

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

WRIT PETITION No. 23748 of 2023

**BETWEEN:-**

AADHARSHILA SANSTHAN (PREVIOUSLY KNOWN AS CENTRAL INDIA CHRISTIAN MISSION) THROUGH ITS AUTHORIZED SIGNATORY FRANK HARRISON S/O LATE SHRI HENRY EMANUEL AGED ABOUT 65 YEARS OCCUPATION SERVICE HAVING ITS REGISTERED ADDRESS AT - GRAM MARHOTAL, AAM CHOPRA, TEHSIL AND DISTRICT DAMOH (M.P) (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI VIVEK KRISHNA TANKHA - SENIOR ADVOCATE ASSISTED BY SHRI BHOOPESH TIWARI - ADVOCATE)*

**AND**

1. THE STATE OF MADHYA PRADESH THROUGH ITS SECRETARY DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT VALLABH BHAWAN, BHOPAL (M.P) (MADHYA PRADESH)
2. DEPUTY SECRETARY, DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)
3. DISTRICT PROGRAMME OFFICER, DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT DAMOH DISTRICT DAMOH (MADHYA PRADESH)
4. CHILD WELFARE COMMITTEE, THROUGH ITS CHAIRMAN MUKESH COLONY, NEMI NAGAR, DAMOH, DISTRICT DAMOH (MADHYA PRADESH)
5. COLLECTOR, DAMOH DISTRICT DAMOH (MADHYA PRADESH)
6. DIRECTORATE OF WOMEN AND CHILD DEVELOPMENT, THROUGH ITS COMMISSIONER PLOT NO.28A, VIJAYA RAJE WATSALYA BHAWAN, ARERA HILLS, BHOPAL (MADHYA PRADESH)

7. NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS, THROUGH ITS REGISTRAR R/O 36, JANPAD CHANDRALOK BUILDING, 5TH FLOOR NEW DELHI (DELHI)

.....RESPONDENTS

*(STATE BY SHRI PRASHANT SINGH - ADVOCATE GENERAL ASSISTED BY SHRI BRAMHADATT SINGH -DEPUTY ADVOCATE GENERAL)*

*(RESPONDENT NO.7 BY SHRI ABHAID PARIKH {THROUGH VIDEO CONFERENCING} & SHRI AKSHAT ARJARIA - ADVOCATE IN PERSON)*

*Reserved on : 12.10.2023*

*Pronounced on : 20.11.2023*

*This petition coming on for hearing this day, the court passed the following:*

**ORDER**

This writ petition under Article 226 of the Constitution of India is filed on behalf of Aadharshila Sansthan, a Charitable Society registered under the Madhya Pradesh Society Registrakaran Adhiniyam, 1973 challenging the order dated 14.8.2023 passed by the Deputy Secretary, Government of Madhya Pradesh, Department of Women & Child Development, Vallabh Bhawan, Bhopal refusing to renew the recognition given to the Bal Grih/Balika Grih invoking the provisions as contained in Section 41 of the Juvenile Justice (Care & Protection of Children) Act, 2015 (hereinafter shall be referred to as “J.J.Act”) and Rule 21 of the Juvenile Justice (Care & Protection of Children) Model Rules, 2016 (hereinafter shall be referred as “J.J.Model Rules”). Petitioner/Aadharshila Sansthan is also aggrieved of order dated 5.9.2023 passed by the District Programme Officer, Department of Women & Child Development, Damoh directing the petitioner/Aadharshila Sansthan to proceed with the transfer of children from Bal Grih/Balika Grih of Aadharshila Sansthan-

Marhotal, District Damoh to some other Institution.

