VIKRAM DEO SINGH TOMAR

v.

STATE OF BIHAR

AUGUST 2, 1988

[R.S PATHAK, CJ, L.M. SHARMA AND N.D. OJHA, JJ.]

Constitution of India—Art. 21—Right of female inmates of 'Care Homes' established by State to live with human dignity.

This writ petition arose upon a letter received from a voluntary organisation alleging that the female inmates of a 'Care Home' in Bihar were compelled to live in inhuman conditions. Pursuant to a direction made by the court, the District Judge, Patna visited the 'Care Home' and submitted a report on the conditions actually prevailing there.

Disposing of the writ petition,

HELD: Every person is entitled to a quality of life consistent with his human personality. The right to live with human dignity is the fundamental right of every Indian citizen under Art. 21 of the Constitution. And, so, in the discharge of its responsibilities to the people, the State recognises the need for maintaining establishments for the care of those unfortunates, both women and children, who are the castaways of an imperfect social order and for whom, therefore, of necessity provision must be made for their protection and welfare. Both common humanity and considerations of law and order require the State to do so. To abide by the constitutional standards recognised by well-accepted principle, it is incumbent upon the State when assigning women and children to these establishments, to provide at least the minimum conditions ensuring human dignity. [758D-F]

India is a welfare State governed by a Constitution which lays special emphasis on the protection and well-being of the weaker sections of society and seeks to improve their economic and social status. It shows a particular ragard for women and children, and notwithstanding the pervasive ethos of the doctrine of equality it contemplates special provision being made for them by law. [758B-C]

What we see before us in the instant case is a crowded hovel, in which a large number of human beings have been thrown together, compelled to subsist in conditions of animal survival, conditions which

blatanly deny their basic humanity. It is clear that the Welfare Department of the State Government of Bihar views its responsibilities in regard to these women with a lightness which ill befits its existence and the public funds appropriated to it. The name of "Care Home" given to these establishments is an ironic misnomer. The primitive conditions in which the inmates are compelled to live shock the conscience. [758G; 759A-B]

The State Government should provide suitable alternative accommodation expeditiously for housing the inmates of the present "Care Home". It is necessary meanwhile to put the existing building, in which the inmates are presently housed, into proper order immediately, and for that purpose to renovate the building and provide sufficient amenities by way of living room, bathrooms and toilets within the building, and also to provide adequate water and electricity. A suitable range of furniture, including Cots must be provided at once, and an adequate number of blankets and sheets, besides clothing, must be supplied to the inmates. The Welfare Department of the State Government will take immediate steps to comply with these directions. [759D, F-H]

The inmates have been committed to the care of this Home under orders issued by various Courts in Bihar or by different Executive authorities. The Welfare Department will submit a report within one month from today detailing the particulars of these cases and mentioning the judicial or executive authority concerned to the High Court, and the High Court will thereupon issue necessary instructions to the pertinent District authority for taking appropriate steps in the different cases for their early disposal. [760B-C]

ORIGINAL JURISDICTION: Writ Petition (Civil) No. 1426 of 1987.

(Under Article 32 of the Constitution of India).

Ms. Abha Jain for the Petitioner.

M.P. Jha for the Respondent.

The Judgment of the Court was delivered by

PATHAK, C.J. This writ petition arises upon a letter received from the Yuva Adhivakta Kalyan Samiti, Sasaram, District Rohtas (Bihar). Among other things, it is alleged in the letter that the female inmates of the "Care Home", Patna (Bihar) are compelled to live in

inhuman conditions in an old dilapidated building, that they are ill-treated, provided food which is both insufficient and of poor quality, and that no medical attention is afforded to them. On 18 November, 1987 this Court issued notice to the Superintendent of the Home, the District Magistrate, Patna and the State of Bihar and simultaneously ordered the learned District Judge, Patna to visit the Home and submit a report on the conditions actually prevailing there in the context of the allegations contained in the letter. The learned District Judge has submitted his report. He states that the "Care Home" is managed by the Welfare Department of the State Government under the administrative control of the Deputy Director, Welfare, Patna, that although there is provision for a full time Superintendent no full time Superintendent has been appointed, and instead the District Welfare Officer, Smt. M.B. Verma, who is posted at Arrah, is in dual charge of the "Care Home". The staff includes two whole time matrens, two male clerks and two night Guards and recently three Supervisors have been attached to the Home. There are three teachers and one senior Instructress for imparting vocational training. He points out that thirty inmates recently escaped from the "Care Home" and now three Home Guards have been posted. His report discloses a sorry state of affairs. He points out that the building in which the inmates are housed is a century old dilapidated house rented for the purpose. The building is absolutely uninhabitable and unsafe, and during the rainy season the roof leaks almost at every point. Five small damp and dirty rooms with no windows are used to accommodate twenty five inmates, while the remaining women have to sleep in an open verandah. Only a few of the women have been provided with blankets and cots. He reports that whereas the capacity of the "Care Home" is over one hundred, the Deputy Superintendent admitted before him that there were only twenty five thin blankets. Most of the inmates were compelled to sleep on the broken floor without even a sheet to cover themselves. There was no woollen clothing at all, nor were they provided with soap or oil. The diet provided to them cost Rs.5 per day and was hardly adequate to sustain them. As regards toilet facilities, he says that there is one municipal tap outside in the open, which also was not in proper working order. There was acute scarcity of water. One hand-pump had been installed in the previous month. Three dilapidated lavatories existed far away from the main apartment. There was no bathroom or toilet inside the apartment and the inmates had to go out in the night to the distant toilets. The report discloses further that the inmates stated that they were often beaten up in case they complained before the authorities, and most of them expressed a desire to be set free to earn their livelihood or to return to their families. Twelve lunatic inmates

had been transferred to the Ranchi Mental Asylum, and eleven children had been sent to the Bal Bhawan, Deoghar. The majority of the inmates were major, five of them being deaf and dumb. All of them were in protective custody by the order of various judicial and executive magistrates of the State. There was no regular visit by any physician, the last visit of a doctor having taken place almost two months before.

