



**HIGH COURT OF ANDHRA PRADESH**  
FRIDAY ,THE SIXTEENTH DAY OF JUNE  
TWO THOUSAND AND TWENTY THREE

**PRESENT**

**THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**  
**THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI**  
**WRIT PETITION NO: 25868 OF 2022**

**Between:**

1. PUTTI SANDHYA RANI W/o. Srinivasa Rao,  
Aged 40 years, Housewife,  
R/o. D.No.58-4-5/2, Mareedu Pullarao Street,  
Near N.T.R. Circle, Patamata, Vijayawada, N.T.R. District.
2. Putti Srinivasa Rao S/o. Chinna Basavaiah,  
Aged 44 years, Occ . Govt. Service,  
R/o. D.No.58-4-5/2, Mareedu Pullarao Street,  
Near N.T.R. Circle, Patamata, Vijayawada, N.T.R. District.

**...PETITIONER(S)**

**AND:**

1. THE STATE OF ANDHRA PRADESH Rep. by its Principal Secretary to  
Government, Women and Child Welfare Department,  
Secretariat, Velagapudi, Amaravati, Guntur District.
3. The Commissioner Women and Child Welfare Department, Government  
of Andhra Pradesh,  
Velagapudi, Amaravati, Guntur District.
4. The Project Director District Women and Child Development Agency,  
Vijayawada, N.T.R. District.
5. The Regional Joint Director Women and Child Welfare Department,  
Vijayawada, N.T.R. District.
6. The Child Welfare Committee Rep. by its Chairperson, Gandhi Nagar,  
Vijayawada, N.T.R. District.
7. The Station House Officer Patamata Police Station, Patamata,  
Vijayawada, N.T.R. District.
8. Velisili Raghuram S/o. Not known to petitioners, Aged about 38 years,  
R/o. Beside D.No.58-4-5/2, Mareedu Pullarao Street, Near N.T.R. Circle,  
Patamata, Vijayawada, N.T.R. District.

**...RESPONDENTS**

**Counsel for the Petitioner(s): NIMMAGADDA REVATHI**

**Counsel for the Respondents: THE ADVOCATE GENERAL**

**The Court made the following: ORDER**



2023:APHC:20170

**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI  
W.P.No.25868 of 2022**

Between:

Putti Sandhya Rani, W/o Srinivasa Rao,  
Aged 40 years, Housewife, R/o D.No.58-4-5/2,  
Mareedu Pullarao Street,  
Near N.T.R. Circle, Patamata,  
Vijayawada, N.T.R. District and one another.

.. Petitioners

And

The State of Andhra Pradesh,  
Rep. by its Principal Secretary to Government,  
Women and Child Welfare Department,  
Secretariat, Velagapudi, Amaravati, Guntur District & 6 others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 25.08.2022 and 16.06.2023

**SUBMITTED FOR APPROVAL:**

**HON'BLE SRI JUSTICE U. DURGA PRASAD RAO  
HON'BLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

**U. DURGA PRASAD RAO, J**

**B.V.L.N. CHAKRAVARTHI, J**



**\*HON'BLE SRI JUSTICE U.DURGA PRASAD RAO  
AND  
HON'BLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI**

+W.P.No.25868 of 2022

%25.08.2022 and 16.06.2023

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Vs.

\$ The State of Andhra Pradesh,  
Rep. by its Principal Secretary to Government,  
Women and Child Welfare Department,  
Secretariat, Velagapudi, Amaravati, Guntur District & 6 others.

