

08/12/2020
Item No.106 DL
AB/S DE

Through Video Conference

W. P. A. 14656 of 2019

Atasi Ghosh & Others

Vs

The State of West Bengal & Others

Mr. Anubhav Sinha ...for the Petitioners.

Mr. Saikat Banerjee ...for the High Court Admn.

This matter has come up today with the minutes of the Committee's meeting held on 8.1.2020. It was signed by the Chairman of the Committee on 15.1.2020.

While it is pointed out by the Committee that it is the Department of Women and Child Development in the Central Government and the State Government, which may have to get involved, we think that those authorities can also be brought-in in addition to and not by substituting the present members of the Committee.

Therefore, we modify the constitution of the Committee made through the order dated 8.11.2019 as modified by the order dated 19.11.2019, by adding a representative of the Ministry dealing with women and child development in the Government of India and

a representative of the Ministry of Women and Child Development in the Government of West Bengal.

Be that as it may, we have been updated by learned Counsel appearing for the High Court Administration as to the present facility, situation and status of the functioning of the creche attached to the High Court at Calcutta. We are told that there is a designated room on the 4th floor in the sesquicentenary building. He points out that the said building is appropriately furnished and facilities for children in the creche are also provided. The shortage or deficit is the non availability of trained attendants who will look after the children admitted to the creche and facilitate the smooth running of that institution.

We are also told that there is no pediatrician, who will be available for the children of the creche. We also cannot ignore the possibility of deficit in protection by way of vaccination or otherwise and also extending such support through the governmental mechanism, as would be available regarding nutrition and other allied matters, which would come within the domain of Women and Child Development Department in the State and the Central Government. These are matters, which would primarily fall within the domain of the State Government.

In the aforesaid view of the matter, apart from the modification to the constitution of the Committee,

as directed above, we further order that the Director of Health Services, West Bengal will immediately identify a pediatrician, or a team of pediatricians by rotation at least, to be available on call and for visit on regular basis at such intervals, as may be deemed necessary and appropriate by the Superintendent of the government hospital / medical college nearest to the sesquicentenary building of the High Court at Calcutta. This part of the order will be effectuated without fail before New Year 2021 in the better and larger interest of the children, who will be brought to the creche.

The aforesaid will facilitate the utilization of the creche by those children, who are eligible to be brought there which, we hope, would occur with the commencement of the next calendar year.

Learned Counsel appearing for the High Court Administration also shows us letter no. C-18017/2/2019-FTS No 1603434/2019 dated 12th December, 2019 issued to the Registrar General of this Court from the Ministry of Health and Family Welfare ; Department of Health and Family Welfare (Legal Cell). We deem it appropriate to hear the learned Additional Solicitor General touching the contents of that letter. Hence, the Government of India, Ministry of Health and Family Welfare is impleaded as additional respondent. Government of India represented by the

Ministry of Women and Child Development is also impleaded as additional respondent.

The High Court will serve copies of the papers including the letter aforesaid through electronic mode on the office of learned Additional Solicitor General, who will make submissions touching the relevant aspects, more particularly taking into account that it is not an adversarial litigation and “child” is not a subject falling exclusively within the State domain or Union domain in terms of the 7th Schedule to the Constitution.

List the matter on 11.1.2021 for further consideration.

(Thottathil B. Radhakrishnan, C.J.)

(*Arijit Banerjee, J.*)