

\$~S-34 and S-35

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

34

+ **CRL.REF. 1/2020**

COURT ON ITS OWN MOTION

..... Petitioner

Through: Mr. H.S. Phoolka, Senior Advocate (*Amicus Curiae*) with Ms. Shilpa Dewan, Advocate.

versus

STATE

..... Respondent

Through: Ms. Nandita Rao, ASC (Criminal), GNCTD for the State and CWC with S.I. Satnarayan, P.S.: Jaitpur. S.I Ramdev, P.S.:AHTU/Crime Branch.

Ms. Prabhsahay Kaur and Ms. Lavanya Kaushik, Advocates for Bachpan Bachao Andolan.

Mr. R.H.A. Sikander and Mr.Jayant Bhatia, Advocates with Mr.Anurag Kundu, Chairperson, DCPCR/R-3.

Mr. Kanwal Jeet Arora, Member Secretary, DSLSA.

Mr. Ripudaman Bhardwaj, CGSC with Mr. Khushagra Kumar, Advocate for UOI.

Ms. Anu Grover Baliga (Secretary), DHCLSC with Mr.Harsh Prabhakar and Mr.Harjeet Singh Sachdeva, Advocates for DHCLSC.

35

+ **W.P.(CRL) 1560/2017 & CRL. M.A. 49787/2018 (Exemption)**
SADHAN HALDAR

..... Petitioner

Through: Mr. H.S. Phoolka, Senior Advocate (*Amicus Curiae*) with Ms. Shilpa Dewan, Advocate.

versus

THE STATE NCT OF DELHI & ORS. Respondents

Through: Ms. Nandita Rao, ASC (Criminal),
GNCTD for the State and CWC
with S.I. Ramdev, AHTU/Crime
Branch.

Ms. Prabhsahay Kaur and
Ms. Lavanya Kaushik, Advocates
for Bachpan Bachao Andolan.

Mr. R.H.A. Sikander and
Mr. Jayant Bhatia, Advocates with
Mr. Anurag Kundu, Chairperson,
DCPCR/R-4.

Mr. Kanwal Jeet Arora, Member
Secretary, DSLSA.

Mr. Ripudaman Bhardwaj, CGSC
with Mr. Khushagra Kumar,
Advocate for UOI.

Mr. Tushar Sannu, Standing
Counsel with Ms. Hima Bhardwaj,
Advocate for EDMC.

Mr. Anil Grover, Standing counsel
along with Mr. Mishal Vij,
Advocate for NDMC.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

%

16.12.2021

(Order released on 20.12.2021)

In compliance of order dated 27.10.2021, the State (Govt. of NCT of Delhi) has, under Index dated 13.12.2021, filed a report dated 'nil' received from the Principal Magistrate, JJB-II, Delhi Gate, Delhi confirming that the number of cases pertaining to petty offences, which

were earlier pending for between 06 months and 01 year before JJB-II, have since all been disposed of and as on 10.12.2021, the pendency of such cases is 'nil'. It has been further clarified that of the 19 cases of petty offences that were pending as on 26.10.2021, 18 cases have been disposed of, while the remaining 01 case was found to pertain to an offence under section 307 IPC, which is a serious offence, and only that case remains pending.

2. It is further confirmed by the State that in 91 out of 96 cases that were terminated pursuant to order dated 29.09.2021 of this court, Individual Care Plans (ICPs) have been called in 91 matters; and Probation Officers have filed requisite reports in some cases and given intimation in others. As regards the remaining 05 matters, in 01 case the CCL has passed away and in the remaining 04, it is found that the subject is more than 21 years of age. A detailed tabular summary of the 19 cases has also been filed.
3. Furthermore, pursuant to the hearing conducted on 14.12.2021, a report dated 16.12.2021 has been handed-up in court by Mr. H.S. Phoolka, learned Standing Counsel and *Amicus Curiae*; and suggestions dated 16.12.2021 have been handed-up Ms. Anu Grover Baliga, learned Secretary, DHCLSC for the effective implementation *inter alia* of rehabilitation and after-care measures provided under the JJ Act 2015 and JJ Rules 2016. The report and suggestions are taken on record.
4. We have heard Mr. H.S. Phoolka, learned *Amicus Curiae*, Ms. Anu Grover Baliga, learned Secretary, DHCLSC, Ms. Nandita Rao, learned Additional Standing Counsel, Ms. Prabhsahay Kaur,

learned counsel appearing for *Bachpan Bachao Andolan* as also Mr. Anurag Kundu, Chairperson, DCPCR at considerable length.

