



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 11054/2008

Suresh Kumar S/o Shri Leela Ram, Village Pathana Post Pacheri
Basti Via Buhana Dist. Jhunjhunu.

-----Petitioner

Versus

1. Union of India through its Secretary, Ministry of Affairs,
Government of India, New Delhi.
2. Director General, Indo-Tibet Border Police Force, Lodi
Road CGO, Complex, New Delhi
3. Commandant, 13th Battalion, Indo-Tibet Border Police
Force, Basar, District West Siyang, Arunachal Pradesh
4. Commandant, 32nd Battalion Indo Tibet Border Police
Force, Karera, Dist. Shivpuri (M.P.)

-----Respondents

For Petitioner(s)	:	Mr.Sarthak Rastogi with Mr.Tushar Kumar
For Respondent(s)	:	Mr.Devesh Kumar Bansal with Mr.C. P. sharma

JUSTICE ANOOP KUMAR DHAND
Order

11/02/2025

Reportable

For the welfare of a child, the burden of past mistakes must be lifted, offering him a fresh start to thrive, free from the weight of stigma. As nelson Mandela once said, "There is nothing like returning to a place that remains unchanged to find the ways in which you yourself have altered."

The children deserve the chance to evolve and grow beyond their past, shaped not by previous errors but by their potential for the future. The shadows of past transgressions should be expunged, granting them the



opportunity to lead a life unburdened by stigma and brimming with possibility.

Albert Einstein also reminded us, 'It is not that I'm so smart, but I stay with the questions much longer.' In the same way, children should be given the time and space to transform, with their future defining them, not their history. By fostering their growth, we allow them the freedom to rise above their past and realize the promise of tomorrow.

1. By way of filing this petition, a challenge has been made to the impugned order dated 06.05.2008 by which the services of the petitioner have been terminated on the ground that he has concealed about his involvement and conviction in a criminal case.

2. Learned counsel for the petitioner submits that the petitioner was granted appointment on the post of Constable. Counsel submits that the petitioner was a juvenile when a criminal case was registered against him, and he was tried by the Juvenile Justice Board for the said case whereby, he was found guilty for the offence punishable under Sections 436, 457 & 380 I.P.C. Counsel submits that no sentence was awarded to the petitioner, but he was released on admonition, after his counselling, vide judgment dated 16.11.2004. Counsel submits that the aforesaid judgment could not lead to any disqualification for the petitioner in getting any public employment as he was a juvenile at the time of committing the offence and during trial. Counsel submits that under this belief, he applied and did not disclose this fact in the application form for getting appointment on the post of Constable.



3. Counsel submits that as per the provisions contained under Section 19(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short, "the Act of 2000"), a juvenile who has committed an offence, dealt under the provisions of this Act, shall not suffer any disqualification, if any, attaching to a conviction of an offence under such law. Counsel further submits that as per sub-section (2) of Section 19 of the Act of 2000, the Juvenile Justice Board shall make an order directing that the relevant records of such conviction shall be removed after expiry of the period of appeal. Counsel submits that no appeal was submitted against the judgment of conviction of the petitioner and the petitioner was under the impression that his relevant record pertaining to his conviction was removed and under that bona fide belief, he did not disclose about the aforesaid judgment at the time of submission of his application form. Hence, under these circumstances, the impugned order passed by the respondents is not sustainable in the eye of law and is liable to be quashed and set aside and the respondents are directed to restore the appointment of the petitioner with all consequential benefits.

4. In support of his contention, counsel for the petitioner placed reliance upon the following judgment which are as follows:-

1. **Government of NCT of Delhi & Ors. Vs. Pradeep Hooda** reported in **2012 0 Supreme (Del)1313**.
2. **Mukesh Yadav Vs. Union of India & Ors. Vs. Union of India & Ors.** reported in **2017 0 Supreme (Del) 4442**.
3. **Union of India & Ors. Vs. Ramesh Vishnoi** reported in **2019 19 (SCC) 710**.



