

**IN THE SUPREME COURT OF INDIA
(CRIMINAL APPELLATE JURISDICTION)**

IN

CRIMINAL APPEAL NO(s). 135 OF 2010

IN THE MATTER OF:

BUDHADEV KARMASKAR .. Appellant (s)

VERSUS

STATE OF WEST BENGAL .. Respondent(s)

AND IN THE MATTER OF:

DURBAR MAHILA SAMANWAYA COMMITTEE

Through

Secretary

12/5, Nilmoni Mitra Street

Kolkata 700006

... Impleaded

Respondent

**AFFIDAVIT IN RESPONSE TO THE SIXTH INTERIM REPORT DATED
22.03.2012 OF THE PANEL APPOINTED BY THIS HON'BLE COURT BY
ORDER DATED 19.07.2011**

MOST RESPECTFULLY SHEWETH:

I, Bharti Dey, Secretary of the Impleaded Respondent above-named, having its office at 12/5, Nilmoni Mitra Street, Kolkata 700006, do hereby solemnly affirm and state as under;

1. That I am the Secretary of the Impleaded Respondent and am duly authorized to affirm and swear this affidavit on behalf of the Impleaded Respondent. A copy of the Resolution to this effect passed by the

Governing Board of Durbar Mahila Samanwaya Committee has been filed in this Hon'ble Court on 15.07.2011.

2. The Impleaded Respondent was impleaded as a necessary party in proceedings in Criminal Appeal No. 135 of 2010 by this Hon'ble Court, vide its order dated 04/05/2011.
3. That the Impleaded Respondent is a registered society (hereinafter referred to as "Respondent Society") under the Societies Registration Act, 1860, bearing the registration number S/87070 of 97/98 and having its registered office at 12/5, Nilmoni Mitra Street, Kolkata 700006. The Respondent Society has been working with sex workers in Kolkata and other parts of West Bengal since 1993 and represents over 65,000 female, male and transgendered sex workers and their children across the State of West Bengal.
4. Over the last fifteen years, the Respondent Society has extended its activities to include provision of health, education and social security, promotion of culture and art, prevention of entry of minors in sex work, protection of underage and unwilling sex workers and rehabilitation of those seeking alternate sources of livelihood.
5. The Respondent Society is part of the Panel constituted by this Hon'ble Court vide its order dated 19.07.2011. In response to the recommendations made in para 8 of the Sixth Interim Report dated 23.03.2012 of the Panel, the Respondent Society seeks to apprise this Hon'ble Court of its work with the children of sex workers in the field of education and sports and is grateful for the opportunity granted to present its views on the same.

ACTIVITIES OF THE RESPONDENT SOCIETY

Education

Adult Literacy

6. Recognising that education is indispensable to the empowerment of women and children in sex work, the Respondent Society has been running various formal and non-formal educational programmes since 1993. In the beginning, almost 85% of sex workers were illiterate and in order to overcome that barrier, adult literacy program was introduced. It has now developed into a large-scale program across the State of West Bengal and is divided into classes for beginners ('*Korok*') and more advanced learners ('*Digangana*').
7. The Respondent Society runs the said programme through 34 centres in Kolkata and in other neighbouring districts. Currently, 1,000 sex workers are enrolled in these centres to learn how to read, write and do basic Math. A class for 'English speaking' has recently been introduced at some such centres.
8. The Respondent Society has adopted an alternative methodology of learning in the adult literacy programme that has evolved from the lives and realities of sex workers themselves. The sex workers' community itself selects and designs the content of the curriculum. Words and vocabulary are carefully chosen using the collective knowledge of the community. It has provided the women a space to reflect on their own lives and to expose them to new ideas. Constant interaction between sex workers and the teachers from mainstream schools has made them learn from each others' experiences, perspectives and value systems.
9. The Respondent Society has also started courses in higher education for sex workers keen to pursue further studies in collaboration with the Indira Gandhi National Open University, (hereinafter "IGNOU") Kolkata,

which established a special study centre near the office of the Respondent Society in March, 2008. IGNOU conducts eight courses for the children of sex workers and sex workers themselves, including a bridge course called Bachelor Preparatory Programme (BPP), for those who had earlier dropped out of schools, so that they can finish their school education before joining higher education programs. Around 33 children of sex workers are currently enrolled in the IGNOU courses.

Children's Education

10. The Respondent Society runs a full fledged educational programme for children of sex workers, named "*Berebhenge*" (meaning "breaking the fence"). The programme covers children of different ages and learning needs through the following components:-

- (i) pre-school care (delivered by older sex workers),
- (ii) extra academic support for junior school going children,
- (iii) educational centres for school drop outs,
- (iv) special coaching classes for senior school children
- (v) vocational training for teenage children.