2. It is submitted by Shri Vivek Krishna Tankha, learned Senior Counsel for the Petitioner that Petitioner/Aadharshila Sansthan is a Society, which was earlier registered in the name of Central India Christian Mission and later on in the year 2015, the name of the Society was changed from Central India Christian Mission to Aadharshila Sansthan. In the year 2016. Petitioner/Society was given recognition for the purpose of establishment of Children's Home in accordance with the J.J.Act and J.J.Model Rules. In the year 2018, the competent authority granted recognition and registration of the Petitioner/Society for a period of five years. An allegation was made that one of the employees of the petitioner, namely, Devendra Daniel had committed offence under Section 11(i), (iv) & (vi) of the Protection of Children From Sexual Offences Act, 2012 (hereinafter shall be referred to as "POCSO Act"). On 30.5.2023 and the District Programme Officer directed the Incharge of the Children Home to lodge an FIR against the aforesaid employee. Petitioner/Society terminated the services of the employee and thereafter an FIR was lodged on 9.6.2023 pertaining to Crime No.365/2023 on 19.6.2023. The Child Welfare Committee issued a notice to the Petitioner/Society alleging that the Petitioner/Society had not informed the Child Welfare Committee regarding commission of offence against the child and had sought explanation from the Petitioner/Society. Though the Petitioner/Society had furnished reply on 21.6.2023, yet the impugned orders came to be passed.

3. It is submitted by Shri Vivek Krishna Tankha, learned Senior Counsel for the Petitioner/Society that the Commissioner, Department of Women & Child Development, Bhopal had issued a communication to the Collector, Damoh vide letter dated 27.1.2023 that the National Commission For Protection of

Child Rights (for short “NCPCR”) has taken objection that there is violation of Rule 29(1)(iv)(b) of the J.J.Model Rules inasmuch the provisions for separate Children Home for boys and girls were being flouted by the Petitioner/Society. The aforesaid communication made by the Commissioner, Department of Women & Child Development, Bhopal addressed to the Collector, Damoh is enclosed as Annexure P/6 and pursuant to the said communication, the Assistant Director, Department of Women & Child Development, Damoh had sent a communication to the Petitioner/Society on 31.1.2023 seeking proposal for separate registration for Children Home for boys and girls. The Petitioner/Society preferred application vide Annexure P/8 for separate registration of Children Home for boys and girls respectively, however, that application came to be dismissed vide order dated 14.8.2023 Annexure P/18. The said order is passed on the basis of the inspection of the NCPCR, which found that the boys and girls are being kept together alleging violation of Rule 29 of the J.J.Model Rules and on account of reporting of the abuse by an employee of Bal Grih, Devendra Daniel, for which an FIR has already been registered.

4. It is submitted by Shri Vivek Krishna Tankha, learned Senior Counsel for the Petitioner/Society that Rule 29(1)(iv)(b) of the J.J.Model Rules provides for only separate physical infrastructure for boys and girls and it does not provide for separate registration and the finding of keeping the boys and girls together is perverse & incorrect. The Petitioner/Society is having separate accommodation for boys and girls in the name of Balak Grih and Balika Grih for which certain photographs have been enclosed as Annexure P/20. Section 27 & Section 30(viii) of the J.J.Act provides that the Child Welfare Committee shall conduct

inspection of Children Home twice in a month and shall hold meeting in the premises of the Children Home. Last three years inspection report of Child Welfare Committee shows that the Bal Grih has two residential buildings in the name of Balak Grih and Balika Grih and no illegality or violation was ever pointed out by the Child Welfare Committee. Since no illegality or violation was ever pointed out by the Child Welfare Committee or the State Level Inspection Committee and the District Level Inspection Committee constituted under the provisions of Section 54 of the J.J.Act read with Rule 21 of the J.J.Model Rules nor any illegality was found by the District Magistrate in his Annual Inspection, which is to be carried out in terms of Rule 21(10) of the J.J.Model Rules, therefore, the allegation in regard to non-maintenance of separate Homes for boys and girls is not made out.

5. The minor girl child in question was residing in the Foster Care of her parents and was not residing in the Children Home when Devendra Daniel made a contact with the girl through video call/whatsapp call and when the Petitioner/Society was informed about the incident by the District Programme Officer on 30.5.2023 then on the very same day, the services of Devendra Daniel were dispensed with.

6. When action has been taken then there was no ground in not renewing registration of the Bal Grih/Balika Grih. No notice was issued under Rule 21(11) of the J.J.Model Rules before passing of the impugned order. Application for renewal is to be considered on the basis of the recommendations of the District Magistrate in terms of Rule 21(15) of the J.J.Model Rules, but in the present case, no recommendation from the District Magistrate was called. Since renewal is to be based on the Annual Inspection Report of the District Magistrate in Form 46A under Rule 21(15) of the J.J.Model Rules, therefore, without there

being any adverse report by the District Magistrate, the impugned orders have been passed, which are unsustainable in the eyes of law.