5. *Per contra*, learned counsel for the respondents opposes the arguments raised by counsel for the petitioner and submits that intentionally and deliberately, the petitioner concealed the material fact of his conviction for the offence under Sections 436, 457 & 380 I.P.C. Counsel submits that concealment on the part of the petitioner shows his character and looking to the aforesaid misconduct on the part of the petitioner, a decision was taken by the authorities to terminate his services. Counsel submits that it is discretion of the authorities whether to keep a person in service or not and in case, it is found that such person does not possess a character, pursuant to his involvement in a criminal case, then services of such person can be terminated. Hence, under these circumstances, the respondents have not committed any error in passing the order impugned, which warrants any interference of this Court and therefore, the instant writ petition is liable to be rejected.

6. Heard and considered the submissions made at Bar and perused the material available on record.

7. The Act of 2000 was enacted to provide for the protection of children and this Act was amended from time to time in the years 2006 and 2011.

8. The Act of 2000 was enacted to amend the law relating to juvenile in conflict with law and children in need of care and protection by providing them proper care and protection by catering to their development needs and by adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation. It is also worthy to note here that Section 21 of this Act prohibits



publication of the name of the juvenile in conflict with law and the underlying object of this provision is to protect the juvenile from any adverse consequences on account of the offence, committed as a juvenile.

9. However, several issues, such as increasing incidents of abuse of children in institutions, inadequate facilities, quality of care and rehabilitation measures in Homes, delays in adoption due to faulty and incomplete processing, lack of clarity regarding roles, responsibilities and accountability of institutions, sale of children for adoption purposes, etc. had cropped up in recent times. Further, increasing cases of crimes committed by children in the age group of 16-18 years in recent years made it evident that the provisions under the Act were ill equipped to tackle child offenders in this age group.

Since numerous changes were required in the Juvenile Justice (Care and Protection of Children) Act, 2000 to address the above mentioned issues, it was proposed to repeal existing Juvenile Justice (Care and Protection of Children) Act, 2000 and re-enact a comprehensive legislation.

The Juvenile Justice (Care and Protection of Children) Act, 2015 ensures proper care, protection, development, treatment and social re-integration of children in difficult circumstance by adopting a child-friendly approach keeping in view the best interest of the child.

10. As per the provisions contained under Section 19 of the Act of 2000, a juvenile who has committed an offence and tried under the provisions of the said Act shall not suffer any disqualification attaching to the conviction of an offence under such law. Sub



section (2) of the Section 19 further lays down that the Board shall make an order directing that all the relevant records related to such conviction shall be removed after expiry of the period of Appeal or a reasonable period, as prescribed under the Rules.

11. Likewise, Section 24 of the Act of 2015 deals with removal of disqualification on the findings of an offence and the same is reproduced as under:-

"Section 24. Removal of disqualification on the finding of an offence.

(1) Notwithstanding anything contained in any other law for the time being in force, a child who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under such law:

Provided that in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with law by the Children's Court under clause (i) of sub-section (1) of section 19, the provisions of sub-section (1) shall not apply.

(2) The Board shall make an order directing the Police, or by the Children's Court to its own registry that the relevant records of such conviction shall be destroyed after the expiry of the period of appeal or, as the case may be, a reasonable period as may be prescribed:

Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19, the relevant records of conviction of such child shall be retained by the Children's Court."

12. Similarly, in exercise of the powers conferred by the proviso to sub-section (1) of Section 110 of the Act of 2015, the Central Government framed the Juvenile Justice (Care, Protection of Children) Model Rules, 2016 (for short "the Rules of 2016") wherein Rule 14 deals with the destruction of record of conviction



of a child in conflict with law, after expiry of the period mentioned therein. Rule 14 is reproduced as under:-

"14. Destruction of records.- The records of conviction in respect of a child in conflict with law shall be kept in safe custody till the expiry of the period of appeal or for a period of seven years, and no longer, and thereafter be destroyed by the Person-in-charge or Board or Children's Court, as the case may be:

Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19 of the Act, the relevant records of conviction of such child shall be retained by the Children's Court."

13. Meaning thereby, the provisions contained under Section 24 of the Act of 2015 and Rule 14 of the Rules of 2016 provides that the "right to be forgotten" for a juvenile is an absolute right for safeguarding their future prospects.

