

22.02.2022
Court No.13
Item No.16
sp

WPA 19332 of 2021

**Iti Pandit
Vs.
The Union of India and Ors.**

(Through Video Conference)

Ms. Susmita Saha Dutta
Mr. Niladri Saha

... For the Petitioner.

Ms. Chandreyi Alam (Gupta)
Ms. Runu Mukherjee

... For the Union of India.

Mr. Sirsanya Bandopadhyay,
Ms. Tapati Samanta

...for the State

Mr. Y.J. Dastoor, A.S.G.
Mr. Debasish Tandon

... For the NIA.

It is informed by learned counsel for the petitioner and greeted with delight, joy and pleasure that the victim girl has been recovered and finally brought to India and is now with her parents.

A task that initially seemed uphill, has been made possible with the active participation, cooperation and untiring effort put in by Ms. Susmita Saha Dutta, Mr. Niladri Saha, the learned counsel for the petitioner; Mr. Y.J. Dastoor, learned Additional Solicitor General; Ms. Chandreyi Alam (Gupta), Ms. Runu Mukherjee, learned counsel for the Union of India; Mr. Debasish Tandon, learned counsel for the Union of India; Mr. Sirsanya Bandopadhyay and Ms. Tapati Samanta, learned counsel for the State.

This Court would also like to record its appreciation and gratitude towards the efforts put in by the High Commission of India at Dhaka and High Commission of Bangladesh at Kolkata in helping with the recovery of the victim girl.

Human Trafficking inflicts a particularly devastating blow to the life and liberty of victims, violating the rights enshrined in Article 21 of the Constitution. The Supreme Court in the case of ***Kharak Singh vs. State of Uttar Pradesh*** reported in **AIR 1963 SC 1295** highlighted this by observing that the term 'life' does not mean mere animal existence.

The Writ Jurisdiction of the Constitutional Courts, under Article 32 and Article 226 forms the life-blood of the Constitution as it effectuates and enforces the Fundamental Rights of citizens, in the absence of which, the existence of those rights would be in vain. The acknowledgement of this power and responsibility was further solidified by the inclusion of these provisions under the Basic Structure of the Constitution as per ***L. Chandra Kumar vs. Union of India*** reported in **1997 (2) SCR 1186**.

More importantly, the Writ Jurisdiction of the High Courts being wider than that of the Supreme Court places on its shoulders added responsibilities under the constitutional scheme. This Court under Article 226 is thus bound by an indispensable duty to exercise all the

powers vested on it to ensure the exercise of all possible efforts to protect the Fundamental Rights of citizens.

In the present case as well, this Court had attempted to employ all the faculties available to it, to rescue the victim, a little girl, from her traffickers, and to reunite her with her parents. Its efforts were complemented by a host of individuals and institutions, and the Court expresses its immense gratitude to all those involved in the rescue efforts.

Mr. Srisanya Bandhopadhyay, counsel for the State, submits that this is the first time he has seen exercise of jurisdiction under Article 226 to recover a trafficked victim from a foreign country. This Court is of the view that the exercise of jurisdiction under Article 226 must be used in every new and ingenious manner to protect and afford the remedies under Article 21.

This case has proven that territorial and other limitations are easily defeated in the face of an overwhelming determination to find suitable solutions. This Court hopes that this will set a precedent for future cases where Courts or other authorities feel helpless and tied down by such similar difficulties. In the words of two famous people, *“It always seems impossible until it is done.”*, and *“Perseverance is not a long race: it is many short races one after the other.”*

It is hoped that the parties would take steps and put in all efforts to ensure appropriate rehabilitation of

the victim girl. The State shall also undertake whatever steps necessary in this regard.

The writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)