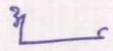
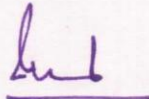



Recommendation of the Commission is prepared and placed on flag "A" for Concurrence.


12/5/2015
Secretary
MSC PCR

Chairman / (Incharge)



Issue order


9.6.2015

Before the Maharashtra State Commission for Protection of Child Rights.
Enquiry, under sections 13 (1) and 14 (1) of the Child Right Protection Act, 2005

Case No.264/2013-14

Yuva Childline an N.G.O. through
 Shri Vijay Kharat and Smt Arokia Mary

Complainant

Vs.

Senior Inspector, Dadar Police Station
 and Others

Respondents

Background:-

This matter has been brought by an N. G. O. called Yuva Childline, before the Commission, raising issue of "Bal Diksha" organized by Jain Community to make children as Muni (who renunciate the worldly affair).

2. In the complaint, it is alleged that on 19th November, 2013, a child name Valiakumar Kantilal, age 6 to 7 years, shall be placed under the Bal Diksha Ceremony, which is against the right of child and same shall attract the provision of sub-clauses (4) and (5) of Clause 1 (d) of Juvenile Justice Care and Protection Act. It is further alleged in the complaint that after receiving information on Diksha Programme, volunteer of Yuva Childline approached to law enforcing authority i.e. Police Department, however, raising issue of law and order, no action is assured by the police. Child Welfare Committee which is judicial body also refused to entertain the matter.

3. It is further alleged that failing to get relief from the concern agencies, when volunteer met the Secretary of MSCPCR and requested to take cognizance of mater, Secretary has said that being religious matter, it is not wrong, as in other faith, this type of activities like Mundan etc. are also allowed. But complaint is accepted by the Secretary

4. The Child Right Commission asked report from the Deputy Commissioner of police and information on any similar pending matters before the High Court, from the Registrar-General of High Court, no reply is received from the police on the letter of the Commission. The Registrar-General has informed that the similar matter is pending before Hon'ble High Court in Writ Petition No.3159 of 2006. In the meantime, a letter is received from N.C.P.C.R. in this regard, addressing to Additional Chief Secretary (Home) and Principal Secretary, W.& C.D. Copy to Secretary, M.S.C.P.C.R calling report/development of cases.

5. The Commission took the cognizance on the application of the complainant, listed matter, initiated enquiry under Child Right Commission Act, 2005, and called parties. Hearing held on 30th August, 2014, 25th September, 2014, 8th October, 2014 and 5th December, 2014. Except on 5th December, 2014, complainants or their representatives never attend hearing. The police Officer who attended hearing placed report on this issue. The police has categorically mentioned that on 20th November, 2013 at the place where Diksha was supposed to organize. Police parties were deputed to maintain law and order problem. However, nothing wrong was happened. As no complaint is filed by the parents, hence no action is taken in this matter.

6. The police report has cited two orders passed by Hon'ble High Court, Rajasthan and Mumbai, wherein both the High Court have refused to pass any order saying that the diksha ceremony is religions practice followed by Jain Community, thus protected under Articles 25 and 26 of Indian Constitution. Even Hon'ble High Court of Rajasthan has equated this ceremony with the ceremonies carried on by Hindus, Muslim, Christian, such as, Yaghopaveet, Mundan, Baptism, conversions to nun etc.

7. Legal issue in this matter, as quoted by complaint, i.e. clause 1 (d) of Juvenile Justice Act. The said sub-clause is not in existence in the Act. Sub-clause (i) to (ix) (d) of Clause (2) of the Act defines about child who needs care and protection. The children who are placed for "Bal diksha" do not come under purview of sub-clause (i) to (ix)(d) of clause 2 of Juvenile Justice Act. Thus, in this matter provisions of Juvenile Justice Act shall not be


applicable. Child has engaged in spiritualism. Thus, it cannot be said that rights of child is violated and he is being deprived from his rights.

8. The Commission has asked complainant to appear before the Commission and ^{to} produced evidences by which it can be established that using child in Bal Diksha Ceremony attract penal provision and it violates the rights of child. However, no reply has been received from the complainant. Hence Commission felt that instead of placing matter for further hearing, matter may be decided on the basis of available records. The Hon'ble High Court of Rajasthan has already passed an order in this regard and one another matter is pending before Hon'ble Mumbai High Court. Therefore, matter is disposed of without any recommendation.

By order and seal of the Commission



08 JUL 2015


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

Secretary
Maharashtra State Commission for Protection
of Child Rights