14. Perusal of the record indicates that the petitioner faced trial before the Juvenile Justice Board for the offence under Sections 436, 457 & 380 I.P.C., when he was a minor at the age of 15 years whereby he was convicted for the above offences, but benefit of probation was extended to him under Section 15 of the Act of 2000 and after counseling, he was admonished and a penalty of Rs.1,000/- was imposed upon the guardian of the petitioner.

15. The record indicates that no appeal against the aforesaid judgment of the Board was submitted, thus, the same attained finality, and therefore, under the said bona fide belief, the petitioner remained under impression that the relevant record with regard to his conviction must have been removed and this was the



precise reason for not disclosing the above criminal case, when the petitioner submitted the application form for getting appointment on the post of Constable.

16. The Delhi High Court in the case of **Pradeep Hooda** (supra) has dealt with the identical situation where a juvenile was tried for the offences under Sections 398, 307 & 34 of I.P.C. and Section 25 of the Arms Act, 1959 and he was acquitted of the charges and applied for appointment and the same was granted to him which was subsequently cancelled because of concealment on the part of the said person. The Delhi High Court was of the view that even where a juvenile who was found to have committed an offence shall not suffer any disqualification and even the records are to be obliterated, after a specified period of time. The reason for passing the aforesaid order, was the intention of the Legislature in favour of the juvenile person. The termination order of the said person was quashed by the Delhi High Court against which the Government of NCT, Delhi submitted a Special Leave to Appeal Civil No.20177/2012 before the Hon'ble Apex Court and the same was rejected vide order dated 19.11.2012 and hence, the judgment passed by the Division Bench of Delhi High Court in the case of **Pradeep Hooda** (supra) has attained finality.

17. Subsequently, the Delhi High Court has reiterated the same view in the case of **Mukesh Yadav** (supra) where due to concealment of a criminal case, lodged against the juvenile, appointment was denied to him, but the Delhi High Court quashed and set-aside by the impugned order of termination, after passing reasoned order.



18. The Hon'ble Apex Court in the case of **Ramesh Bishnoi** (supra) has taken a similar view, after taking into account, the provisions contained under the Act of 2000 as well as, i.e., Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, "the Act of 2015") and held that even if a juvenile is convicted, the same should be obliterated, so that no stigma could attach on the juvenile with regard to any crime committed by him as a juvenile. This is done with a clear object to reinstate such juvenile back in the society as a normal person. Section 3 of the Act of 2015 was taken into account and it has been held in para 9 which reveals as under:-

"9. From the facts, it is clear that at the time when the charges were framed against the Respondent, on 30.06.2009, the Respondent was well under the age of 18 years as his date of birth is 05.09.1991. Firstly, it was not disputed that the charges were never proved against the Respondent as the girl and her parents did not depose against the Respondent, resulting in his acquittal on 24.11.2011. Even if the allegations were found to be true, then too the Respondent could not have been deprived of getting a job on the basis of such charges as the same had been committed while the Respondent was juvenile. The thrust of the legislation, i.e. The Juvenile Justice (Care and Protection of Children) Act, 2000 as well as The Juvenile Justice (Care and Protection of Children) Act, 2015 is that even if a juvenile is convicted, the same should be obliterated, so that there is no stigma with regard to any crime committed by such person as a juvenile. This is with the clear object to reintegrate such juvenile back in the society as a normal person, without any stigma. Section 3 of the



Juvenile Justice (Care and Protection of Children) Act, 2015 lays down guidelines for the Central Government, State Governments, the Board and other agencies while implementing the provisions of the said Act. In Clause (xiv) of Section 3, it is clearly provided as follows:

".....(xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances....."

In the present case, it is an admitted fact that the Respondent was a minor when the charges had been framed against him of offences Under Sections 354, 447 and 509 of Indian Penal Code. It is also not disputed that he was acquitted of the charges. However, even if he had been convicted, the same could not have been held against him for getting a job, as admittedly he was a minor when the alleged offences were committed and the charges had been framed against him. Section 3(xiv) provides for the same and the exception of special circumstances does not apply to the facts of the present case."

Following the aforesaid clause and the guidelines framed by the Legislature, the Hon'ble Apex Court quashed the termination order of the said juvenile involved in the case of **Ramesh Bishnoi** (supra).

