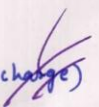



I have prepared and placed the observations
on flag "A" for concurrence.

Humble chairman (Incharge)


12-11-2013

38
26/11

Insured


26.11

**Before the Maharashtra State Commission for
Protection of Child Rights.**

**Enquiry, under section 13(1) & 14 of the child
right protection act, 2005**

Case No. 224 / 2012-13

Shri Chetan Balwant Chawan ... Complainant

V/s

<u>Shri Milind Krishna Kavalapure</u>	<u>..... Respondent No.1</u>
<u>Smt. Mitali Milind Kavalapure</u>	<u>..... Respondent No.2</u>
<u>Smt. Anusaya Ashok Nadigare</u>	<u>..... Respondent No.3</u>
<u>Shri. Ashok Subarao Nadigare</u>	<u>..... Respondent No.4</u>

This matter was brought before the Commission by Shri Satish Ramchandra Powar with request to issue appropriate direction in the matter of four years old child who was mercilessly beaten by Smt. Anushka Nadgire and Ashok Nadgire who has claimed that they got the child from the children home which is registered under the Society Registration Act 1860 and Bombay Public Trust Act 1950, but the said home has not got permission from the competent authority, under section 34 of Juvenile Justice (Care and Protection of Children) Act, 2000.

2. When the child was being mercilessly beaten by his father then neighbors after hearing this incidence approached the police and with the help of police child was rescued. The parents were

arrested by the police and booked under the section 324, 506 and 34 of Indian Penal Code. During the interrogation it is revealed that they were not natural parents of the child. They adopted the child from Santoshi Mata Mahila Anathashram, Kolhapur which is running adoption center without permission from the competent authority.

2. The Commission took the cognizance and issued notices to District Women and Child Development Officer, Kolhapur, District Superintendent of Police, Kolhapur, Chairman of Santoshimata Mahila Anathashram, Child Welfare Committee, Kolhapur, Childline Kolhapur etc. The matter was listed on 20/10/2012, 23/1/2013, 5/2/2013, 12/3/2013, 8/4/2013 and 23/4/2013. Submission made by the respondent No.1 i.e. District Women and Child Development Officer. In the written submission it is mentioned that the Anathashram is sealed. The adoptive parents are in jail. The respondent No. 2 has also submitted the written reply. Action against the owner of Children Home from where the child was brought, for running children home and adoption center without permission have not been mentioned in the written submission filed by respondent No.1 and 2. During the hearing they were unsure, to apply the provision of I.P.C. and J.J.Acts against the owner of children home. The law which are applicable in this matter is section 34

and section 41 of J.J.Act, Section 34 say about the permission while section 41 deals the procedure required for adoption.

3. The Government of India has issued guidelines in the year 2011 called CARA guidelines. The detailed procedure has been given in the guideline. Section 4 of the guidelines, which say about competent person is as follow :

“Person competent to be adopted. - Any orphan, abandoned or surrendered child can be adopted following due procedure laid down in these Guidelines if such child is declared legally free for adoption by the Child Welfare Committee (CWC).”

4. In this matter children home and adoption center is being run by the Jay Santoshi Ma Anathashram is illegal. The adoption given by this institution is also illegal. Therefore the owner of the Anathashram and adoptive

parents have committed criminal wrong and their act /conduct do attract the provision of I.P.C. and other relevant laws.

5. In furtherance of criminal conspiracy with common intention by the adoptive parents along with owner of the children home and natural parents have been committed, to take away child without the consent of natural and legal guardian and therefore act / conduct of owner natural parents and adoptive parents, attract the provision of Section 34, 120(b), 317, 347, 363, 367 of I.P.C. and section 23 of J.J. Act.

6. After going through the legal provision, rival submission and perusing he records the Commission's recommendation is as follows :

1) Owner of the children home, adoptive parents and natural parents should be booked under section 34, 120(b), 317, 347, 363, 367 of Indian Penal Code for running the illegal children home, illegally adopting ,and providing child for adoption along with section 23of J.J.Act in addition to the Section 324,506 of I.P.C. which is already invoked by the police against adoptive parents.

By order and seal of Commission.



26 NOV 2013

(A.N.Tripathi) ^{26.11}
I.F.S.

Secretary
Maharashtra state commission for
protection of child rights