
IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY
ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1332 OF 1999.

Prerana, a registered society and trust registered under the Societies Registration Act, having

its registered office at c/o Kamathipura Municipal School 7th Lane, Shuklaji Street,

Kamathipura Mumbai 400008.Petitioner vs

The State of MaharashtraRespondent

Mr. Colin Gonsalves for petitioner.

Mr. R. M. Sawant Govt. Pleader for respondent

Coram: A.P. Shah & V.C. Daga JJ

Dated 24.8.2000.

P.C.

We have heard the learned counsel for the parties. Rule. Respondent waives service.

2. The petitioner Prerana is a registered society and a Non-Governmental Organization (NGO) working since 1986 for the welfare and development of women and children who are victims of commercial sexual exploitation. It has its field projects in the Kamathipura Municipal School and also the Falkland Road Municipal School, Khetwadi in Mumbai. Prerana has mainly focused its efforts at eliminating exploitation of the second-generation in sex trade. Prerana has initiated an anti-trafficking wing and collaborates with many rural based NGOs for red-light area social work intervention and anti-trafficking work. By the present petition under Article 226 Prerana is seeking directions to the State Government in respect of Kasturba Sadan which is a rescue home established by the State Government for such victims it is alleged that the living conditions of the inmates of Kasturba Sadan are absolutely appalling i.e:
 - a) There are extremely insufficient toilets and bathrooms.
 - b) Water is mostly not available during the daytime, the supply is for a very early in the morning, and to compound the misery the water pressure is feeble.
 - c) The access to the toilets are very dirty and in unusable state.
 - d) The existing structure is in a dilapidated condition.
 - e) There is no facility for recreation indoor or outdoor.
 - f) There is no medical facilities for the sick inmates including no separate place for the physically and medically unwell inmates who are in dire need of some rest.

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- g) The quality of the food is absolutely sub-standard and the girls manage to get and survive biscuits, fruits, gutkha, tobacco etc.
 - h) There is no constructive activity or positive engagement run by the Kasturba Sadan, which could prepare a proper background and ambience for a positive dialogue with them.
 - i) The Home had no professional counselling facility. The sporadic sermons given by the authority to the inmates are unintelligently termed as “Counselling” by the authority.
 - j) The place was not equipped to deal with post rescue operations and the facilities were extremely inadequate to meet the demand.
 - k) The overall assessment implies that the atmosphere in the rescue home is only capable of demoralizing, frustrating and compounding the misery of the inmates ultimately prompting them to frantically seek any available alternative shelter and even to go back to the brothels.

3. We may mention at this stage that in Vishal Jeet vs Union of India and ors AIR 1990 SC 1412 the Apex Court issued inter alia following directions to the State Governments:

- i) All the State Governments and the Governments of Union Territories should direct their concerned law enforcing authorities to take appropriate and speedy action under the existing laws in eradicating child prostitution without giving room for any complaint of remissness or culpable indifference.
- ii) The State Governments and the Governments of Union Territories should set up a separate Advisory Committee within their respective Zones consisting of the Secretary of the Social Welfare department of Board, Sociologists criminologist member’s of the women’s organizations, members of Indian Council of Child Welfare and Indian Council of social welfare as well as the members of various voluntary social organisations and associations etc. the main objects of the Advisory Committee being to make suggestions of:
 - a) The measures to be taken in eradicating the child prostitution and
 - b) The social welfare programme to be implemented for the care, protection, treatment, development and rehabilitation of the young fallen victims namely the children and girls rescued either from the brothel houses or from the vices of prostitution.

2. All the State Government and the Governments of Union Territories should take steps in providing adequate and rehabilitative houses manned by well-qualified trained social workers, psychiatrists and doctors.

3. The Central Government and the Governments of States and Union Territories should devise a machinery of its own for ensuring the proper implementation of the suggestions that would be made by the respective committees”

4. In the case of Public at large vs. State of Maharashtra being writ petition no. 112 of 1996 this court took suo moto notice of an article that appeared in the Indian Express on 13.1.1996 disclosing “a very shocking and alarming state of affairs regarding sex workers operating in the city of Mumbai” and indicating “that minor girls were illegally confined and were forced to be sex workers.”

