

ITEM NO.7

COURT NO.5

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 39321/2012

(Arising out of impugned final judgment and order dated 07/09/2012 in WPC No. 8229/2011 passed by the High Court Of Delhi At New Delhi)

REENA BANERJEE & ANR.

Petitioner(s)

VERSUS

GOVT. OF NCT OF DELHI & ORS.

Respondent(s)

(with appln. (s) for permission to file additional affidavit and permission to file additional documents and permission to file synopsis and list of dates and office report)

Date : 10/02/2015 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
Ms. Jubli Momalia, Adv.
Ms. Jyoti Mendiratta, Adv.

For Respondent(s) Mr. P.K. Dey, Adv.
Mr. M.P. Gupta, Adv.
Mr. R.S. Nagar, Adv.
Mr. D.S. Mahra, Adv.

Mr. Sushil Dutt Salwan, Adv.
Ms. Rajani Ohri Lal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

In pursuance of our order dated 08.01.2015, Mr. Gonsalves, learned senior counsel has filed the status report. Mr. P.K. Dey, learned counsel appearing for the Government of NCT and Mr. Mohan Prasad Gupta, learned counsel appearing for the Delhi Administration (Health), pray for some time to respond to the status report.

Pending advertence to the status report and the suggestions, we have asked learned counsel for the petitioner to give certain suggestions. Mr. Gonsalves, learned senior counsel has given certain suggestions. We have also sought the assistance of Dr. B.S. Banerjee, Administrator, Asha Kiran and Ms. A. Madhavi, Deputy Director (Disability), Department of Social Welfare, Government of Delhi.

Before we proceed to issue certain directions, it is necessary to state that there are three homes, namely, Asha Kiran, Asha Jyoti and Asha Deep at different places being run by one management. As advised, at present we shall advert to Asha Kiran. Asha Kiran has 888 inmates of mentally challenged persons of every age. They come to stay at Homes when the courts send them or the Child Welfare Committee sends them. It is submitted by Mr. Gonsalves that number of facilities which are supposed to be made available in the Home are not available and the suggestions given by certain members of the Advisory Committee are not well taken. As has been stated earlier, we will advert to the said facet at a later date.

Pending that, we issue the following directions :

- (a) The management of the Home which presently has only tailoring and organic colour making as two vocational trainings for the inmates should enhance the range of such training. When we say the range, we mean it can engulf numerous activities which are possible to be taken up by such mentally challenged persons. We have been apprised by Dr. Banerjee that the Home has identified 27 crafts for imparting of training but the same has not been given effect to. Hence, it should be introduced and training should be imparted in respect of at least another 10 vocational education within a span of four weeks from today. For this purpose, the 1st respondent may facilitate for providing the trainers which may be outsourced or any other alternative mode can be thought of.
- (b) From Asha Kiran 71 inmates who are capable of learning are sent to normal educational institutions where they are trained by Special Educators. This is for the purpose of social integration. This figure requires to be enhanced. The ability to avail training for education from a Special Educator can only be determined by the Special Educator and, therefore, we direct that three special educators be nominated by the 1st respondent to visit the Home and identify such able persons who can gradually get admitted into normal schools. All are required to adopt the concept of inclusive education.
- (c) The strength of the special educators should be increased so that the student-teacher ratio is balanced. We have said so

as Mr. Gonsalves, learned senior counsel has pointed out that at present one teacher is engaged to teach 40 inmates which is not appropriate.

- (d) Giving proper treatment to the mentally retarded persons is a social necessity. As far as they are concerned, sometimes they swing between total inertia or uncontrollable excitement. Drugs unless really warranted, not to be given to keep them in total inertia and excitement. Therefore, it is directed that the 1st respondent shall depute some neuro-physicians and psychiatrists who can do case study of the inmates and prescribe the drugs.
- (e) It is not disputed that the mentally retarded persons for some reason or other are responsive to dance and music and Dr. Banerjee has submitted that they hold programmes of 100 inmates twice a month. The said programme may continue but in addition, it will be the duty of the organizers in-charge of the Home to involve more persons and form core groups and train them in music which could be instrumental music or songs. For the aforesaid purpose, the 1st respondent is directed to provide the facilities and arrange vocational trainers. The said exercise shall be done within four weeks from today.

Mr. Vivek Tankha, learned senior counsel is requested to visit the Home and submit a report including suggestions for enhancement of quality of life of the inmates. The respondents shall facilitate the visit of Mr. Tankha who will be at liberty to take two persons with him who are acquainted with these kind of Homes.

Let the matter be listed on 26.03.2015.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master