



[2023/RJJD/016760]


**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Habeas Corpus Petition No. 118/2023

----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary, Department Of Home, Government Of Rajasthan, Jaipur.
2. The Superintendent Of Police, Bhilwara (Raj.).
- 3.

----Respondents

For Petitioner(s)	:	Mr. Muktesh Maheshwari
For Respondent(s)	:	Mr. M.A. Siddiqui, GA-cum-AAG Mr. Pradeep Shah Ms. Priyanka Borana Mr. Nand Lal, SHO, P.S. Subhash Nagar, Bhilwara (Raj.)

HON'BLE MR. JUSTICE ARUN BHANSALI
HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI

Order

23/05/2023

1. This petition in the nature of Habeas Corpus has been filed by the petitioner, inter-alia, seeking production of her infant daughter from respondent No.3, father of the petitioner.
2. The sequence of events, which have come on record, paints a sorry state of affairs, which are happening in the society.
3. The petitioner admittedly minor (date of birth 25.02.2005), eloped with one Faizan Khan at the age of about 17 years and their cohabitation resulted in birth of a girl child on 18.08.2022.



4. It is the case of the petitioner that at the time of birth of the child, the petitioner was with her father and immediately after birth of the child, the child was removed from her custody by her father, whereafter the whereabouts of the child were unknown.

5. Subsequently, the petitioner again after attaining majority went to live with Faizan Khan.

6. This petition has been filed on 19.04.2023, apparently after the petitioner attained majority seeking back the custody of her child from her father with the allegations that the whereabouts of the child were not known.

7. Under the order dated 09.05.2023 passed by this Court, the petitioner approached the respondents regarding the missing child born on 18.08.2022 and learned Additional Advocate General was directed to produce a factual report.

8. On 19.05.2023, a factual report was produced, inter-alia, indicating that the child presently was with one Mr. Anuj and the communication was received on mobile by the police that he was prepared to produce the child before the Court and noticing the glaring indications made in the factual report, the matter was ordered to be listed today and the infant was directed to be produced before the Court.

9. The factual report produced by the respondents on 19.05.2023, specifically noticed the fact that father of the petitioner had handed over the custody of the six days' infant to Asha Ramawat, who claims to be previously a member of Child Welfare Committee in the year 2016 and in the year 2020-2021, she was CWC support person and was a social worker, who in turn handed over the child to sister of Manju Pokharna, who was



residing in Delhi and who might have handed over the child to her daughter, who is resident of Mumbai.

10. Today, the infant has been produced by Mrs. Disha w/o Mr. Anuj before the Court who has appeared along with her counsel and she has indicated that the custody of the child was handed over to her by one Mrs. Asha Ramawat resident of Bhilwara.

11. Submissions have been made on her behalf that the child was aged only six days and was abandoned by father of the petitioner and was left with Asha Ramawat, and on account of the fact that she is childless, as her mother had previously talked with Asha Ramawat, the child was handed over to her through her mother, for taking care of the child.

12. Learned counsel for Mrs. Disha fairly submits that the action of Asha Ramawat and subsequent handing over of the child to Mrs. Disha, was contrary to the provisions of law. However, it was submitted that the child has been looked after well and they have no objection in handing over back the child to the petitioner.

13. Having considered the sequence of events as noticed hereinbefore, besides fact that the action of respondent No.3 father of the petitioner, in handing over a six days' old child to someone after taking the custody from the mother, irrespective of the fact that the mother was minor at the relevant time, and thereafter the action of the purported social worker, who was earlier member of CWC, cannot be countenanced under any circumstances.

14. On the part of the petitioner also, it is surprising that when the custody of the child was taken from her around 24.08.2022, apparently she remained silent for over eight months without even



caring for the whereabouts of the child and thereafter, apparently on attaining majority, has taken steps to gain back the custody of the child.

15. Be that as it may, as the conduct of Ms. Asha Ramawat is wholly contrary to law, who under the guise of social activity, apparently in conspiracy with maternal grandfather of the infant to espouse her personal interest, for the purpose of getting rid of the child, has misused her status as former member of CWC, which is required to be dealt with in accordance with law by the respondent Nos.1 & 2, who are directed accordingly.

16. Insofar as, the custody of the minor child is concerned, the same be handed over to the petitioner and in fact has been handed over by Mrs. Disha to the petitioner in the Court itself.

17. The petition stands disposed of accordingly.

(RAJENDRA PRAKASH SONI),J

(ARUN BHANSALI),J

55-Payal/-