.. Respondents

<GIST:

>HEAD NOTE:

! Counsel for petitioners: Nimmagadda Revathi

Counsel for respondents: Learned Advocate General

? CASES REFERRED:



**HON'BLE SRI JUSTICE U. DURGA PRASAD RAO  
AND  
HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

**Writ Petition No.25868 of 2022**

**I.A.No.1 of 2022**

**ORDER:** *(Per Hon'ble Sri Justice U. Durga Prasad Rao)*

Date: 25.08.2022

“పాపం, పుణ్యం, ప్రపంచ మార్గం  
కష్టం, సౌఖ్యం, శ్లేషార్థాలూ  
ఏమీ ఎరుగని పూవుల్లారా  
అయిదారేడుల పాపల్లారా”

The above is the stanza in the ballad viz., “Saisava Geeti” (శైశవ గీతి) of the famous Telugu Poet Sri Srirangam Srinivasa Rao (Sri Sri) ruminating the fun and frolic of childhood. As rightly penned by the noble laureate, the tender aged children, for want of discretion, know not the sin and virtue, the good and the bad.

Due to such lack of discretion, they often commit childish pranks, faults and mischiefs causing annoyance to others. The parents, elders and teachers who oversee them, have to carefully cajole and cultivate good behavior and knowledge than cudgel them. True, sometimes soft and suave words of the parents and teachers may not yield desired results to set the errant children right. Such times, children need to be inevitably punished. The punishment, however, shall never be excessive to bleed the body and blunt the mind of a child. But, sometimes the parents and pedagogues, out of rage, cross the sensitive line and lash the children vigorously under the cover of authority, forgetting their inhuman acts amount to abuse of child rights and thus lead to intervention of law-enforcing agency. Such is the present instance.



The petitioners in this writ petition are the parents of the minor girl Putti Leela Krishna Sri who is studying third class in Nirmala High School, Vijayawada. Both the parents are educates i.e. father is an Engineer and mother is a B.A., B.Ed and housewife. Admittedly, on an unfortunate day, the first petitioner/mother bet her daughter with a stick black and blue on the ground that the girl was moving on the terrace in a naked state. Punishment was given obviously to impart good behavior to the daughter. However, the intensity of punishment was such that the loud cries of the daughter made the neighbours to gather and inform to the police and ultimately the police have taken the girl from the custody of the mother and handed over to the Child Welfare Department and the Chair person of Child Welfare Committee / 5<sup>th</sup> respondent has forwarded the girl to Child Care Institute at Chiguru located on the bank of Krishna called 'Karakatta' where the girl is now staying.

The parents moved Habeas Corpus petition.

On 24.08.2022, we enquired the girl, her parents and the Chairperson of CWC individually. During our enquiry, both the parents expressed their eagerness to get back the daughter to their fold. The mother has repented for what she did to her daughter. The father avouched that in order to prove their love, affection and care towards their daughter, he is ready to deposit Rs.50,000/- in fixed deposit in her name shortly. The minor girl gave rational answers to our questions and expressed her willingness to go and live with her parents. After enquiry, we directed the petitioners to file a sworn affidavit giving an undertaking that they will look after their minor daughter with love, affection and care henceforth. They obliged and filed sworn affidavit into court today.



Legally the mother's acts may appear to be an offence under Section 323 / 324 IPC. We are not oblivious to this. However, when we weighed in the judicial scales, the adage Matrudevobhava (మాతృదేవోభవ) overweighed the legal jargon "*mens rea*" (guilty mind) which is essential to punish an offender. According to the Indian culture, the mother is the first God and first Guru of every person as she gives birth and trains the child in the right path during his infancy. We cannot think of such a venerable mother having any *mens rea* or bad intention to cause harm when she punishes her child.

Therefore, considering that the petitioners are the parents and natural guardians of the minor girl and that the mother's fury against daughter was a stray and unfortunate incident and as the petitioners promised that such incidents will not reoccur and most importantly, the minor girl showed her readiness to stay along with her parents and above all, the welfare of the minor girl shall be the paramount consideration for Court, as laid down by the Hon'ble Apex Court in **Lahari Sakhamuri v. Sobhan Kodali** [MANU/SC/0382/2019 = AIR 2019 SC 2881], we direct that the Chairperson of CWC / 5<sup>th</sup> respondent who produced the girl today in the Court, shall handover the minor girl namely Putti Leela Krishna Sri to her parents/petitioners in the Court. We further direct the petitioners to look after their minor daughter as well as other children with utmost love, care and affection and as promised, they shall deposit Rs.50,000/- (Rupees Fifty Thousand only) in the Fixed Deposit in the name of minor girl within 15 days and produce the copy of the F.D. receipt before the Registrar (Judicial) as a proof.

