

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Habeas Corpus Petition No. 266/2021

Saroj Sharma W/o Sh. Akhilesh Maheshwari, Resident Of Vigyan Nagar, Surya Vihar Colony, Jhadvasa House, Gali No. 3, Ajmer.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary, Department Of Home, Government Secretariat, Jaipur.
2. The Director General Of Police, Rajasthan, Jaipur.
3. The Additional Director General Of Police, Anti Human Trafficking Unit, Jaipur.
4. The Superintendent Of Police, District Jaipur Rural.
5. The Superintendent Of Police, District Ajmer.
6. The SHO Police Station, Andhi, Jaipur Rural.
7. Smt. Geeta Sharma W/o Sh. Ramavtar Joshi, Vill. Andhi, Tehsil Andhi, Distt. Jaipur.
8. Bajranglal S/o Shri Narayan, aged about 76 years, Resident of Near Bus Stand, Duni, District Tonk(Raj.)

-----Respondents

For Petitioner(s)	:	Mr. Nishant Sharma
For Respondent(s)	:	Ms Vandana Chauhan
For State	:	Mr. N.S. Gurjar, Assistant Govt. Advocate
	:	Mr. Ramesh Chand, SI SHO, with Ms Deepa MFC 779, PS Duni, Tonk

**HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MR. JUSTICE ANOOP KUMAR DHAND**

Order

29/04/2022

1. Petitioner has preferred this habeas corpus petition seeking custody of her daughter who happens to be a girl aged 11 years.

2. It is contended by counsel for the petitioner that petitioner is the only natural guardian of the girl, as her father expired in a road accident.

3. Learned counsel appearing the respondent No.8 contends that child is studying in school and is happy with grandfather and the other family members.

4. We have considered the contentions.

5. This Court had earlier permitted the corpus to stay with her grandfather for participating in her ensuing examinations. The directions was given to respondent No.8 to send the child to her mother-petitioner, however, the said directions were not complied with. This Court was left with no alternative but to send the child to Children's Home for few days, thereafter, the child was sent with her mother for four days.

6. Today, the corpus has been produced before the Court. We have interacted with the corpus. The corpus has clearly stated before the Court that she wishes to stay with her grandfather and she has also stated that she would like to visit her mother during vacations.

7. This Court while sending the child to Children's Home had directed the Secretary Rajasthan State Legal Services Authority, Rajasthan High Court, Jaipur Bench, Jaipur, to appoint the services of Psychologist. The report was available on the record wherein this psychologist counselor has concluded:-

"Conclusion: Currently, the client is feeling more safe with her grandfather on functional level, through she connects with both her grandfather and her mother on emotional level, during the visits, her happiness index was more towards the grandfather's side than the mother's

side, as currently she is feeling more safe with people in grandfather's house(i.e. her sisters and her little brother cousins) than with mother and her husband. Currently she feels more anxious talking about her mother and mother's husband."

8. It is evident that petitioner after demise of her husband has remarried. It is true that mother is natural guardian but looking to the wish of the child who happens to be very intelligent & looking to the report submitted by the psychologist SMS Hospital, Jaipur, we deem it proper to allow the corpus to reside with her grandfather, however, petitioner-mother is granted liberty to take legal course available to her for seeking custody of child.

9. It is made clear that the child should be sent to her mother in vacations and petitioner-mother would be entitled to meet the child on weekends, as per her convenience.

10. The directions given hereinabove have to be followed by respondent No.8. If there is any change in circumstance, petitioner would be free to approach the Court again for revival of this petition.

11. The above observations made are limited to extent of disposal of present habeas corpus, accordingly, the habeas corpus petition is disposed.

(ANOOP KUMAR DHAND),J

(PANKAJ BHANDARI),J