7. Shri Prashant Singh, learned Advocate General for the State of Madhya Pradesh in his turn submits that there is no illegality in the impugned order. Several vague, incorrect and misleading averments have been made in the writ petition. In the statement recorded by the minor girl child in question under Section 161 of the Code of Criminal Procedure, 1973 (hereinafter shall be referred to as “Cr.P.C”), she deposed that since childhood, she was staying at Aadharshila Balika Grih at Damoh and was studying at Central India Academy in English Medium. In the month of April, Devendra Daniel had given a letter to her mentioning that she is very beautiful and thereafter several obscene and objectionable words were mentioned in that letter. At that time, her case for adoption was also going on. She had informed Frank Harrison about the deeds of Devendra Daniel and Frank Harrison is the person, who had filed this writ petition on behalf of the Petitioner/Society as is evident from the Cause Title of this Writ Petition. Her prospective adoptive parent had come from Chennai on 17.5.2023 and when she was going with her prospective adoptive father for foster care then Devendra Daniel had again given a letter to her in which it was mentioned that love is not wrong. She had given that letter to Frank Harrison and thereafter she had left with her prospective adoptive parent to Chennai. She further deposed that Devendra Daniel used to call her on her father’s mobile and used to message her to send photographs etc. These messages were received from 19.5.2023 to 20.5.2023. No action was taken by Frank Harrison though he had information about the acts of Devendra Daniel atleast from 10.5.2023.

8. Shri Prashant Singh, learned Advocate General for the State points out that the submissions made by Shri Vivek Krishna Tankha, learned Senior Counsel for the Petitioner/Society that Aadharshila Sansthan on receiving a communication on 30.5.2023 had acted promptly and dispensed with the services of Devendra Daniel is a cover-up inasmuch as the incident was already within the knowledge of the authorities of the Aadharshila Sansthan. A supplementary statement was also recorded in which it is mentioned that on 17.5.2023 while adoption process was undergoing and her adoptive parents had come to Aadharshila Sansthan, Central India Christian Mission, Damoh then at about 4:00 PM and when she had reached the Mess to drink water, Male Hostel Warden Devendra Daniel had caught hold of her right hand asking her to come with him to his home at Chhattisgarh and he wished to live with this victim. He is unmarried and was living with Nirdita Daniel in a casual manner. There is an allegation that Devendra Daniel was residing with his wife and two kids. She was residing in Balika Grih but used to visit the Mess situated at Bal Grih where Male Hostel Warden Devendra Daniel used to be available at the reception. In April, 2023, when she had gone to the Mess at about 6:30 PM then Devendra Daniel had called her in person and had asked her to meet at night but she had refused to meet her.

9. Shri Prashant Singh, learned Advocate General for the State submits that two things are apparent; (1) separate facilities as contemplated under Rule 29(1)(iv)(b) of the J.J.Model Rules means separate facilities in all respects but it is evident from the statement of the minor girl child that there was a common Mess where she was subjected to abuse by Devendra Daniel and (2) the aforesaid fact is corroborated from Annexure P/5 that the Mess is common for boys and girls. Thus, there is violation of the J.J.Model Rules. In the light of the

aforesaid report, it is pointed out that the Petitioner is trying to mislead the Court that there are separate infrastructural facilities for the boys and girls. Lodging of the FIR and the complaint made by the minor girl would reveal that the Management of Aadharshila Sansthan is guilty of dereliction of duties and mismanagement of Children Home. Though a complaint was made to Frank Harrison, who had filed this writ petition but there is no explanation as to why he failed to act on the complaint, which was given to him on 10.5.2023.

10. Rule 21(11) of the J.J.Model Rules has no application to the facts of the present case but Sub-Rule (15) of Rule 21 of the J.J.Model Rules is to be read with Section 109 of the J.J.Act, which deals with monitoring and implementation of the J.J.Act.

