

Video Conference
08-04-2020

Samrat

W.P. No. 5327(W) of 2020

(Via Video Conference)

Court on its own Motion

**In Re: Contagion of COVID-19 Virus in
Children Protection Homes**

Mr. Kishore Dutta, Ld. Advocate General

... For the State of West Bengal
(Via Video Conference)

This Special Bench has been constituted by the Hon'ble the Chief Justice to hear Suo Motu writ petition under Article 226 and 227 of the Constitution of India in connection with contagion of COVID-19 in Children Protection Homes. In suo motu Writ Petition (Civil) No. 4 of 2020 (In Re: Contagion of COVID-19 Virus in children protection homes) the Hon'ble Supreme Court on April 3, 2020 has passed various directions upon the State Government and nodal departments requesting them to keep superintendents abreast with all relevant advisories and circulars along with guidelines.

The Juvenile Justice Committees (JJC's) of every High Courts have been directed to ensure that the directions in the order are complied with letter and spirit. The order in detail has indicated

the measures to be taken by CWCs, JJBs and Child Rights Courts and Governments and the nodal agencies. Directions have also been passed upon the person-in-charge of the CCIs and all other staff working in the CCIs to take all necessary steps to keep the children safe from the risk of harm arising out of COVID-19 in furtherance of fundamental principles of safety enshrined in the JJ Act, 2015. The Order of the Hon'ble Supreme Court dated April 3, 2020 has already been circulated to all the stake holders.

The learned Advocate General was notified by the learned Registrar General to appear at the time of hearing through Video Conferencing. Mr. Kishore Dutta, the learned Advocate General has submitted that no sooner the COVID-19 has been declared pandemic, the Government has taken the following measures:-

1. Video Conference was held on March 18, 2020 in all districts and CWC to orient them about the action point to be taken to prevent the spread of COVID-19.

2. All CWCs have been issued order for functioning through video calls and online sessions.

3. Department of Women and Child Development and Social Welfare has issued

advisories in English and local language on all the districts and CCIs and distributed Information, Education and Communication (IEC) materials.

4. Maintaining social distance and personal hygiene including hand washing has been introduced in all the CCIs.

5. Disinfection is being done regularly with the help of District Authorities and Kolkata Municipal Corporation.

6. Food and other stock are adequate in all CCI.

7. Forces have been formed at State level who in every alternate day have telephonic discussion with each CCI and identify gaps which are addressed within 24 hours.

8. Regular Video Conferencing through Zoom platform have been done in all district CCIs and CWCs.

9. With the help of West Bengal State Child Protection Commission (Child Commission) online workshop for creative writing has been organized in the CCI. Regular health check up and counseling is being done.

10. All new entrants are being kept in isolation for fourteen days and have regular health check ups.

We, however, wish to place on-record that since our last meeting on the basis of the oral communication made by the member of the JJC to the Principal Secretary, Health, a report regarding steps taken to prevent spread of COVID-19 in child care institutions has been filed with the Registrar attached to the Committee. The said report is reproduced below:

Report regarding steps taken to prevent spreading of COVID-19 in Child Care Institutions (CCIs):

In West Bengal there are 51 NGO-run Child Care Institutions which are Government aided and 19 Government run CCIs. Adequate steps have been taken to prevent occurrence of COVID-19 in these CCIs. These are as follows:-

- An institution along with IEC materials were circulated to all CCIs on March 18, 2020.
- A video Conference was held by the Department of Women and Child Development and Social Welfare on 18.03.2020 with all the district officials and Superintendent of Homes to orient them about the precautionary measures to be taken to protect the children from COVID-19.

- Accordingly all the CCIs have taken adequate measures.
- District wise teams have been formed at State Head Quarters to remain in contact with each CCI on every alternate day.
- All CCIs have introduced hand washing and other personal hygiene maintenance methods.
- Each inmate has been provided with separate soap and hand towels.
- All new inmates are being kept in isolation for 14 days.
- Medical teams have been visiting the homes regularly.
- There is adequate stock of food and other essentials in all the CCIs. Regular supply of fresh vegetables and fish are continuing.
- Advance fund for March has been released for buying food and other essentials.
- No visitors are being allowed to meet children from 16.03.2020 onwards.
- SAAs are also following the same guidelines and are not allowing any visitors to meet any children. Children

are being produced before Prospective Adoptive Parents through video call.

- Social distancing norms and hygiene protocol are being strictly followed in all the CCIs.

The learned Advocate General has forwarded the General Instruction issued by the Government of West Bengal through E-Mail to the learned Registrar General wherefrom it appears that the Government has suggested the following measures to be immediately adopted to avoid invasion of the deadly virus:-

“1. The inmates/children whose families/parents have been traced are to be immediately restored after preparation of social investigation report (SIR). Unnecessary crowding in the Homes/CCIs has to be minimised.

2. As all the educational Institutions are closed right now, the children of cottage homes may be returned to their Homes and all the guardians are to be advised to keep their wards with them at home till the educational institutions are reopened.

3. No visitor/outsider should be allowed to enter the premises of Homes/CCIs except dire necessity.

4. Entire premises of CCIs, especially the dormitories are to be kept clean and hygienic. The Beddings/Pillows/Linens are to be washed and cleaned regularly. A special cleanliness drive is to be taken immediately.

5. Liquid hands wash are to be kept in adequate quantity. All inmates and staff will mandatorily maintain health hygiene and wash hands frequently following the protocol.

