

NCPCR moves SC against bail for archbishop & nun in MP 'conversion of children' case

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File photo of NCPCR chairperson Priyank Kanoongo | ANI

New Delhi: Challenging the anticipatory bail granted to an archbishop and a nun booked for alleged forceful conversions of children at a shelter home in Madhya Pradesh, the National Commission of Protection of Child Rights (NCPCR) has moved the Supreme Court, asserting its authority to lodge a complaint in the case.

Agreeing to hear the matter again in two weeks, a three-judge bench headed by Chief Justice D.Y. Chandrachud Monday, however, declined to put a stay on the anticipatory bail granted to Archbishop Jerald Alameda and sister Liji Joseph by the Madhya Pradesh High Court, in the case registered under the Madhya Pradesh Freedom of Religion Act, 2021.

The Act prohibits religious conversion by “misrepresentation, allurements, use of threat or force, undue influence, coercion or marriage”.

According to court documents in ThePrint’s possession, an FIR was registered against Alameda and Joseph in Madhya Pradesh on 30 May, based on a complaint by NCPCR chairperson Priyank Kanoongo, following his visit to the children’s shelter home run by the Asha Kiran Institute in the state. The complaint of alleged religious conversion of children in the home was reportedly based on the finding that Hindu children at the institute were being forced to read the Bible and attend church.

While Almeda is the Archbishop of the Jabalpur diocese of the Roman Catholic Church in Madhya Pradesh's Katni district, Joseph is a nun in the Asha Kiran Institute. Almeda is also the director of the institute which was set up by the church in 2005, according to court documents.

In June, the Madhya Pradesh High Court granted bail to the duo on the ground that the commission has no locus standi under the state's anti-conversion law, which recognises only the allegedly converted person, or their relatives, as complainants. ThePrint has a copy of the HC order.

In its appeal in the Supreme Court, however, the NCPCR said that as a statutory body, formed to monitor the interests of and protection of the rights of children in the country, it was the commission's duty to initiate action, as it did in the present case, for the welfare of the shelter home inmates. ThePrint has a copy of the NCPCR appeal.

The appeal also questioned the anti-conversion law of Madhya Pradesh which, the NCPCR said, limited the categories of complainants in cases of forced conversion. It further added that the HC relied upon the literal reading of the 2021 law, while ignoring that the NCPCR has the jurisdiction to take cognizance of child welfare cases in larger interest and initiate suo motu action in case of any transgression by any authority.

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NCPCR vs high court

While granting the anticipatory bail to the two accused, the high court had noted, "No complaint has been made by the person converted or person aggrieved or against whom attempt is made for conversion or by their relatives or blood relatives. In the absence of such a written complaint, police do not have any jurisdiction to inquire or investigate an offence committed under Section 3 of the MP Freedom of Religion Act of 2021. In view of aforesaid facts and circumstances of the case, anticipatory bail application filed by the applicants is allowed."

NCPCR counsel, advocate Swarupama Chaturvedi, however, argued that the HC should not have allowed the anticipatory bail on technical grounds. She contended that the NCPCR is a statutory body constituted to look into the welfare of children, and a state law cannot surpass or overpower the role of a statutory body working under the administration of the central ministry, the Union Ministry of Women and Child Development in this case.

She further told the court that the NCPCR chairperson and children living in the shelter home, who were forced to convert, have recorded their statements with the police. It was the police that made the NCPCR chairman the complainant.

If the law doesn't permit it, the police ought to have included the children as complainants. Due to the lack of understanding of the law, the children should not be made to suffer, she told the bench.

"...the NCPCR also has the statutory authority to take suo motu action against and inspect any person or organisation which violates the rights of children and take further action to prevent such transgressions from taking place, which includes approaching the police and filing a complaint," the NCPCR's petition said.

The petitioner further alleged that the high court erred in allowing the anticipatory bail, by not considering that one of the applicants, Almeda, was a habitual offender, and had been previously booked for alleged harassment of children.

According to details mentioned in the petition, an FIR was previously registered under Almeda under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, for alleged mental and physical harassment of children and failure to provide them basic amenities, while he was the chairman of a school in MP's Junawani.

(Harkirt Singh is a second year undergraduate student at Jindal Global Law School and an intern at ThePrint.)

(Edited by Smriti Sinha)