While 329 children (187 boys and 142 girls) are enrolled in non-formal education system, 280 children (146 boys and 136 girls) are enrolled in formal education system. Since 2005, the cumulative numbers of students who have passed different classes are as follows:

Class 1	152
Class 2	130
Class 3	108
Class 4	89
Class 5	77
Class 6	58
Class 7	42
Class 8	28
Class 9	16
Class 10	10

11. The Respondent also runs two hostels for children of sex workers - one in Baruipur, 24 Parganas, South and the other in Ultadanga, Kolkata. The first hostel, which is a little outside the city, mainly caters to children of brothel based sex workers while the second houses children of sex workers from Kolkata itself. Presently, 110 children are residing in these hostels and pursuing their studies in local schools along with children of non-sex workers. Non formal education and coaching/tuitions are too provided to children who attend school but need further assistance in studies.

12. It is submitted that sex workers pay a monthly fee of Rs. 1000/- to cover the food and lodging expenses of their children. Since that is not sufficient to cover the entire costs, these residential homes are also subsidized by the Respondent Society who has developed a corpus fund in collaboration with a Norwegian agency to finance their educational activities.

13. It is pertinent to note that the sex workers are actively involved in the daily management of these homes and have formed a 'Mothers' Committee' that decides the quality of food and other services provided therein. This Committee meets at least once every month. Sex workers can meet their children any time while Sunday is particularly reserved for family visits.

14. The Respondent Society further works to strengthen the relation between the children and their mothers as they learn to respect and accept their mothers' decisions and are not embarrassed about their profession. In order to address the child care needs of sex workers, the Respondent Society has developed a range of programs that support children's education at different stages, with the aim of mainstreaming

the children within local school system. Any other approach will create a rupture in the relation between mother and child, alienate the child and result in disrespect and disharmony thereby hampering the emotional development of the child.

SPORTS

15. The Respondent Society has inculcated a strong sporting culture amongst children of sex workers in the last few years. Sporting activities, apart from being part of broader education, give the children a viable option to engage themselves, build self-esteem and confidence and develop camaraderie amongst them. A football sports academy has been built comprising around 100 children of sex workers from various red light areas. The residential hostel at Baruipur, Rahul Vidya Niketan, is the main sports centre which conducts regular football practice sessions under the guidance of two local football coaches.

16. The Respondent Society has also initiated a football league named 'Durbar Football League' (DFL) in 2010 and had its second tournament in 2011. It comprises of 8 teams representing dozens of red light districts and each team is constituted with 50% representation of sex workers' children and rest from the mainstream society. This allows the children of sex workers to mingle with the mainstream society on their own right and builds respect for each other.

17. These sporting initiatives have achieved lot of success in recent times, including:

- a. Sajjad Ali', a child of a sex worker has got selected to play for the West Bengal State level 'under-fourteen' football team since December 2009.
- b. The under fourteen team of the Respondent Society has got the necessary clearance to participate in the Indian Football

Association (IFA) Nursery League in the year 2010. Recently, the team has become Runners Up in an all-Bengal under fourteen tournament in Kolkata.

- c. In May, 2011, two children of sex workers from Rahul Vidya Niketan represented India in the under-13 Asian Youth Football Championship in Iran and came second in the tournament. One of them in fact captained the Indian team.
- d. The football team of the Respondent Society took part in the national qualifying rounds of the 'Slum Soccer Tournament' which was meant to select the national team to participate in Homeless World Cup Football Tournament to be held in Mexico, 2012. It reached the semi-final amongst 16 teams participating from across India.

18. It is submitted that participation in sports has resulted in children of sex workers getting recognition and rewards as well as respect in the mainstream society for who they are. This also helps to address the stigma and discrimination faced by children of sex workers along with boosting their self-esteem.

VOCATIONAL TRAINING

19. The Respondent Society conducts various vocational training programs (e.g. beautician, electrical instrument repairs, photography and TV/radio repair) and more than 238 adolescent children have so far been enrolled in such programs. After completing the training, most are engaged in one or other jobs and managing their livelihood.

ORGANISING CHILDREN OF SEX WORKERS

20. The Respondent Society encourages children of sex workers to collectivise and articulate their rights through "*Amra Padatik*" (meaning "We, the foot soldiers"), established in 2006 in Kolkata. The group

confronts issues that children of sex-workers face in their everyday lives, such as inequality, stigma and discrimination. “*Amra Padatik*” currently has 14 branches in districts with red lights areas in West Bengal.

