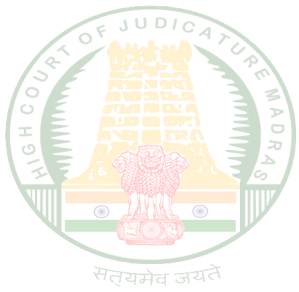


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impugned summons, the Administrator approached the respondent on the day and time mentioned along with the files. However, the respondents have not heard the matter on the particular day and there was a delay and therefore, the Administrator returned back. The petitioner states that the authorities had pre-determined their mind during the relevant point of time and they were not ready to hear the case of the petitioner with open mind. Thus, the petitioner has chosen to file the present writ petition.

5. The learned Government Advocate appearing on behalf of the respondent objected the said contention by stating that the authorities competent are bound to conduct an enquiry, wherever the necessity arises. In the present case, the summons were issued under Section 14(1) of the Commission for Protection of Child Rights Act, 2005. In the matter of Deprivation and Violation of Child Rights, Suo-Moto complaint taken by Tamilnadu Commission for Protection of Child Rights under Section 13 (1) (j) (k) of the Act.

6. Section 13 (1) (j) of the said Act contemplates



(j) inquire into complaints and take suo motu notice of matters

relating to,-

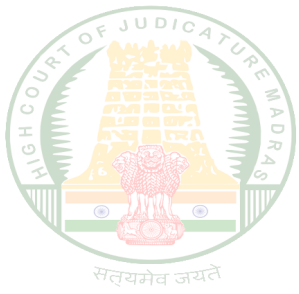
(i) deprivation and violation of child rights;

(ii) non-implementation of laws providing for protection and development of children;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children, or take up the issues arising out of such matters with appropriate authorities;

Sub Clause (k) contemplates “such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.”

7. In view of the Suo-Moto complaint taken by the Commission, summons were issued under Section 14 (1) of the Commission for Protection of Child Rights Act, 2005.



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8. The learned Government Advocate reiterated that the actions were taken in accordance with the provisions of law and therefore, the petitioner is bound to respond to the summons and submit their defense in the manner known to law.

9. This Court is of the considered opinion that no writ petition needs to be entertained, challenging the summons issued under the Statute in a routine manner. However, such writ petition is entertainable, if the summons are issued by an incompetent authority having no jurisdiction or an allegation of *malafides* are raised. Even in case of raising an allegation of *malafides*, the authority against whom, such an allegation has been raised, must be implemented as a party respondent in the writ proceedings. Thus, the petitioner has to submit their explanation / objections along with the relevant documents to establish that they have not violated any of the provisions of the Statutes or infringing any of the rights of the children under the Act.

10. The Suo-Moto powers conferred on the Commission is to ensure

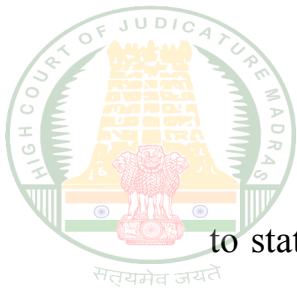


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that the educational institutions function under the recognized scheme of education pattern and in the event of any violation or infringement of the rights of children, then actions are imminent and therefore, mere issuance of summon by the Commission under the provisions of the Act would not provide cause for the petitioner to institute the present writ petition.

11. The rights of the children are protected under various legislations. The children being minors are to be protected and in this context, the Suo-Moto power is conferred on the Commission to initiate action, if there is any allegation or otherwise. In the present case, Suo-Moto complaint is registered and summons are issued under Section 14 to conduct an enquiry. At the enquiry stage itself, the petitioner approached this Court, which cannot be appreciated as they are expected to avail the opportunities to be provided by the competent authorities for the purpose of establishing their case and to defend the allegations against them.

12. The learned counsel for the petitioner contended that during the relevant point of time, the authorities had pre-determined the issues and thus, the petitioner has chosen to file the present writ petition. It is needless



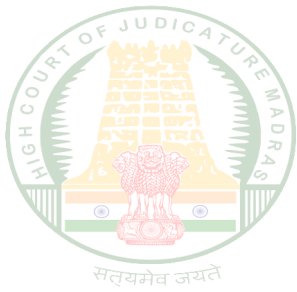
to state that the competent authorities are bound to conduct an enquiry in a free and fair manner and by providing opportunity to the writ petitioner to establish their case in the manner known to law.

13. In view of the facts and circumstances, this Court is inclined to pass the following orders:

(1) The respondent is directed to issue fresh summons to the petitioner, fixing date and time, enabling the writ petitioner to appear and submit their explanations / objections along with documents, if any, within a period of four weeks from the date of receipt of a copy of this order under the provisions of the Tamil Nadu Commission for Protection of Child Rights Act, 2005.

(2) The petitioner is directed to submit their explanations / objections along with relevant documents, if any, within a period of two weeks from the date of receipt of the copy of the summons to be issued by the respondent.

(3) The respondent is directed to conduct an enquiry by



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affording opportunity to the writ petitioner and pass orders on merits and in accordance with law within a period of eight weeks from the date of issuance of summons by the respondent.

14. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

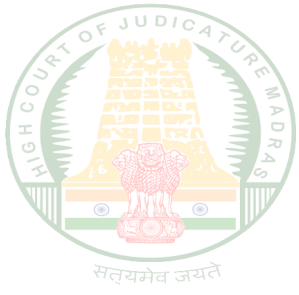
22.11.2021

Internet: Yes
Index : Yes
Speaking order: Yes
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To

Tamil Nadu Commission for Protection of
Child Rights,
No.183/1, E.V.R.Periyar Road,
Poonamalli High Road,
Kilpauk,
Chennai – 600 010.

S.M.SUBRAMANIAM, J.



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