

People's Union for Civil Liberties (Pucl)

Vs

Union of India and Others

Writ Petition (C) No. 560 of 1994

(Kuldip Singh, Faizanuddin JJ)

26.03.1996

ORDER

1. This public interest petition under Article 32 of the Constitution of India is based on the report given by a non-governmental organisation called "Campaign against Child Labour". According to the said report, one Rajput used to travel to Madurai in Tamil Nadu for the purpose of procuring child labour by paying a paltry sum ranging between Rs 500 to Rs 1500 to the poor parents. The children aged below 15 years so procured were forced into bonded labour. It was further stated in the report that one of the boys, viz., Shiva Murugan, aged about 8 years was beaten to death by the said Rajput. As mentioned in this Court's order dated 18-3-1996, Rajput has already been convicted for murder by the trial court. The other four boys, viz., Raja Murugan (aged 8 years), Rajesh (aged 13 years), Muniyandi (aged 15 years) and Mukesh (aged 16 years) were not traceable after the occurrence, resulting in the death of Shiva Murugan. Under the directions of this Court, three boys, viz., Rajesh, Muniyandi and Mukesh have been traced by the Maharashtra Police. The fourth boy, Raja Murugan, who is the real brother of late Shiva Murugan is still untraced. As noticed by this Court, the Maharashtra Police is still making efforts to trace Raja Murugan.

2. Mr Rajinder Sachar, learned counsel appearing for the petitioner, states that the parents of these boys are entitled to compensation. In support of his contention Mr Sachar relies on Nilabati Behera v. State of Orissa [(1993) 2 SCC 746 : 1993 SCC (Cri) 527]. Verma, J. speaking for this Court observed as under : (SCC pp. 762-63, para 17)

"17. It follows that 'a claim in public law for compensation' for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is 'distinct from, and in addition to, the remedy in private law for damages for the tort resulting from the contravention of the fundamental right. The defence of sovereign immunity being inapplicable, and alien to the concept of guarantee of fundamental rights, there can be no question of such a defence being available in the constitutional remedy. It is this principle which justifies award of monetary compensation for contravention of fundamental rights guaranteed by the Constitution, when that is the only practicable mode of redress available for the contravention made by the State or its servants in the purported exercise of their powers, and enforcement of the fundamental right is claimed by resort to the remedy in public law under the Constitution by recourse to Articles 32 and 226 of the Constitution. This is what was indicated in Rudul Saha [Rudul Sah v. State of Bihar, (1983) 4 SCC 441 : 1983 SCC (Cri) 798] and is the

basis of the subsequent decisions in which compensation was awarded under Articles 32 and 226 of the Constitution, for contravention of fundamental rights."

3. Mr Sachar has further contended that under the Bonded Labour System (Abolition) Act, 1976, the State of Maharashtra is required to set up effective vigilance machinery to ensure that the children in the State are not exploited. He further contends that the trial court while convicting Rajput came to the conclusion that the District Magistrate and the Vigilance Committees which were set up under the above-mentioned Act were not functioning properly. Keeping in view the facts and circumstances of this case, we direct the State of Maharashtra to pay a sum of Rs 2,00,000 (two lakhs) to Raja Murugan for himself and also for the death of his brother Shiva Murugan. Since Raja Murugan (a minor) is an orphan, the amount be deposited with the District Magistrate of the area where Raja Murugan lives. The District Magistrate shall deposit the amount in a scheduled bank. The total income so earned shall be divided into 12 months and be given to Raja Murugan every month till he attains majority when he shall be entitled to receive the principal amount. This amount of Rs 2,00,000 shall be paid by the State of Maharashtra.

4. So far as the other three boys Rajesh, Muniyandi and Mukesh are concerned, we direct that they be given Rs 75,000 each as compensation which shall be given by the State of Tamil Nadu within two months. The amount shall be deposited with the District Magistrate concerned who shall deposit the same in a scheduled bank. Monthly interest be paid to the parents till the children attain majority when they shall be entitled to the principal amount.

5. The writ petition is disposed of. We place on record appreciation for Mr Sanjay Parikh for assisting us in this case.