IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 30th OF DECEMBER, 2024

WRIT PETITION No. 41033 of 2024

ANJALI KUSHWAH AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Hemant Singh Rana - advocate for the petitioners.

Shri Man Singh Jadon -Govt. Advocate for the respondent/State.

ORDER

The present petition has been filed under Article 226 of the Constitution of India for protection of life and liberty of the petitioners.

It is the case of the petitioners that both the petitioners are more than 18 years of age. Though the petitioner No. 2 is less than 21 years of age and not competent to marry but still both the petitioners are major and they are living together with each other. It is the case of the petitioners that biological mother of petitioner No. 1 has expired and she has started living with the petitioner No. 2 out of her own volition as the atmosphere in the house was not conducive for petitioner No. 1 to reside.

Counsel for petitioners further submits that Supreme Court in the case of *Nandakumar v. State of Kerala* reported in *2018 (16) SCC 602* has taken note of relationship between persons and opined that when both the persons are major and they are not competent to enter into wedlock but still have

right to live together even outside wedlock. Thus, it is submitted that present petitioners who are not entered into wedlock may be protected from any violation by any person including their parents.

Per Contra, learned Counsel for the State has opposed the petition on the ground that petitioner no. 2 is not competent to marry and such protection would not be in the larger interest of society.

Heard the counsel for the rival parties.

From the perusal of the documents so also the decision of the Supreme Court in the case of *Nandakumar (supra)* wherein it has been held that:

> 10. We need not go into this aspect in detail. For our purposes, it is sufficient to note that both Appellant 1 and Thushara are major.Even if they were not competent to enter into wedlock (which position itself is disputed), they have right to live together even outside wedlock. It would not be out of place to mention that "live-in relationship" is not recognised by the legislature itself which has found its place under the provisions of the Protection of Women from Domestic Violence Act, 2005.
> Similar view was taken by the co-ordinate Bench of this Court at Indore in W.P. No. 3857 of 2024.

In view of the aforesaid and also looking to the judgement of the Supreme Court in the case of *Lata Singh v. State of U.P.* reported in *(2006) 5 SCC 475* and *Navtej Singh Johar v. Union of India* reported in (2018) 7 SCC 192, this Court is inclined to allow the present petition despite the fact that petitioner No. 1 is less than 21 years of age because both the petitioners are shown to be major being above 18 years of age and their choice needs to be protected from the external forces. However, this Court expresses its concern over the choice of the petitioners to enter into live in relationship as at such a tender age they may not be emotionally fully mature and economically fully independent. The petitioners are expected to exercise

maturity while getting such protection from this Court.

In terms of the above, petition is **allowed** and the respondents Nos. 2 to 4 are directed to look into the grievance raised by the petitioners and shall examine the grievance of the petitioner regarding their life and liberty. They will be at liberty to verify the factum of age of the petitioners.

(VIVEK JAIN)
V. JUDGE

ar