11. Sub-Section (1) of Section 109 of the J.J.Act provides that the National Commission for Protection of Child Rights constituted under Section 3, or as the case may be, the State Commission for Protection of Child Rights constituted under Section 17 of the Commissions for Protection of Child Rights Act, 2005, shall, in addition to the functions assigned to them under the said Act, also monitor implementation of the provisions of this Act, in such manner, as may be prescribed. Reading the provisions of Sub-Section (2) of Section 109 of the J.J.Act, it is pointed out that the National Commission or the State Commission while inquiring into any matter relating to any offence under this Act, have the same powers as are vested in the National Commission or the State Commission under the Commissions for Protection of Child Rights Act, 2005.

12. Thus, highlighting the acts of the Manager and the various signatories of the writ petition, it is submitted by Shri Prashant Singh, learned Advocate

General for the State that he turned a blind eye to the crime of sexual harassment against a minor girl child and, therefore, in the best interest of the minor girl child, a decision has been taken for not renewing registration of the Petitioner's Bal Grih/Balika Grih. Shri Prashant Singh, learned Advocate General for the State of Madhya Pradesh submits that steps were undertaken to shift the children in compliance of order Annexure P/19 but since there was a stay from a Coordinate Bench of this Hon'ble High Court granted on 15.9.2023, shifting could not be done and vehemently argues to vacate the stay and permit the State Government to shift the children out of that Bal Grih/Balika Grih.

13. When this Court wanted to know from Shri Prashant Singh, learned Advocate General for the State of Madhya Pradesh as to what steps were taken by them to seek vacation of stay granted by a Coordinate Bench of this Hon'ble High Court and whether they had challenged that stay order before the Division Bench, he could not give any satisfactory reply. However, he submits that the decision for not renewing registration is within the four corners of law and there is no violation of the J.J.Act and the J.J.Model Rules. He also submits that there is a racket, which is going on, promoting conversion of children to Christianity and sequence of events would reveal that the children after being given in foster care have come back to Aadharshila Sansthan on one or the other pretext and have been professing Christianity, which shows that the purpose of Children Home being run by the Aadharshila Sansthan is not to give protection to the deserted or orphan children but to propagate conversion.

14. Shri Abhaid Parikh, learned counsel for Respondent No.7/NCPCR submits that the impugned order dated 14.8.2023 is a well reasoned order giving two grounds for refusal to renew registration; firstly, the Child Care Institutions

is being run/operated in violation of Rule 29 of the J.J.Model Rules and secondly, there is involvement of one of an employee, namely, Devendra Daniel in sexually abusing/harassing a minor girl child living in the Child Care Institution.

15. The order dated 14.8.2023 is an order refusing to renew registration and not of cancellation or withdrawal of registration for which procedure is prescribed under Rules 21(15) & 21(11) of the J.J.Model Rules. He points out that no opportunity of hearing is to be provided before considering renewal application and that is to be based on the annual inspection done by the District Magistrate in Form 46A. Since the order of non-renewal is a well reasoned order, therefore, there is no issue of violation of principles of natural justice. These are disputed questions of fact and beyond writ jurisdiction of this Court. When inspection was conducted then behaviour of the staff of the Institution gave rise to a suspicion that Ms.Preksha Pathak, Chairman, Child Welfare Committee had leaked information regarding surprise visit to the Manager of the said Organisation. During inspection, it was observed that the children were being instructed in the Christian religious rituals irrespective of their religious background. The children, who were given in adoption by Aadharshila Sansthan, after following due adoption procedure by the Central Adoption Regulatory Authority (for brevity "CARA") but six of them had come back to the Aadharshila Sansthan due to disruption or dissolution of the adoption process. The Home Study Report, Counselling Report or any other Record of these children were not maintained. The children, who had come back after disruption or dissolution of the adoption process, were given Identity Cards with Surname "Lal", which happens to be the Surname of the Office Bearer of

the said Institution, namely, Shri Ajay Lal. The National Commission For Protection of Child Rights had called Shri S.Krishna Chaitanya, District Magistrate, Damoh by issuing summons under Section 14(4) of the National Commission For Protection of Child Rights Act, 2005. Thereafter, the summons were also issued to Shri Ashok Shah, Additional Chief Secretary pointing out that no clarification was given by the District Magistrate whether registration document as provided was with respect to the Aadharshila Girls Home or Aadharshila Boys Home. The Commission in its inspection had found that the boys and girls belonging to the age group of 16 to 17 years were residing in the said Child Care Institution in violation of Rule 29 of the J.J.Model Rules read with Juvenile Justice Model Amendment Rules, 2022.

