

PETITIONER:
GAURAV JAIN

Vs.

RESPONDENT:
UNION OF INDIA AND ORS.

DATE OF JUDGMENT 15/11/1989

BENCH:
MISRA RANGNATH
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VENKATACHALLIAH, M.N. (J)
SAWANT, P.B.

CITATION:
1990 AIR 292 1989 SCR Supl. (2) 173
1990 SCC Supl. 709 JT 1989 (4) 315
1989 SCALE (2) 1126

ACT:

Constitution of India, 1950: Article 32--Public interest litigation--School admission for children of prostitutes--Plea for separate schools and hostels--Rejected--Committee set up to examine all aspects of the problems and to submit report.

HEADNOTE:

This writ petition has been filed pleading for separate schools and hostels for the children of prostitutes.

On behalf of respondents, it was contended that since they are in fact unwanted children of prostitutes it is in the interest of such children and the society at large that they are segregated from their mothers and be allowed to mingle with others and become part of the society.

Setting up a Committee consisting of 4 Advocates and 3 Social Workers to look into the matter and directing listing of the matter on receipt of the Committee's report, this Court.

HELD: 1. Children of prostitutes should not be permitted to live in inferno and the undesirable surroundings of prostitute homes. This is particularly so for young girls whose body and mind are likely to be abused with growing age for being admitted into the profession of their mothers. While separate schools and hostels for prostitute children are not desirable, accommodation in hostels and other reformatory homes should be adequately made available to help segregation of these children from their mothers living in prostitute homes as soon as they are identified. [174H; 175A-B]

2. The Committee now set up will look into the problems and submit its report within 8 weeks. [175D]

[This Court directed the Ministry of Welfare, Deptt. of Women & Child Development functioning under the Union of India to deposit a sum of Rs.20,000 within two weeks to meet the expenses of the Committee].

JUDGMENT:

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No. 824 of 1988.

(Under Article 32 of the Constitution of India)

V.C. Mahajan, Gaurav Jain, and Ms. Abha Jain for the Petitioner.

Anil Dev Singh, I. Makwana, Rathin Das, K.R. Nambiar, Ms. A. Subhashini, A.M. Khanvilkar, A.S. Bhasme, R.K. Mehta, V. Krishnamurthy, S.K. Agnihotri, A.V. Rangam, Mahabir Singh and P.K. Pillai for the Respondents.

The Order of the Court was delivered by

MISRA, J. This application under Art. 32 of the Constitution is at the instance of an advocate by way of a public interest litigation asking for direction to the respondents for making provision of separate schools with vocational training facilities and separate hostels for children of prostitutes. Notice was issued not only to the original respondents but at the instance of the Court also to all the States and the Union Territories. Many of them have responded and affidavits have been filed by way of return to the rule nisi.

Though Mr. Mahajan for the petitioner has pleaded that separate schools and hostels be raised for the children of the prostitutes, we are not inclined to accept the submission. Segregating prostitute children by locating separate schools and providing separate hostels, in our opinion, would not be in the interest of such children. It is said that prostitutes do not want to have children and ordinarily when children are born to them it is in spite of their desire not to rear children. But once such children are born to them, it is in the interest of such children and of society at large that the children of prostitutes should be segregated from their mothers and be allowed to mingle with others and become part of the society. In fact, counsel appearing for several States have stated at the Bar the same way. We, therefore, reject the prayer for locating separate schools and hostels for children of the prostitutes.

Children of prostitutes should, however, not be permitted to live in inferno and the undesirable surroundings of prostitute homes. This

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is particularly so for young girls whose body and mind are likely to be abused with growing age for being admitted into the profession of their mothers. While we do not accept the plea for separate hostels for prostitute children it is necessary that accommodation in hostels and other reformatory homes should be adequately available to help segregation of these children from their mothers living in prostitute homes as soon as they are identified.

Legislation has been brought to control prostitution. Prostitution has, however, been on the increase and what was once restricted to certain areas of human habitation has now spread into several localities. The problem has, therefore, become one of serious nature and requires considerable and effective attention.

We are of the view that instead of disposing of this writ petition with a set of directions, a Committee should be constituted to examine the material aspects of the problem and submit a report containing recommendations to the Court on the basis of which further orders can be made. We accordingly direct that a Committee for such purpose shall be set up and it shall examine the matter from various angles of the problem taking into consideration the different laws relevant to the matter and place its report before the Court within eight weeks from now. The Committee shall

consist of:

1. Mr. V.C. Mahajan, Senior Advocate, New Delhi.
2. Mr. R.K. Jain, Senior Advocate, New Delhi.
Mr. M.N. Shroff,
Advocate-on-Record, He shall act as the
New Delhi. convenor.
4. Mr. R.K. Mehta, Advocate-on-Record, New Delhi.
5. Dr. Deepa Das,
Women's Studies & Development
Centre, Chhatra Marg, University
of Delhi, Delhi- 110 007.

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6. Smt. Sarla Mudgal,
Kalyani,
5030, Kalidas Marg,
Darya Ganj,
New Delhi- 110 002.
7. Smt. Krishna Mukherji,
All Bengal Women's Union,
Research & Development Committee,
89, Elliott Road,
Calcutta-700 016.

The Union of India in the Ministry of Welfare, Department of Women & Child Development is directed to deposit in this Court a sum of Rs.20,000 for the present within two weeks to meet the expenses.

The matter shall be listed on 16th January, 1990 (Tuesday) for further orders after the report is received.

G.N.

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