5. On 17.1.1996 the division bench directed the Government as under:

i) To frame proper scheme so that the women including minor who are procured for sexual slavery are released from the confinement of their procurers.

I. ii) For implementing this scheme, a proper cell, also involving social workers, be created so that by regular checking minors and others can be released and rehabilitated in the society”

Again on 7.2.1996 the division bench issued following directions:

a) The respondents are directed to keep the rescued girls in proper custody and not to release them:

b) The Women and child Welfare department of the State of Maharashtra, which is headed by an IAS officer to carry out the rehabilitation work.

c) For seeing that the said department is properly assisted and its work is monitored the respondents are directed to frame, a proper scheme with the assistance of various social organisations,”

6. On 16.2.1996 it was further directed by the division bench as under:

“All the 473 rescued child sex workers be kept in proper custody of Juvenile Home and other institutions. As few girls were kept in some school premises, objections were raised that they were shifted to other appropriate places. The State Government was also directed to provide adequate finance to the institutions for food, medicine and clothes of the rescued girls”

Thereafter on 29.12.1996 the division bench further directed as under:

“The respondents were directed to evolve a long term policy so that minors are not sent to brothel houses by deception, fraud or misrepresentation and to provide residential accommodation to the girls rescued from the brothel houses so that they could be rehabilitated in the society after proper counseling. The court also directed that before the long term scheme is evolved, provision be made for medical treatment and counselling programme of the rescued girls children”

It was noted in the order dated 31.7.1997 as under:

Subsequent to the workshop the Directorate of Women and Child Welfare, Maharashtra State, Pune has prepared a plan for rehabilitation of the unfortunate victims of sex trade. The Rehabilitation programme consists of:

1) Housing

1. 2) Medical Care and Health

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2. 3) Countering/ guidance
 3. 4) Formal and non formal education
 4. 5) Vocational training suited to their capabilities.

7. It is also noted in the order as under:

“No doubt in recent years, both the Government of India and the State Government have been paying some attention and confronting the issue of child prostitution. However, if the number of girl who are lured into the sex trade every year is an indication the effort has not succeeded. The director said report gives an insight into the problems of women and children forced into the sex trade. Instead of keeping the report on desk it is high time that the country takes notice of the suggestions and serious steps are taken to prevent the exploitation of women more so of young children who are victims of the economic deprivation. In this Golden Jubilee Year of a “free and democratic India, we owe them that much”

8. Finally the court issued directions inter alia as under:

“To set up homes for rehabilitation of rescued sex workers including children so as to enable these rescued sex workers to acquire alternative skills in order to enable them to have alternative source of employment. It is also to be noted that when the girls were rescued, it was difficult for the State Authorities to accommodate them. The State was not having any infrastructure to meet such situation. It is true that in Mumbai city premises are very costly but in the periphery of the city the State Government can certainly provide such facility, more so when it is throughout claimed that Maharashtra State is a much more industrialized, developed and civilized State. In such a State, 473 rescued girls were not properly accommodated and no steps could be taken to rehabilitate them for want of premises and they were required to be sent to their respective home States. This type of situation arises only because of lack of interest in the part of the concerned authorities in implementing the decision of the Supreme Court in the case of Vishal Jeet (supra). If the problem is looked at from the angle that these young girls are also daughters and sisters of some one and that they are also required to be treated as human beings, then the State authorities can easily find out a solution to the problem. During the course of hearing we have noted that there are no adequate facilities available in the in the state of Maharashtra, particularly in Mumbai, where these rescued girls could be rehabilitated or kept for some period for bringing them out of the clutches of unscrupulous elements who deal in trafficking of women. Adequate training facilities are also not available and it appears that serious thought is not given to this problem by the State Government. In a civilized state, it is the duty of the State to take preventive measures to eradicate child prostitution without giving room for any complaint of culpable indifference. One should not forget that these rescued girls are also fellow human beings who require some support and treatment for getting out of the immoral activities.