Before parting, we will be failing on our duty if we do not express our resentment over the inadequate facilities being provided in the Child Care Institute at Chiguru, which came to our notice. During enquiry, we observed on



the lower part of the legs of the girl, big and black scars, which we were told mosquito bites said to be caused during girl's stay at Chiguru, but we suspect them to be insect bites. Though it was informed to us that mosquito nets and other facilities are provided to the children and other inmates, we are constrained to disbelieve such version. We are told that the Child Care institute at Chiguru is being run by some N.G.Os and not by the Government. In our view, the concerned Department of the Government i.e., either the Social welfare Department or the Women and Child Care Department must have a reasonable control and overseeing power over the orphan homes, child welfare centres etc., though they are maintained by the large hearted individuals and N.G.Os. Therefore, we direct the respondents 2 & 5 to produce the relevant material showing the particulars of private orphan homes and Child Care and Welfare centres maintained by private individuals and NGOs in the State of A.P. and the facilities provided therein and the relevant statutes, rules and regulations if any, framed by the Government to supervise the administration of such homes and centres to enable this Court to issue necessary directions to the State machinery for their smooth functioning and to protect the welfare of inmates, particularly the future citizens.

Post on 08.09.2022.

**Date: 16.06.2023**

**ORDER:** (*Per Hon'ble Sri Justice U. Durga Prasad Rao*)

This order is being passed in continuation to our earlier order dated 25.08.2022.



2. (a) In compliance of the order dated 25.08.2022 thereof, the Director, Department of Juvenile Welfare, Correctional Services and Welfare of Street Children, Government of A.P. representing 1<sup>st</sup> respondent and the Chairmen, the Child Welfare Committee / 5<sup>th</sup> respondent have submitted the relevant information in the form of a booklet under the heading “INFORMATION RELATING TO THE FACILITIES BEING PROVIDED BY THE CHILD CARE INSTIUTTIONS RUN BY THE NON-GOVT ORGANIZATIONS IN ANDHRA PRADESH” and other material which we have cogitated.

(b) We are informed through the above report and other information that there are about 497 child care institutions being run by the Government and NGOs in the State of A.P. We were also informed that in order to supervise and inspect the child care institutions in compliance of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 ‘[the JJ(CPC) Act, 2015’], the Government has constituted District Inspection Committees vide G.O.Rt.No.10, Dept. for WCD &SC (PROG.1) dated 10.01.2018 under Section 54(1) of the JJ(CPC) Act, 2015 and the term of the committee was expired and constitution of new committees is awaited. As an adhoc arrangement, the Director, WDCW has issued directions to all the District Child Protection Units to see that CCIs are regularly monitored by the District Child Protection Unit





through Protection Officers (institutional care) and (non-institutional care) and submit monthly reports till the District Committees are constituted.

(c) It is further informed that as per the provisions of the JJ (CPC) Act, 2015, the child welfare committees / Juvenile Justice Boards will also visit the CCIs meant for children in need of care and protection and also juvenile in conflict with law. It is also informed that the judicial authorities such as Additional District and Session Judges and Secretaries of District Legal Service Authorities and Judicial Magistrates of Juvenile Justice Board will visit and monitor the child care institutions.

(d) In the report, it is further informed that National Commission for Protection of Child Rights (NCPCR) developed an application viz., Monitoring App for Seamless Inspection (MASI) for real time monitoring of child care institutions to enable unified quarterly and periodical inspections by the concerned authorities.