21. Through its various activities in the education field with children of sex workers, the Respondent Society has shown that children of sex workers can lead dignified and fruitful lives and respect their mothers. This model of non-institutionalisation has yielded better results where the children of sex workers are open and not embarrassed about their mothers’ profession, actively participate in education and sporting activities and maintain strong roots with their families and community

RECOMMENDATIONS MADE BY THE PANEL

22. In para 8 of its Sixth Interim Report dated 23.03.2012, the Panel has recommended placement of children in the Children’s Home if it is in the best interest of the child. It has also recommended that no child of a sex worker is to be forcefully separated from the mother merely on the ground that she is in the sex trade.

23. It is submitted that institutionalisation of children in the Children Homes administered under The Juvenile Justice (Care and Protection of Children) Act, 2000 is not the only way to ensure that children of sex workers are given long term care and protection and provided access to education facilities. The importance of a child living in a family environment cannot be overstated. Both national and international laws emphasise the right of children to a family and the right not to get separated from their parents (See Section 17 (a), National Charter for Children, 2003 and Article 9, Convention on the Rights of the Child, 1989).

24. Children of sex workers need love and care of their parents, especially their mothers as much as other children. In the experience of the Respondent Society, most sex workers continue to engage in sex work primarily to raise and educate their children and to provide them with comfortable lives. As mentioned above, the Respondent Society seeks to integrate the children of sex workers into the mainstream local school system and create an environment based on respect and dignity. Even when children are sent to residential homes, the idea is not to cut off their family ties or to separate them from their mothers.

25. It is submitted that there are times when the children of sex workers cannot stay with their mothers and are sent to residential schools for their education. The Respondent Society itself runs two residential hostels for the children of sex workers in West Bengal who are unable to stay with their families for various reasons. These residential hostels are mostly administered by sex workers themselves and offer a non-stigmatising and non-discriminatory environment for children to grow and explore their full potential. It is based on the philosophy that if given equal opportunity, the children of sex workers can excel in every field including academics and sports, like any other child.

26. It is further submitted that most children homes run by the government are badly administered, do not give attention to the individual needs of children, vulnerable to violence and abuse and cannot be said to be 'in the best interest of the child'. These homes encourage negative attitudes towards sex workers, discriminate against their children and provide inferior quality of services. These institutions cannot substitute the love and affection that a child gets from her mother. Sex workers want their children to have equal opportunities in education, sports, arts etc and are willing to pay for those services but do not want their children to be rotting in mal-administered State run homes.

27. Importantly, institutionalisation of children hampers access of family members to meet the child regularly, due to lengthy bureaucratic procedures. The right to maintain regular contact with the family, even when the child is in the custody of the State is an integral component of laws on juvenile justice [See Section 17 (b) and 17 (e), National Charter for Children, 2003 and Article 9, Convention on the Rights of the Child, 1989]. In the experience of the Respondent Society, children of sex workers residing in hostels seek regular contact and guidance from their mothers. Sharing their experiences, in the schools and achievements in sports, with family members goes a long way in making them happy and content with their lives.

28. The Respondent Society further submits that the children homes run by the Government or other NGOs should be participatory in nature wherein the sex workers and the larger society have a stake in the management and administration of the homes, in order to develop a non-discriminatory environment.

29. It is pertinent to note that the Respondent Society has worked towards empowering the children so that they do not feel stigmatized or are embarrassed by their mothers' profession. In fact, when they learn that their mothers have undergone such hardships to bring them up and educate them, they have greater respect for them and do not harbour thoughts of abandoning them. The Respondent Society's programs enable children of sex workers to stand up on their own feet while remaining grounded in their community.

30. It is submitted that the aim of the Respondent Society is empower the children of sex workers so that they have career options and are not dependent on solely sex work.

31. It is further submitted that the decision to institutionalize a child in a Children's Home can only be taken by the sex worker herself and not by others. Mother's wish should be of paramount importance and no mother can be separated from her child, against her will. Even when she decides to send the child to a Children's Home, she should have complete access to her child when she wants and no restrictions can be placed on her right to maintain regular contact with her child.

32. The Respondent Society notes that the recommendations of the Panel, though made with good intention, might result in forcible separation of the sex workers from their children, to the detriment of the latter.

33. That the Impleaded Respondent craves leave of this Hon'ble Court to file additional affidavits, and documents, if the need arises.

DEPONENT

VERIFICATION

I, Bharti Dey, the deponent above-named and the authorised signatory for the Impleaded Respondent above named do hereby verify and state that the contents from paras 1 to 33 of the above affidavit are true and correct to the best of my knowledge and information, no part of it is false and nothing material has been concealed there from and I believe the same to be true.

Verified at Kolkata on 12th day of April, 2012.

DEPONENT