6. The clothes of the inmates are to be washed everyday and dried in sunlight. Drying of wet clothes inside the rooms/dormitories is strictly prohibited.

7. If any new comer childern of CCI are found suffering from fever, cough or breathing trouble, immediately hospital authorities/doctors are to be contracted. The advice of the physicians are to be followed strictly.

8. If any existing inmate is found to develop any symptom of cough, fever or breathing trouble, immediately medical advice will be sought for. The said inmate will be made to keep distance with others.

9. One room of the CCI after proper cleaning may be converted into as an isolation room.

10. The concerned authorities will check whether adequate quantity of Rice, Dal, Salt, Oil, Soap, Sanitary napkins etc. is preserved in the CCIs.”

The said General Instructions are taken on record.

Prior to the direction passed by the Hon’ble Supreme Court, the Juvenile Justice Committee of this Court, of which both of us are members along with Justice Samapti Chatterjee, in a meeting held on March 12, 2020 passed various directions about the stakeholders to ensure safety of the children in the Homes and strict compliance of health and hygiene norms.

In view of the COVID-19 being declared a pandemic, we direct the Principal Secretary, Child Welfare to ensure that the superintendent attached to the Homes shall not leave the Home until the lockdown is lifted. The Superintendent is to ensure the cleanliness of each Home and special attention should be paid to the health and hygiene of the individual child. Proper screening of the children should be made at regular intervals and if any child is reported to have the symptoms of COVID-19, immediate steps to have taken for his/her treatment. The security personnel attached to all Homes in West

Bengal shall not be allowed entry inside the homes without the prior permission of the superintendent. The superintendent must also take due care of the mental health of the children. The superintendent must remove fear from the minds of the children and change the channel of their thoughts from corona worry to joy channel through dancing, art, music, gardening, yoga, meditation etc. We would expect all stakeholders to be compassionate to the children.

The District Judges shall ensure that the JJBs and the Child Rights Courts are functioning, and file a comprehensive report on or before the next date of hearing on the steps taken by JJBs and Child Rights Courts in their respective districts in terms of the order passed by the Hon'ble Supreme Court in April 3, 2020. Until further orders, the senior most Additional District Judge in a sub-division of a district, may function as a visitor and the condition of each of the homes shall be filed by the visitors on or before the next date of hearing.

In our last JJB meeting held on March 12, 2020, we have expressed our anxiety about the steps taken by the Government in regard to the mental health of a child and especially, a child in

need of special care. In the report to be filed by the principal secretaries of the respective departments, detailed plan and measures taken by the said departments should be filed. Adequate number of child psychologists, clinical psychologists and counsellors shall be deployed in all Homes to ensure that the children do not suffer from mental distress. The State Government must ensure that adequate provisions are made for counseling. The State Government must also provide the required infrastructure for video conferencing and online sittings of JJBs and Child Rights Courts to prevent contact and for speedy disposal of cases.

On consideration of the submissions made by the learned Advocate General and having regard to the order passed by the Hon'ble Supreme Court on April 3, 2020 directing measures to be taken by the State Government and its nodal agencies and all the stake holders, we wish to highlight the following measures that require immediate attention;

- a) Video conferencing and special online sittings should be ensured in JJBs, CWCs and Children Homes.

- b) Release of the children to their respective families as far as feasible.
- c) Periodical visits shall be made by the Health Department to ensure proper health and hygiene of the children.
- d) Isolation rooms shall be established in every Homes.
- e) The Superintendent attached to each Homes shall monitor each child and upon noticing any symptom of COVID-19 shall take immediate steps to isolate such child and report the matter to the CMOH to ensure examination of the child clinically and pathologically including test for COVID-19, if there are infections to that effect.
- f) The Superintendent must also be attentive towards the staff of the Home and shall not allow any staff who may have developed such symptoms unless the said staff is fully quarantined and certified by the Medical Officer that the staff is fit to resume his duties.
- g) Any child produced for the first time whether before CWC or JJB and required

to be sent on CCIs or any other Homes, should be first put in isolation to complete the quarantine period before being allowed to interact with the children of such Home. The Superintendent must ensure regular monitoring of such child.

- h) It has come to our notice that there has been an exodus of migrants. The children of the said migrants may be in need of care and protection. The Government must take care of the children of the migrant labourers and migrant families arrived in the State since the outbreak of COVID-19 and shall identify the children who may be considered as CNCP. The rights of such children shall be protected. In the report to be filed by the Government, the children of such migrant labourers and families as may be identified as CNCP, shall be disclosed. The report must also indicate the steps taken to protect the child rights of such migrant children.

We direct the Principle Secretary,
Department of Women and Child Development

and Social Welfare and the Principle Secretary, Health Department, Government of West Bengal to file a comprehensive report with regard to the steps taken in terms of the directions passed by the Hon'ble Supreme Court on April 3, 2020 and by us today on or before the next date of hearing.

We would request learned the Advocate General to file a soft or digital copy of the report in the registered / official e-mail ID of the learned Registrar General being rghc_cal@rediffmail.com preferably by April 18, 2020.

The learned Advocate General has assured this Court that the State Government and its nodal departments shall leave no stone unturned in ensuring the compliance of the directions passed by the Hon'ble Supreme Court and by us today.

A time has come when we have to make compassion go viral in the months ahead, so that together we wither the storm and emerge stronger. The children need our compassion, attention and support.

The matter stands adjourned till April 21, 2020 for consideration of the reports to be filed by all the stake holders in the meantime.

(Harish Tandon, J.)

(Soumen Sen, J.)