19. This Court observes that the intention of the legislature behind introducing Sections 3 (xiv) & 24 of the Act of 2015 as well as the Rule 14 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, is to extend the protection to the juvenile against the conviction, and to remove the said conviction as disqualification for future prospects of the juvenile concerned. This Court also observes that the legislative intent behind such



enactment is clear that if the juvenile is convicted for the offence and the concerned Court/Board is having an option to extend the benefits of Section 24 of the Act of 2015 by removing the disqualification, coupled with the fact that the language of the said Section also requires destroying of such conviction record, then after extending the benefit of Section 24 of the Act of 2015, the then juvenile concerned cannot be declared ineligible for any future employment in any government department etc. and/or any other prospects in public employment.

20. This Court is conscious of the 'right to be forgotten' which has been referred and dealt with in the order dated 12.04.2021 passed by the Hon'ble High Court of Delhi in the case of **Jorawar Singh Mundy @ Jorawar Singh Mundy Vs. Union of India and Ors. (WP(C) 3981/2021)**.

21. On a conjoint consideration of the 'right to be forgotten' as enumerated in the case of **Jorawar Singh Mundy @ Jorawar Singh Mundy** (supra) as well as the enactment of Sections 3 (xiv) & 24 of the Act of 2015 and the Rule 14 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, this Court observes that in the cases of juvenile delinquency, if any criminal antecedent record of a juvenile is allowed to remain intact, to be accessed, amongst others, by using the technology tools, the same may not only bring humiliation and discredit to the juvenile, but may also adversely impact the future prospects of the juvenile, among other things.

22. This Court does not wish to enter into the realm of broader 'right to be forgotten', but, at present, is specifically considering the 'right to be forgotten' for a juvenile in the perspective of



Section 24 of the Act of 2015 to be an absolute right for safeguarding future prospects of such juvenile.

23. Such a disclosure would not only affect the 'right to be forgotten' of a juvenile, but would also defeat the very purpose and intent of the legislature behind enacting the Act of 2015, and incorporating Section 24 therein. Arising of such circumstances, would also result into defeating the very legislative intent of the Act of 2015, more particularly, as regards the future employment and the like prospects of a juvenile, as thereby, the rehabilitation of the juvenile and his socio-economic stability would be adversely impacted, which may lead the juvenile to again resort to the criminal delinquency. This is more so when, the present day developing societies are dynamic and self-explanatory in its complexity followed by never-ending changes, and the juvenile is no exception to it, rather much more vulnerable, because the negativity of his (juvenile's) past life, despite enactment of a much strong law like the Act of 2015, legislative intent of which is to remove his criminal antecedents from the record, rather destroying of the complete record thereof, if allowed to sustain and remain intact, the same would be revisited for oblivious reasons, against the welfare and future well being of the juvenile, thereby bringing future embarrassments to the juvenile.

24. Section 12 of the Probation of Offenders Act, 1958, speaks of 'removal of disqualification attaching to conviction', but the language employed in Section 24 of the Act of 2015 is not only for excluding or erasing the criminal antecedent record, but goes a step forward, by laying down a provision that the criminal antecedent record of a juvenile be erased/destroyed completely,



so that such previous conviction or criminal delinquency of a juvenile would not be carried forward, so as to prevent any adverse impact of his previous delinquency, upon his future prospects.

25. Now advertent to the facts of the present case in the above perspective, non-furnishing of the information by the petitioner regarding his juvenile delinquency and conviction, has to be accepted as a valid excuse under law and such previous negativity of the past/ the previous criminal delinquency, cannot be permitted to be used to the detriment of the incumbent like the present petitioner, with a view to oust him from the recruitment exercise as involved herein, thereby adversely impacting the career prospects of the petitioner, despite having been extended the benefit of Section 24 of the Act of 2015.

26. This Court further observes that in the present case once in view of the clear legislative intention behind Section 24 of the Act of 2015 as above, the learned JJB though has convicted the petitioner for the offence, but has ordered that the same shall not be treated as a disqualification in regard to any future prospect of the petitioner and also ordered that the complete record of the conviction shall be destroyed, then conviction of the present petitioner, in light of the prescriptions of Section 24 of the Act of 2015, cannot be treated as a bar for entitling the petitioner for any recruitment or other future prospects, including the one involved in this case.