(e) It is finally submitted that apart from the above, in the year 2018 the Department has taken drives for inspection of CCIs by categorizing the CCIs into ABCD basing on the facilities provided in the CCIs. The inspection reports are forwarded to the Collectors and District Magistrates for taking necessary steps as deemed fit to ensure the CCIs improve the facilities. The CCIs which



provided poor facilities and fell under category D were given notices and their registrations were cancelled.

3. We have perused the booklet containing the list of district-wise CCIs and their corresponding strength of the children and facilities that are being provided there. We also perused the other information such as the steps that are being taken for periodical inspection of the CCIs. Though on paper they appear to be reasonably good measures, still there are many avenues for improvisation and betterment of CCIs and to take all-round welfare and development oriented measures for the well being of the children housed in CCIs.

4. Before discussing the aspects that need improvisation, in our considered view, it is apt to look into the observations made and guidelines issued by the Hon'ble Apex Court for ameliorating the plight of poor, parentless, abandoned and forlorn children of the ilk of Charles Dickens' Oliver Twist in the case of **Sampurna Behura v. Union of India** [2018 (4) SCC 433 = MANU/SC/0104/2018].

(a) A writ petition in the form of Public Interest Litigation (PIL) came to be filed by a social activist bringing to the notice of the Supreme Court about the failure of State Governments to implement various provisions of the Act, 2000 including, *inter alia* the establishment of Child Welfare Committees, Juvenile Justice Boards, Special Juvenile Police Units, establishment of



appropriate homes for children in need of care and protection, improving the living conditions of juveniles in conflict with law, medical facilities for children in the custody of State and several other human rights issues. A prayer was made that all respondent States be directed to provide basic amenities like nutritious food, proper and hygienic accommodation, educational facilities, recreational facilities and rehabilitation centres for juveniles in various homes and to direct the Collectors of each District to involve reputed NGOs in implementing the orders of the Court.

(b) The Hon'ble Apex Court responded as follows:

“1. What can a citizen do if the State pays no attention to his or her fundamental or human or statutory right, nor takes serious interest in fulfilling its constitutional or statutory obligations? What if that citizen is a voiceless child or someone whose voice cannot be heard over the din of governance – for example, physically or mentally challenged persons, senior citizens, and other disadvantaged sections of society such as scheduled castes, tribals and several others? The aggrieved would perhaps approach the judiciary (if he or she could and as a last resort) for the enforcement of a human right. Should the judiciary take corrective steps and be accused of ‘judicial activism’ or overreach – or should the cynics and skeptics have their day resulting in the grievance of the voiceless and the disadvantaged remaining unheard and the fundamental and human rights lying unaddressed?

2. These questions arise in the context of the virtual non-implementation or tardy implementation of laws beneficial to voiceless (and sometimes silenced) children, particularly, the Juvenile Justice (Care and Protection of Children) Act, 2000 (the Act of 2000) and the Juvenile Justice (Care and Protection of Children) Act, 2015 (the JJ Act). We record and acknowledge our appreciation for the efforts of Sampurna Behura in highlighting some of these issues by way of a Public Interest Litigation and to learned counsel for the appearing parties in rendering assistance enabling us to address some of these issues by not making these proceedings adversarial, but a constructive effort for the benefit of the children of our country. No one has any doubt that it is time for the State to strongly and proactively acknowledge



that even children in our country have fundamental rights and human rights and they need to be enforced equally strongly.

3. If Nelson Mandela is to be believed, “Our children are our greatest treasure. They are our future. Those who abuse them tear at the fabric of our society and weaken our nation”. Our policy and decision makers need to heed this advice and warning and appreciate that they are not doing any favour to the children of our country by caring for them – it is their constitutional obligation and the social justice laws enacted by Parliament need to be effectively and meaningfully enforced.

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10. At this stage, it may be mentioned that pursuant to the resolutions passed in the Chief Justices‘ Conferences, every High Court has constituted a Juvenile Justice Committee headed by a judge of the High Court to take stock of and look into issues concerning children. We may note that every High Court has responded more than positively and each Juvenile Justice Committee has brought about some improvements in the living conditions in Homes and in the well-being and lives of many children.