16. Shri Abhaid Parikh, learned counsel for Respondent No.7/NCPCR submits that the report of the District Magistrate in Form 46A is not available on record and, therefore, the submissions have been made on assumption or presumption by enclosing certain photographs, which were not part of the record and the same is contrary to the statement of the minor girl child, who deposed that the Mess for boys and girls was common and as was also observed by the authority, which visited the Mess as is evident from Annexure P/5. He also points out that Annexure R/7/D is a communication made to the NCPCR by the prospective adoptive parent of the minor girl child pointing out as to how the minor girl child was frequently contacted by Devendra Daniel from his Mobile No.9301397471 and the said Devendra Daniel is a Male Warden of Bal Bhawan Aadharshila Sansthan of Marhotal, District Damoh. The voice call duration was approximately 6 hours and 40 minutes besides late night video calls. He had also enclosed photocopy of the handwritten love letter from Male Warden Devendra Daniel to the minor girl child and a letter showing the

child's addiction to Devendra Daniel pointing out that the minor girl child frequently used the words that "Already many children like this have come back. They stay in the Hostel. The Institution takes care of their expenses and then they go and work in their Institution. We do not need parents and they had decided that not all children should go for adoption". Thus, a complaint was made that a fraud is being played by not allowing the minor girl child to get integrated and, therefore, whole process for adoption was being carried out in an unscrupulous manner playing with the emotion of the parents.

17. Shri Abhaid Parikh, learned counsel for Respondent No.7/NCPCR submits that the statement made by the Petitioner that when the incident of sexual abuse/involvement of minor girl child took place, at that time, she was not in the care and protection of the Petitioner but was with future adoptive parent, is contrary to record inasmuch as the first incident took place in April, 2023, intimation was given on 10.5.2023 when the minor girl child was very much in the foster care of the Petitioner. She was given in foster care on 17.5.2023 and, therefore, the aforesaid allegation is contrary to law. He also points out giving example of Ms.Usha Vishwakarma, who was part of Central India Academy School Hostel that she was taken for adoption, sent back to the School by her adoptive parent in the name of their financial inability to take care of the child. The District Education Officer vide communication dated 23.11.2022 stated that no permission is given to the Aadharshila Sansthan by the Education Department to run a Hostel. Copy of the aforesaid communication is available on record as Annexure R/7. In the Magisterial Enquiry Report dated 25.11.2022, it is evident that on the Ground Floor of the Building, a Girls Hostel is operated and on the First Floor, a Boys Hostel is

running where 45 boys were living against 33 girls on the Ground Floor showing that the Central India Academy School Hostel was being run in violation of the guidelines of School Safety & Security issued by the Government of India, Ministry of Education, Department of School & Literacy dated 1.10.2021 read with the Guidelines issued by the National Commission for Protection of Child Rights. He also points out that an FIR has been lodged against Shri Shaleen Sharma pertaining to Crime No.668/2023 at Police Station Damoh for the offence under Sections 19 & 21 of the POCSO Act for not taking action against the accused in case of sexual abuse of a minor girl child at the Child Care Institution of the Petitioner despite having knowledge of the same from 10.5.2023 to 30.5.2023. Infact, Shri Shaleen Sharma had shared information regarding commission of the said offence with the Petitioner/Child Care Institution and pursuant to which, an FIR was lodged against Devendra Daniel. Section 75 of the J.J.Act deals with punishment for cruelty to child and Rule 26(4) read with Rule 54(5) of the J.J.Model Rules are relevant inasmuch as Sub-Rule (4) of Rule 26 provides that in case of Child Care Institution, the housing girls, only female person-in-charge and staff shall be appointed whereas Rule 54(5) provides that where any offence is committed under the J.J.Act by a Child Care Institution, the Committee or the Board, as the case may be, may pass appropriate orders for placing the children already placed with the Child Care Institution or the Specialised Adoption Agency in any other Child Care Institution by recommending cancellation of registration and withdrawal of recognition of such Institution or Agency. Under such circumstances, non-renewal of registration of the Petitioner/Society does not call for any interference by this Court.