27. This Court also observes that the petitioner is a meritorious candidate and passed the various stages of the recruitment process for the post in question, and once the competent Court,



which conducted the trial of the criminal case, while recording a clear finding invoking Section 19 of the Act of 2000 that the said conviction order does not affect the future prospects of the petitioner in no manner, and therefore, the impugned order declaring the petitioner as disqualified/ineligible for the post in question on count of the conviction in the criminal case in question, cannot be sustained in the eye of law.

28. This Court thus holds that once the benefit of Section 19 of the Act of 2000 was extended to the petitioner, who at the relevant time, was a juvenile, then in that case, even if the information of the conviction in question was not furnished by the petitioner, during the recruitment process, the same cannot be termed as 'concealment' on his part, as the very erasure/destroying of the conviction record, as ordered by the learned JJB, while convicting the petitioner and extending him the aforesaid benefit of the legal provision, was to prevent any adverse impact of such conviction on the future prospects of the petitioner.

29. This Court further holds that the 'right to be forgotten', regarding a Juvenile, where Section 24 of the Act of 2015, shall remain a definite right and a juvenile, who has been given the benefit of Section 24 shall be entitled for erasure of his juvenile delinquency by not putting it on record anywhere, because creation or perpetuation of such record, may highlight a kind of embarrassment to the juvenile, which in turn, would certainly have an adverse impact on his future prospects, which includes a selection process for public employment, and goes against the legislative intention of juvenile laws.



30. This Court directs that the 'right to be forgotten' for juvenile by removal/destroying of the record of juvenile delinquency is an absolute right, and therefore, to give it a full meaning, the State as well as other Bodies, falling under the definition of 'State' as envisaged under Article 12 of the Constitution of India, are hereby lawfully restrained from seeking any information, in future, from the then juvenile about the previous record/information of his juvenile delinquency, in cases where the benefit of Section 24 of the Act of 2015 has been extended, so as to prevent any adverse impact of such delinquency on the future prospects of the juvenile.

31. Looking to the mandatory provisions contained under Section 19(2) of the Act of 2000 and Section 24 of the Act of 2015, this Court finds no substance in the arguments of the respondents that the petitioner was under an obligation to disclose the information with regard to lodging of criminal case against him and his admonition in the said case with respect to an incident which had taken place, when he a minor of the age of 15 years and disclosing of such information would run contrary to the spirit of the Act of 2000. Keeping in mind that no stigma is attached to a juvenile in conflict with law, in the considered view of this Court, when once the juvenile has been extended a protective umbrella under the above enactment, then there was no good reason available for the respondents to have insisted that the petitioner ought to have disclosed the information relating to the allegations against him, pertaining to an offence that was committed during his minority, where he was tried as a juvenile by the Juvenile Justice Board. It is also note-worthy to mention here that even when the police verification with respect to the petitioner was



conducted, the concerned police officials ought to have refrained from revealing the information, pertaining to case of the petitioner, since he was juvenile at the relevant time. This was prima facie gross breach of confidentiality and violation of the mandatory provisions contained under the Act.

32. Considering the above judgments passed by the Delhi High Court in the cases of **Pradeep Hooda** (supra), **Mukesh Yadav** (supra) and **Jorawer Singh Mundy** (supra) the judgment passed by the Hon'ble Apex Court in the case of **Ramesh Bishnoi** (supra), this Court finds no valid reason to take a different view against the petitioner who also was a juvenile, when the alleged incident took place.

33. Considering the fact that the conviction of the petitioner, would not attach any disqualification in pursuance of Section 19(1) & (2) of the Act of 2000, the order impugned order dated 06.05.2008 passed by the respondents is not sustainable and accordingly, the same is quashed and set-aside.

34. The respondents are directed to reinstate the petitioner back in service with all consequential benefits. It goes without saying that the respondents would do the needful exercise within a period of three months from the date of receipt of certified copy of this order.

35. All pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

Aayush Sharma /91