11. Appreciating that the judiciary has a constitutional obligation to ensure that everybody acts in the best interests of the child, the Chief Justice of India set up a Committee in the Supreme Court to address the issues of effective implementation of the Act of 2000 – such is the importance given by the judiciary to the rights of children.

12. Notwithstanding nudging by the judiciary, judicial ‘activism’ and criticism of it, over the last decade or so, State Governments and Union Territories have not fully complied with the provisions of a law solemnly enacted by Parliament for the benefit of children. In many instances, only cosmetic changes have been introduced at the ground level with the result that voiceless children continue to be subjects of official apathy. However, it must be acknowledged that the Union of India through the Ministry of Women and Child Development (for short MWCD) has taken some bold steps in recognizing the rights of the children and giving them some importance. Nevertheless, the overall picture relating to the recognition of the rights of children and their realization is far from satisfactory and remains gloomy as we continue to trudge along the long and winding road.”

(c) With regard to the plight of child care institutions, the Punjab &

Haryana High Court in **Court on its own motion v. State of Punjab**

[MANU/PH/0599/2013] observed thus:



“The sordid state of the said Observation Home depicted that Observation Home at Sonapat had two barracks and a front side courtyard with high walls. The entry gate was similar to jail gate. The Home was having no source of recreation facilities or playground for the juveniles housed therein. The courtyard was filled with stagnated water due to blockage of drainage system and there was hardly any place for going out of barrack for using courtyard. Enquiry revealed that there was no arrangement for potable water. The bathrooms and kitchen were also in deplorable condition. The Observation Home was managed by a single teacher who, besides performing job of a teacher, was also looking after the overall administration of the Home. In this manner, no meaningful education was being imparted to the children. The Observation Home was found to be worse than a prison. Observation Home at Hoshiarpur (Punjab) was found to be no better with almost similar dilapidated conditions..”

(d) Ultimately, the Hon’ble Apex Court has given certain conclusions and directions, some of which are germane for our case are as follows:

3. The State level Child Protection Societies and the District level Child Protection Units have an enormous responsibility in ensuring that the JJ Act is effectively implemented and Child Care Institutions are managed and maintained in a manner that is conducive to the well being of children in all respects including nutrition, education, medical benefits, skill development and general living conditions. These two bodies would be well advised to take the assistance of NGOs and civil society to ensure that the JJ Act serves the purpose for which it is enacted by Parliament.

4. The State Governments must ensure that all positions in the JJBs and CWCs are filled up expeditiously and in accordance with the Model Rules or the Rules framed by the State Government. Any delay in filling up the positions might adversely impact on children and this should be avoided.

5. The JJBs and CWCs must appreciate that it is necessary to have sittings on a regular basis so that a minimal number of inquiries are pending at any given point of time and justice is given to all juveniles in conflict with law and social justice to children in need of care and protection. This is a constitutional obligation.

11. The management of Child Care Institutions is extremely important and State Governments and Union Territories would be well advised to ensure that all such institutions are registered so that children can live a dignified life in these Institutions and issues of missing children and trafficking are also addressed.



12. State Governments and Union Territories would be well advised to appoint eminent persons from civil society as Visitors to monitor and supervise the Child Care Institutions in all the districts. This will ensure that the management and maintenance of these Institutions are addressed. We have no doubt that the State Legal Service Authorities and the District Legal Service Authorities will extend full assistance and cooperation to the government authorities in this venture as well as to the Visitors.

13. The JJ Fund is a bit of an embarrassment with an absence of an effective response from the State Governments and the Union Territories. If financial resources are not made available for the welfare of the children we shudder to think what could be better utilization of the funds.

