

GAHC010260582024



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)(Suo Moto)/1/2024

IN RE - X
X

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-781016

3:THE JOINT DIRECTOR OF HEALTH SERVICES
O/O THE JOINT DIRECTOR OF HEALTH SERVICES -CUM- MEMBER
SECRETARY
DISTRICT HEALTH SOCIETY
TINSUKIA
PIN-786125

4:THE CHAIRPERSON
CHILD WELFARE COMMITTEE
TINSUKIA
ASSA

Advocate for the Petitioner : MR. T J MAHANTA (SC, GHC),

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 19.12.2024
(K.R. Surana, J)

Heard Mr. T.J. Mahanta, learned senior counsel and amicus curiae in the matter, assisted by Ms. P. Sarma, learned counsel. Also heard Mr. D. Nath, learned Senior Govt. Advocate appearing for the State respondents.

2. Pursuant to the order dated 09.12.2024, the learned Senior Govt. Advocate has produced a copy of written instruction dated 18.12.2024 by the Additional District Commissioner (SW), Tinsukia along with the action taken report submitted by the Joint Director of Health Services, Tinsukia vide their letter dated 11.12.2024; letter dated 18.12.2024 by the Chairperson and Members of Child Welfare Committee, Tinsukia; and letter dated 18.12.2024 by the District Child Protection Officer, Tinsukia (DCPO, Tinsukia for short).

3. From the status report of the DCPO, Tinsukia, it appears that the medical termination of pregnancy of the victim 'X' was conducted on 14.12.2024 at about 8.03 AM through the medical method and prior to that, the victim was given prior counseling, and post MTP, the Counselor of District Child Protection Unit, Tinsukia, the Supervisor of Child Helpline under the District Child Protection Unit, Tinsukia had visited the Assam Medical College and Hospital, Dibrugarh for monitoring the victim as per direction of the DCPO, Tinsukia and

thereafter, on 16.12.2024, the victim was discharged with advice to attend the General OPD after 6 (six) weeks.

4. As per the discharge certificate, the abortos was handed over to the police party on 14.12.2024 for forensic examination. It is reported that as the mother of the victim is bedridden and not physically fit to take care of the victim, under such compelling reasons, the victim 'X' is placed at an appropriate shelter home on 16.12.2024 for proper care. It is also reported that the victim is safe and in good condition and on minimum medication was prescribed by the doctor. It is also reported that an ambulance was facilitated by the Joint Director of Health Services, Tinsukia for dropping the victim at the hospital and the said authority had also facilitated the ambulance for picking up the victim from the medical college post MTP. Moreover, the District Commissioner, Tinsukia had also facilitated a vehicle for the victim's mother and brother for their transportation before the MTP on 14.12.2024 and all the necessary expenses including food and lodging of the victim as well as the attendants were organized by the DCPO, Tinsukia.

5. For the timely steps and action taken by the various authorities, the Court records its appreciation for the District Commissioner, Tinsukia; the Additional District Commissioner, Tinsukia; the Joint Director of Health Services, Tinsukia; the DCPO (i/c), Tinsukia; the Chairperson (i/c) of Child Welfare Committee, Tinsukia; the Superintendent of Assam Medical College and Hospital, Dibrugarh along with all the medical and para-medical staffs associated with the MTP conducted upon the victim 'X' on 14.12.2024; staff and para-medial staff of the Child Care Institution, Tinsukia; concerned shelter home

at Tinsukia, the Secretary, DLSA; para-legal volunteer, namely, Smt. Bhagya Lakhi Baruah; and all the officers and staff connected with the MTP.

6. The learned amicus curiae has referred to the statements of the father and mother of the victim during enquiry made by the Secretary, DLSA, Tinsukia on 03.12.2024 and it is submitted that the parents of the victim 'X' had expressed their disinclination to bring back the victim 'X' to their home on the ground that it may affect her negatively.

7. As abandoning of a child in need of care and protection may not be legally permissible, therefore, the Secretary, DLSA, Tinsukia, through a learned pare-legal volunteer shall undertake counseling of the parents so that they do not abandon the victim 'X' as institutionalization of such victim may not be in the best interest of the victim.

8. The concerned authorities, including the Joint Director of Health Services, Tinsukia as well as the Child Protection Committee, Tinsukia shall do the necessary follow-up of the victim 'X' to continue to provide her with all the medical and counseling facilities in a manner they may deem appropriate.

9. The status of the health conditions of the victim 'X' shall be reported on the next date of listing.

10. The Secretary, DLSA, Tinsukia shall also send its counseling report regarding the parents of the victim prior to the next date of listing.

11. The learned Senior Govt. Advocate shall transmit a downloaded copy of this order to the concerned authorities for information.

12. Registry shall transmit a downloaded copy of this order to the

Secretary, DLSA, Tinsukia.

13. As the report contains the name of the victim 'X' and other particulars, the said letter dated 18.12.2024 as produced by the learned Senior Govt. Advocate along with all enclosures thereto including the medical discharge certificate shall be kept in a sealed cover and no photocopy or certified copy shall be issued without masking the particulars of the victim.

14. List on 29.01.2025.

JUDGE

JUDGE

Comparing Assistant