The State Government is also directed to submit periodical reports by taking out notices of motion either through the learned advocate general or the learned government pleader, stating what steps are taken pursuant to the aforesaid directions and how many girls are rescued from the clutches of middlemen, whether medical treatment is given

and whether rehabilitation facilities are made available to them. Even recent newspaper reports indicate that pimps or middlemen are raising their muscle strength to prevent NGOs from receiving illegally confined girls.”

9. After hearing the parties and after going through the records we are satisfied that the State Government has miserably failed to implement the directions issued by this Court. We may mention at this stage that by order dated 22.4.1999 passed in the present petition commissioner was appointed to pay surprise visit top Kasturba Sadan a place where the minor girls were kept. The commissioner’s report dated 28.4.1999 is extremely distressing. The commissioner found inter alia as under:

“I directly went to the barracks and I noticed that the halls were very untidy and dirty. Dirty clothes, half eaten chapaties and bits of papers were lying on the floor. Whole place was stinking and was emitting foul smell and repulsive odour. I found the place unhygienic and unhealthy for living purposes. When I inquired with the inmates as to how the place was not clean, they informed me that earlier, last week they were told to clean the place since somebody was expected to visit. They said that if the place gets dirty, they themselves clean the same”

I talked to two of those 30 inmates who were brought in March 1999. One of them gave her name as “Baby Krishna Gawda” and other gave her name as “Rasia Saiyed Aziz”.

Both of them and other inmates informed me that though the food is given to them twice a day, the same is half cooked and many of them throw away the same. They informed me that the quality of the food which was given earlier was bad compared to the food which is given since last one week.

The non-vegetarian food does not have any taste and they are unable to eat the same. According to the inmates the said place is very dirty and was full of mosquitoes and rats. When I checked the kitchen, I noticed that the kitchen floor was dirty. The vegetable basket contained decayed onions other vegetables.

The above report of the commissioner amply supports the allegations made by Prerana about the living conditions in the said Rescue Home.

10. Pursuant to the order passed and directions issued by the division bench petitioner Prerana has prepared a draft scheme for rehabilitation center. We have gone through the draft scheme prepared by the petitioner and we find that some of the suggestions are solutory and need immediate implementation. We are, however, constrained to observe that the response of the State Governments rather lukewarm. The State Government does not seem to be interested in taking any positive steps for rehabilitation of the sex workers and particularly in the context of child sex workers. However, the State Government has agreed to constitute a Monitoring and Guidance Committee consisting of representatives of Prerana, Annapurna Mahila Mandal, CCDT, Pratham and CEHAT with Deputy Secretary (Women and Child) as convener to supervise and is specifically authorized as under:

a) To supervise the functioning of the rehabilitation home yet to be built including temporary barracks.

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- b) To visit the home and barracks at any time without prior intimation.
 - c) To look into the accounts in respect of the home and barracks to ensure that monies are spent in accordance with the scheme.
 - d) To do all such things as are necessary to ensure that the scheme is properly implemented and the girls properly rehabilitated.”

11. The State Government has prepared a plan for a new building to be constructed as rehabilitation center. The Principal Secretary Mr. Suresh Kumar who is personally present in the court has assured that the new building will be constructed as expeditiously as possible and preferably within a period of three years. We feel that construction of the new building should be completed on priority basis. We direct the State Government to complete the construction within two years.