**16. Since the involvement of the State Governments and the Union Territories is critical to child rights and the effective implementation of the JJ Act, it would be appropriate if each High Court and the Juvenile Justice Committee of each High Court continues its proactive role in the welfare of children in their State. To make the involvement and process more meaningful, we request the Chief Justice of every High Court to register proceedings on its own motion for the effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 so that road-blocks if any, encountered by statutory authorities and the Juvenile Justice Committee of the High Court are meaningfully addressed after hearing the concerned governmental authorities. A copy of this judgment and order should be sent by the Secretary General of this Court to the Registrar General of each High Court for being placed before the Chief Justice of every High Court for initiating suo motu proceedings.**

5. Imbued by the spirit of above judgment, we have meticulously examined the information provided in the form of vital statistics relating to the child care institutions in operation in the State. The report shows, originally 711 CCIs were in operation in the State of A.P. However, during the inspection conducted by authorities pursuant to our earlier order, about 200 CCIs were closed obviously for want of funds or supervising teams. In our view, this is the



major administrative problem. Lack of funds or withering away of the contributions made by charitable people impels the organizers to close the children homes and welfare shelters, however, strong their desire may be to continue them. The report depicts that out of 497 CCIs, except few, all other CCIs are being maintained by the charity of philanthropic NGOs, Church Ministries and Charitable trusts etc. Our hearts pound vigorously with the thought about the pitiable future of the children, if the remaining CCIs are force closed for want of funds. Unless the State Government comes up with a big hand and bear the brunt of expenditure of CCIs to some extent and apply its machinery for smooth administration of CCIs, their future will be bleak and unimaginable. Therefore, taking the ground realities into consideration, we issue the following guidelines to the respondents in general and the State Government in particular:

(i) Section 41 of the JJ(CPC) Act, 2015 r/w Rule 41 of the JJ (CPC) Model Rules, 2018 obligates the founders to register the CCIs for commencement of their activities. On fulfilling the conditions mentioned in the aforesaid provisions, the State Government issues Registration certificate to the CCIs initially for five years subject to renewal on expiry of said period. Therefore, the State Government shall consider the feasibility of bearing 25% of the annual expenditure incurred by every registered CCI operating in the State, so that those institutions may not face financial crunch.



(ii) In order to minimize the expenditure of CCIs, the Government shall take steps to provide ration and other necessary provisions for the registered CCIs through the Civil Supplies Department and other government agencies on concessional rates.

(iii) The Government shall take necessary steps to provide protected drinking water and usable water to all the registered CCIs through the concerned PWD or other department freely.

(iv) The Government shall issue directions to the District Medical and Health Officers to depute the Government Doctors and medical staff to visit the CCIs within their jurisdiction once in every fortnight and conduct health checkups to the inmates of CCIs and provide medication.

(v) So far as sanitation is concerned, the Government shall issue directions to the municipalities and Gram Panchayats to depute sanitary staff to the CCIs located within their areas for cleaning the CCIs regularly.

(vi) The Government shall direct the State owned District Libraries to adopt the CCIs within their jurisdiction and set up in-house libraries in the CCIs and provide relevant books and literature to the inmates.

(vii) In the CCIs housing the girls, lady staff shall be exclusively employed by the organizers to prevent the sexual abuse.

(viii) Added to the above, as the report reveals that the term of District Inspection Committees was over long back, the Government shall take immediate steps for constitution of District Inspection Committees for effective supervision and inspection of the CCIs periodically and to report to the concerned District Collectors. Further,





we add that the Government shall take steps to appoint such Committees immediately after the term of existing Committees is over.

The above are only inclusive but not exhaustive measures which the State Government and its instrumentalities can afford to take up for the better administration of CCIs, as we remind that the above acts are not a charity but due discharge of poise obligation mandated by the Constitution of India in Articles 15, 39, 45 & 47 which reverberate that all the needs of children are met and their basic human rights are fully protected.

The writ petition is accordingly disposed of. No costs.

**U. DURGA PRASAD RAO, J**

**B.V.L.N.CHAKRAVARTHI, J**

16.06.2023  
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**HON'BLE SRI JUSTICE U. DURGA PRASAD RAO  
AND  
HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

**Writ Petition No.25868 of 2022**

**16<sup>th</sup> June, 2022**

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