India is a welfare State governed by a Constitution which holds the pride of place in the hearts of its citizens. It lays special emphasis on the protection and well-being of the weaker sections of society and seeks to improve their economic and social status on the basis of constitutional guarantees spelled out in its provisions. It shows a particular regard for women and children, and notwithstanding the pervasive ethos of the doctrine of equality it contemplates special provision being made for them by law. This is only to be expected when an enlightened constitutional system takes charge of the political and socio-economic governance of a society, which has for centuries witnessed the relegation of women to a place far below their due. We live in an age when this Court has demonstrated, while interpreting Article 21 of the Constitution, that every person is entitled to a quality of life consistent with his human personality. The right to live with human dignity is the fundamental right of every Indian citizen. And, so, in the discharge of its responsibilities to the people, the State recognises the need for maintaining establishments for the care of those unfortunates, both women and children, who are the castaways of an imperfect social order and for whom, therefore, of necessary provision must be made for their protection and welfare. Both common humanity and considerations of law and order require the State to do so. To abide by the constitutional standards recognised by well-accepted principle, it is incumbent upon the State when assigning women and children to these establishments, euphemistically described as "Care Home", to provide at least the minimum conditions ensuring human dignity. What we see before us in the instant case is a crowded hovel, in which a large number of human beings have been thrown together, compelled to subsist in conditions of animal survival, conditions which blatantly deny their basic humanity. How else shall we describe an establishment where women are detained in miserable conditions, compelling most of them to sleep on broken floors, in damp and dank conditions, with no covering whatever to protect them from the chill wind and near freezing temperatures of the north Indian winter, who are fed a wretched health-denying diet, are denied the basic amenities of convenient toilets and a private bathing place, who,

if they complain, are beaten up, and although attacked by disease and illness are unable to find timely medical relief. It is clear that the Welfare Department of the State Government of Bihar views its responsibilities in regard to these women with a lightness which ill befits its existence and the public funds appropriated to it. The name of "Care Home" given to these establishments is an ironic misnomer. The primitive conditions in which the inmates are compelled to live shock the conscience.

The counter affidavit filed on behalf of the Welfare Department of the State Government seeks to minimise and gloss over the deplorable conditions faced by the inmates, and the presence of many of the facilities alleged to exist cannot be accepted in the face of the report of the learned District Judge. The affidavit, sworn by the Assistant Director (Social Welfare), does not disclose that he visited the home personally. The facts seem to have been supplied to him by others. The report of the learned District Judge, on the contrary, is the report of an objective neutral observer who took the trouble of visiting the place himself. We have every reason to prefer the facts set out in his report.

In the circumstances, we think it necessary to direct the State Government to provide suitable alternative accommodation expeditiously for housing the inmates of the present "Care Home". It is said that the State Government has given two acres of land near the Ganga bridge at Patna to the Welfare Department for putting up a complex as a "Care Home" and for shifting to it such inmates as are also housed in a Government building. It is stated that the Welfare Department has sanctioned 31.10 lakhs for establising a Care Home in the building and that Rs.12 lakhs have been allocated for constructing the building. We do not know how long it will take for the new building to be ready. It is necessary meanwhile to put the existing building, in which the inmates are presently housed, into proper order immediately, and for that purpose to renovate the building and provide sufficient amenities by way of living rooms, bathrooms and toilets within the building, and also to provide adequate water and electricity. A suitable range of furniture, including Cots must be provided at once, and an adequate number of blankets and sheets, besides clothing, must be supplied to the inmates. We note that the Welfare Department has stated that the allowance of the inmates is being increased from Rs.150 per month to Rs.200 per month and that besides they will be provided such amenities as Soap, Oil and other toilet requisites. The Welfare Department of the State Government will take immediate steps to comply with the directions we have framed for the welfare of the

A inmates of the Care Home. We direct the Welfare Department further to appoint a full time Superintendent to take care of the Home, and to ensure that a Doctor visits the Home daily.

We are constrained to note also that the inmates have been committed to the care of this Home under orders issued by various Courts
B in Bihar or by different Executive authorities. The Welfare Department will submit a report within one month from today detailing the particulars of these cases and mentioning the judicial or executive authority concerned to the High Court, and the High Court will thereupon issue necessary instructions to the pertinent District authority for taking appropriate steps in the different cases for their early disposal.
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With these directions, we dispose of this Writ Petition. We make it clear, however, that in the event of no, or insufficient, compliance being made with this order, we will have no hesitation in reopening the case for such further steps as may be considered necessary for enforcing this order.
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H.L.C. Petition disposed of.