12. There are two important aspects to which the State Government has really not paid much attention. First relates to providing adequate training facility to the inmates of the rescue Home, i.e. to teach them meaningful work with a view to become self reliant and establish themselves in the society. Secondly in a rescue home there is urgent need to guide, counseling of the inmates. Various forms of the counselling are required live trauma counseling to enable the girls to recover from trauma and to adjust to new life. Likewise vocational counselling is meant to help the inmates to choose a profession. According to the petitioner it is not ideal to persuade them to prepare to go to their native place or villages and call this persuasion as counseling. The situation is complex and many girls who do not want to return, have no future at home and will probably be re-victimized by the ever alert and active agents of trafficking if sent home prematurely. It is stated that in many cases their own home was the starting/ entry point into the sex trade. On enquiries conducted by the petitioner many girls admitted that if they go to their native place or to their families straight from the Kasturba Sadan, they would be again sent to brothels. Therefore efforts should be made for rehabilitation of the sex workers in the city itself or in the surrounding areas and there is no point in insisting on their return to their native places.

13. As far as the vocational training is concerned, the petitioner has suggested that the Government should engage services of Shramik-Vidyapeeth which is a Semi Government Organisation specialized in vocational training and which has agreed to give vocational training on no profit no loss basis to 100 inmates which amongst other include (1) Rixin Article Making, (2) Data Entry Operation, (3) Electric and Electronic parts assembling and (4) T.V. Repairing. This organization has given the estimate of non recurring expenditure of Rs. 3.80 Lacs and recurring expenditure of Rs. 1.20 Lacs p.a. The above estimate is of 100 inmates. We direct the State Government to engage the service of the said Shramik Vidyapeeth initially for 50 inmates on six monthly basis and the terms and conditions for the same may be finalized by the Monitoring Committee. The Monitoring Committee may also consider whether to hire services of another agency by name Prayas which is sponsored by Tata Institute Of Social Science and which is conducting training programme on tailoring. Another non-Governmental Organisation by name Pratham has agreed to guide education classes/ bridge courses, each for a duration of six months and the budget is only Rs. 37,000- p.a. and we see no difficulty in directing the Government that the said Non-Governmental Organization

should be involved in the education programme of the inmates. So far as counseling is concerned Prerana has recommended an NGO By name “Committed Community Development Trust” (CCDT). This is a registered society and trust well reputed in the field of counseling and community work. The Monitoring Committee shall consider the proposal for engaging the said society and start the counseling work in the Home at the earliest. There are some other agencies who are working in the training of the staff for rehabilitation center. The Monitoring Committee shall decide the manner in which their services could be engaged for the purpose of training the staff.

14. At present there are no recreation facilities in the rehabilitation center either inside or outside. We direct the State Government to forthwith procure the following:

- i) Four ladies bicycles in working conditions at any given time.
- ii) Twenty board games (Carom, Ludo, chess)
- iii) Four Swings
- iv) Twelve Skipping ropes
- v) Earmark badminton court with rackets, shuttle cocks net.
- vi) Provide books as per the suggestions of the monitoring committee.

15. As far as food for the inmates is concerned, we have already referred to the commissioner’s report which has disclosed appalling conditions in the kitchen of the Kasturba Sadan. NGO by name Annapurna has offered to provide 3 meals a day on no profit no loss basis for Rs. 60 per inmate per day. The rescue home has got the facility of gas connection, electricity connection and utensils and it seems that the contract is also awarded for supply of food grains. As far as possible buying vegetables from the market and non vegetarian items once in a week should be left to the Annapurna who will also supervise the preparation of food and for that purpose Annapurna will be paid an amount of Rs. 25/- per day per inmate on adhoc basis for the time being subject to the final decision of the monitoring committee. As regards the subject of health we direct the State Government to engage the services of Cehat which is a registered society and trust specialised in health issues. They have agreed to supervise and monitor the health aspect of the home on a no profit no loss basis.

16. The State Government is further directed to carry out minor essential repairs to the toilets and Kitchen to the Kastruba Sadan within a period of two months under the supervision of the monitoring committee. The State Government is further directed to fill up the vacancies in the said Sadan as expeditiously as possibly and preferably within a period of six moths. The Monitoring Committee shall submit a report to this court within a period of three months.

Hearing of the petition is adjourned to 11th December 2000.

The parties and the authorities to act on the ordinary copy of this order duly authenticated by the personal secretary of this court.