

**Mst. Salma @ Anjali**

Mst. Salma @ Anjali D/O Kundan W/O Riaz came to Panah Shelter Home on 2.11.2014 through the orders of CJ & JM Ghotki. She belongs to Hindu community. She got married at the age of 12/13 (as stated by her parents and she claimed herself 18 years) and she has converted to Islam. Her parents lodged a FIR of her abduction. As the nature of the case was very sensitive court sent her to Panah Shelter home for protection. Her father filed a Petition (CP.No.D 5662/2014) in High Court for her custody, but she refused to go with her father. As per her medical report she was 14/15 years old (as per her first age ossification). Matter of her age was controversial as she claimed herself to be 18 years (as per her second age ossification report she was 16 to 17 years old). She stayed at Panah shelter Home for almost 2 years. When she attained 18 years, High court allowed her to go with her husband. She left Panah on 07/12/2016.

IN THE HIGH COURT OF SINDH, KARACHI

C.P. NO. D- 5662 of 2014

KUNDANDASS.....PETITIONER  
VERSUS  
PROVINCE OF SINDH & OTHERS.....RESPONDENTS  
ORDER

1. For hearing of CMA No. 28921/2016 (151)
2. For hearing of CMA No. 6671/2016 (Permission)
3. For hearing of CMA No. 6656/2016 (Permission)
4. For hearing of CMA No. 4038/2016 (Permission)

02.12.2016

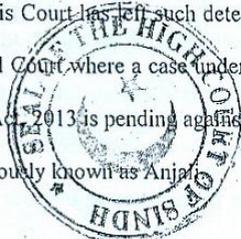
Mr. Ali Ahmed Tariq Advocate for the Petitioner

Ms. Aftab Bano Rajput, Advocate for the Respondent No.6 alongwith  
Mst. Salma

Mr. G. M. Bhutto Advocate alongwith Respondent No.8

Through application listed at Serial No.1 moved by Advocate for Pannah Shelter Home, it is prayed that Mst. Salma @ Anjali has attained the age of 18 years, therefore, she may be released from the said Shelter Home, whereas, rest of the three applications listed at Serial No.2 to 4 have been moved by Mst. Salma @ Anjali herself that she has attained the age of 18 years and she may be set at liberty.

Mr. Ali Ahmed Tariq, learned counsel appearing for the Petitioner has opposed these applications on the ground that the Applicant Mst. Salma @ Anjali still has not attained the age of 18 years, therefore, she cannot be allowed to let go and live with her husband. He challenged that notwithstanding ossification test which resulted in Mst. Salma @ Anjali's age being 18 years, however for all legal purposes her age as mentioned in her birth certificate and B-Form should be relied upon which suggest that she was born on 02.03.2002. He further submits that this Court cannot make any determination in this respect for the reason that vide Order dated 14.01.2015, this Court has left such determination of Mst. Salma @ Anjali Bai's age on the trial Court where a case under Section 3 & 4 of the Sindh Child Marriage Restraint Act, 2013 is pending against the Respondent No.8 i.e. husband of Mst. Salma, previously known as Anjali.



On the other hand Ms. Aftab Bano Rajput, learned counsel for Pannah Shelter Home as well as Mst. Salma @ Anjali submits that she has been living in Pannah Shelter Home for almost two years and now she has attained the age of 18 years which has been substantiated by two ossification reports and she is entitled to join her husband for the reason that there is no provision in the Sindh Child Marriage Restraint Act which declares a marriage contracted during the childhood as void.

We have heard the learned counsel for the respective parties and perused the record.

The Petitioner has placed on record the birth certificate of Mst. Salma @ Anjali which reflects her date of birth as 02.03.2002 which makes her age as 14 years and 9 months, however, this birth certificate was only issued on 07.05.2010 i.e. almost 8 years after the birth of Mst. Salma @ Anjali and on the basis of her birth certificate the Petitioner has obtained form-B where the same age is reflected. Least to say, in our mind a birth certificate obtained after 8 years of a child's birth does create doubts as to its veracity.

Be that as it may, on the other hand the first ossification test conducted on 30.01.2015 under the order of this Court to determine the age of Mst. Salma @ Anjali reflects her age between 16 and 17 years (but nearer to 17 years), whereas, the recent ossification test conducted by Court's order on 23.11.2016 reflects her age between 17 and 18 years. Strictly speaking the fact as to what is her accurate age cannot be determined in a Constitutional Petition. It is for the reason that vide order dated 14.01.2015 of this Court such determination has been left to the trial Court.

That being the fate of the factual controversy, we do not find any reasons to let Mst. Salma @ Anjali confine to Pannah Shelter Home from where she had made three applications, praying to let her to leave the said Shelter Home. The very intent of sending her to Pannah Shelter Home about two years ago was not at all that she was to serve a jail term there, and now when per one set of facts originating from the ossification tests has given an indication that she is about 18

years of age and independent and mature enough to spend her life according to her own freewill, we while ordering the trial Court to conclude the trial in no later than 60 days from the date hereof without being impressed by the observation made hereinabove, order that Mst. Salma @ Anjali if she deems to leave Pannah Shelter Home and reside anywhere according to her own wishes, no prohibition be imposed on her as to compulsorily reside in the Pannah Shelter Home, thus she would be free to leave the said premises if she chooses to do so. Order accordingly.

SD/- CHIEF JUSTICE

CERTIFIED TO BE TRUE COPY,

SD/- JUDGE

ASSISTANT REGISTRAR (WRIT)

Copy is forwarded for information and compliance to

- 1- The learned District & Sessions Judge, Ghotki.
- 2- The Incharge Pannah Shelter Home, Karachi.



Assistant Registrar (Writ)

Received on  
6-12-2016  
4:00 pm  
[Signature]