

2015/15  
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Recommendations of the Commission is prepared in  
this matter i.e CR-123/2015 and placed on file "A"  
for concurrence.

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6/8/2015

Chairman (Incharge) h-b  
7/8/15

Issue order

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14-8-2015

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Before the Maharashtra State Commission for Protection of Child Rights.

Enquiry, under sections 13 (1) & 14 (1) of the Child Right Protection Act, 2005

C.R.No.123/2015

Yash Pushpendra Jain, Minor through his mother	-----	Applicant
	Vs.	
Pushpendra Jain	-----	Respondent

**Introduction:-**

This complaint is filed by guardian of applicant who is minor requesting the Commission to conduct enquiry in this matter in which applicant being a minor is being harassed mentally, physically by the respondent and also requested to direct the respondent to make the payment of maintenance. The Commission listed the matter, issued notice to the guardian of the complainant and respondent, i.e. father of the complainant. However, on both the dates neither respondent nor mother of the complainant attended the Commission.

2. History of the case reveals that respondent and mother of applicant got married in the year 2001 and on 6<sup>th</sup> March, 2002 applicant was born. After the birth of applicant, relation between mother of applicant and respondent become non-conducive and it turned into filing the divorce petition by the respondent in the Family Court of Bombay. The Family Court passed an order on 23<sup>rd</sup> October, 2013 and issued a decree in this regard. The Court dissolved

the marriage between mother of the applicant and respondent under section 13 (1)(ia) and (ib) of the Hindu Marriage Act, 1955 allowing the mother of the applicant for permanent maintenance of Rs.10,000/- per month and also Rs.10,000/- per month for applicant also. However, in the application, applicant has mentioned that he is not getting maintenance allowance from the respondent.

3. As in this matter neither respondent nor petitioner or guardian of the petitioner appeared before the Commission. However, as per documents, it reveal that, respondent is not giving maintenance amount to the applicant (minor), hence, denying maintenance amount to affect the survival of the child, which attract the provisions of the Commission for Protection of Child Rights Act, 2005. Section 2 (b) of the Commission for Protection of Child Right Act, 2005 define child rights as prescribed in the U. N. Convention, 1989 on the rights of child and ratified by Government of India in 1992. This includes in all matters, affecting the rights of child. The child right includes rights of survival, health, education, etc. Under section 6 of the Hindu Minority and Guardianship Act, 1956, the natural guardian of Hindu minor is father till attaining the age of 18-year. The mother has been provided the custody right of minor till attaining the age of 5-year. Being a guardian, the respondent's father is responsible to protect the rights of the child. However, despite of the

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Court's order, the respondent is not providing the maintenance which is required for the development survival, education of the child.

5. This Commission has power to take up the issue related with the violation of rights of child *suo-motu*, therefore, on the basis of complaint filed by the guardian of the child; this Commission can take up the issue to protect the rights of the child.

6. In view of above, the Commission is making following recommendations:-

- (i) DCPO of Bombay Suburban is directed to visit the place of the child and for aiming the welfare of the child to initiate appropriate step in this regard and submit the report. Accordingly, matter is disposed of.

By order and seal of the Commission



( A. N. Tripathi ) 14.8.2015  
I.F.S.

Secretary

Maharashtra State Commission for Protection  
of Child Rights.

Date:- 17 4 AUG 2015