18. Shri Abhaid Parikh, learned counsel for Respondent No.7/NCPCR

places reliance on the decision of the Apex Court in Chairman, GRID Corporation of Orissa Limited (GRIDCO) & Others versus Sukamani Das (Smt) & Another (1999) 7 SCC 298 to contend that since the present matter involves disputed questions of fact and, therefore, this writ petition under Article 226 of the Constitution of India should not be entertained.

19. I have heard learned counsel for the parties and gone through the material available on record.

20. The report of the Additional District Magistrate, Damoh and the Additional Superintendent of Police, Damoh, which is available on record and is dated 25.11.2022, addressed to the Collector & District Magistrate, Damoh clearly makes a mention of the fact that at Aadharshila Sansthan, 78 students (boys & girls) are residing at Residential School, namely, Central India Academy Bal Bhawan. On the Ground Floor, there is an arrangement for Girls Hostel, which houses 33 girls and on the First Floor, there is a provision for Boys Hostel in which 45 boys are residing. The aforesaid piece of information, which has come out in the inspection and which has not been disputed by the Petitioner/Society reveals that there is violation of the provisions of Rule 29(1) (iv)(b) of the J.J.Model Rules, which provides that separate Children's Homes for boys and girls in the age group of 7 to 11 years and 12 to 18 years. Thus, the requirement of the rule is that firstly, there has to be separate Children's Homes not merely segregation of boys & girls between two floors as is evident from the report dated 25.11.2022 and secondly, the requirement of the rule is that not only separate Children's Homes should be provided for boys & girls but there will be further bifurcation on the basis of the age groups i.e. separate Children's Homes for boys & girls in the age group of 7 to 11 years and

separate Children's Homes for boys & girls in the age group of 12 to 18 years. Admittedly, the aforesaid requirement is not fulfilled and, therefore, the cases have been brought to the notice of the authorities like one discussed in regard to Devendra Daniel. Thus, prima facie violation of the J.J.Model Rules appears to have been made out.

21. The requirement of proviso contained in Sub-Section (3) of Section 41 of the J.J.Act is that if the said Institution does not fulfill the prescribed criteria for registration, within the period specified in Sub-Section (1), the provisional registration shall stand cancelled and the provisions as contained in Sub-Section (5) of Section 41 of the J.J.Act shall apply.

22. Sub-Section (7) of Section 41 of the J.J.Act provides that the State Government may, after following the procedure as may be prescribed, cancel or withhold registration, as the case may be, of such Institution, which fails to provide rehabilitation and reintegration services as specified in Section 53 of the J.J.Act and till such time that the registration of an Institution is renewed or granted, the State Government shall manage the Institution.

23. Rule 21(15) of the J.J.Model Rules provides that decision on renewal of registration shall be based on annual inspection done by the District Magistrate under Form 46A in the year in which renewal is sought. Form 46A provides for a format for inspection of Child Care Institution for registration and renewal. The format is only a prescription but when the report dated 25.11.2022 is taken into consideration then it is evident that it is in compliance of the requirements, which are to be taken care of as per the format as contained in Form 46A.

24. Perusal of the report dated 25.11.2022 clearly provides that firstly, the requirements of Rule 29(1)(iv)(b) of the J.J.Model Rules for providing separate infrastructure like Children's Homes for boys & girls in the age group of 7 to

11 years and 12 to 18 years are not fulfilled and secondly, Rule 76 of the J.J.Model Rules, which deals with abuse and exploitation of the children is also found to be existing in the Institution for which complaints were made against Devendra Daniel. There is no material on record to show as to what training and orientation was given to the Caregivers so also to the children as per the requirement of Rule 76 of the J.J.Model Rules. There is another violation of employing a Male Employee at the Mess having common access to both boy and girl child.

25. In view of the aforesaid, when there is an allegation of abuse & exploitation, which is being investigated for which an FIR is already registered and there appears to be artificial segregation by putting boys & girls in the same building on two different floors then prima facie the decision of the authorities recording a finding of violation and taking a decision for not renewing permission to run a Child Care Institution cannot be faulted with.

26. Accordingly, this writ petition fails and is dismissed.

**(VIVEK AGARWAL)**  
**JUDGE**