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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 2558/2019

ASHA RATHORE Petitioner

Through Ms.Meenu Sharma, Advocate.

versus

COMMISSIONER OF POLICE& ORS Respondents

Through Mr.Rahul Mehra, standing

counsel with Mr.Chaitanya

Gosain and Mr.Anand

Thumbayil, Advocates.

Inspector Satish Rana with SI

Saurabh, PS Govind Puri.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **12.09.2019**

Present writ of habeas corpus has been filed seeking a direction to the respondents to produce the petitioner's minor daughter – Ms.Jyoti.

While in the petition it is averred that Ms.Jyoti is a minor, Mr.Rahul Mehra, learned standing counsel for the State states that, according to the 10th class marksheet produced by the complainant, the date of birth of Ms.Jyoti is 30th July, 2000. Mr.Rahul Mehra also states that Ms.Jyoti has written a letter to the Police stating that she has married respondent no.3 out of her

own free will.

However, learned counsel for the petitioner states that the birth certificate of Ms.Jyoti shows that her date of birth is 30th May, 2002.

Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads as under:-

“94. Presumption and determination of age – (1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining —

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.”

Keeping in view the aforesaid Section, this Court is *prima facie* of the view that Ms.Jyoti's date of birth is 30th July, 2000 and she is a major. However, as the petitioner has an apprehension with regard to the well-being of Ms.Jyoti, the Police is directed to produce her on the next date of hearing.

List on 30th September, 2019.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 12, 2019

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