5. Upon considering the submissions made by the parties as aforesaid, at this stage, we are of the view that the following further directions are called for in our continuing effort to streamline the functioning of the juvenile justice delivery system within the scheme of the JJ Act 2015 and JJ Rules 2016 :

- i. Considering the importance of reformation, rehabilitation and social integration of a delinquent child in the scheme of the JJ Act, we notice that the statute contemplates that the final dispositional order in respect of a child found to have been in conflict with law, must contain an Individual Care Plan (ICP) drawn-up in Form-7 by the Probation Officer/Child Welfare Officer for a child's rehabilitation¹. Furthermore, where, upon conclusion of enquiry proceedings, a child is remanded to an observation home/special home/place of safety/fit facility, the rehabilitative process is required to be conducted within such place during the period of the child's stay². In this connection, the Rehabilitation-cum-Placement Officer is required to draw-up a Rehabilitation Card in Form-14 appended to JJ Rules 2016³ and the JJB is to monitor the progress of the child based on the ICP and the

¹ Section 8(3)(h), Section 18(1)(g) JJ Act 2015 & Rule 11(3) JJ Rules, 2016

² Section 39(2), JJ Act 2015

³ Rule 65(3)(viii) JJ Rules, 2016

Rehabilitation Card⁴. To effectuate and streamline the foregoing statutory scheme, *we hereby direct* that pursuant to drawing-up an ICP and a Rehabilitation Card, every JJB seized of an enquiry *shall call for the ICP and the Rehabilitation Card from the Superintendent* of the concerned home and *review the progress of the child as reflected in such card, on a quarterly basis* i.e. once every 03 months; and issue necessary directions if it is found that the ICP as contained in the Rehabilitation Card is not being implemented effectively;

- ii. In compliance of the JJ Rules, all *JJBs must ensure* that post-release plan, which is required to be drawn-up two months before a child is due to leave a child care institution, recommending the aftercare for such child⁵, *is placed before the concerned JJB and the child is produced before it two months before release*. At that stage, the JJB must vet the post-release plan and issue necessary directions for its modification, monitoring and implementation, as may be required in a given case in compliance of the requirements of the JJ Rules⁶;
- iii. We are informed that since Delhi has 11 judicial districts, 11 District Child Protection Officers (DCPOs) are required to be appointed by the State; however, at present only 04 DCPOs have been appointed. Accordingly, to immediately

⁴ Rule 7(1) (ii) JJ Rules, 2016

⁵ Rule 25(4) , JJ Rules, 2016

⁶ Rule 25(5) JJ Rules, 2016 .

remedy the shortfall and to ensure compliance with the JJ Act and JJ Rules⁷, we direct the Govt. of NCT of Delhi to appoint 07 additional DCPOs for the remaining districts, within 06 (six) weeks from the date of release of this order;

- iv. We are further informed that the JJBs do not have formal and complete information as to the institutions/facilities available in Delhi that may be enlisted to provide informal education and vocational training to delinquent children who are housed in child care institutions. We accordingly direct that a compilation/directory be created by the Govt. of NCT of Delhi in co-operation with the DCPCR and the DSLSA, containing a list, complete with name, address and other particulars of all institutions/facilities offering informal education and vocational training, whether governmental or non-governmental, in Delhi; and such directory be provided to all JJBs, to facilitate the JJBs in issuing necessary directions to the most appropriate institution/facility to provide informal education and vocational training to delinquent children housed in child care institutions in Delhi⁸;

6. At this stage, we would forbear from issuing any further directions, deferring other measures to streamline the functioning of the juvenile justice system to a subsequent stage in the present proceedings.

⁷ Section 106 JJ Act; Rule 85(2) JJ Rules, 2016.

⁸ Rule 65 (3)(ii) JJ Rules, 2016.

7. On another note, in order to better understand the systemic flaws that lead to delinquent children/juveniles ending-up in adult jails, to begin with, we direct the Govt. of NCT of Delhi to furnish to this court, the number of children/juveniles, *who were transferred from adult jails to juvenile justice homes/child care institutions in the last 05 years*, with the details of the numbers found in Tihar, Rohini and Mandoli jails respectively; along with the date they were admitted and the date on which they were transferred from adult jails to juvenile justice homes/child care institutions; as also the offences with which they were charged. Let this information be filed before the next date of hearing by the State.
8. List for further consideration on 21.01.2022.

SIDDHARTH MRIDUL, J.

ANUP JAIRAM BHAMBHANI, J.

DECEMBER 16, 2021/N

[*Click here to check corrigendum, if any*](#)