

24.07.2020.
Item No. 1

IN THE HIGH COURT AT CALCUTTA

W.P. 5327 ^(W) of 2020

(Via Video Conference)

(The Court on its own motion)

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

Re: The State of West Bengal.

Mr. Sayantan Sinha,

... for the State.

The State is represented by Mr. Sayantan Sinha, Junior Counsel, assisting the learned Advocate General in this matter.

An adjournment is prayed for on behalf of the learned Advocate General. Mr. Sinha has also prayed for extension of time to file the affidavits and reports directed to be filed in terms of the order dated 2nd July 2020 till the adjourned date.

After the last hearing, it had come to our notice that the Superintendent, Uttarpara Girls Home has been tested COVID positive and the Government has decided to set up a COVID hospital beside the Subhayan Home for Boys, Balurghat and adjacent to JJB and CWC, Balurghat.

The Principal Secretary, Juvenile Justice Committee has placed before us a communication dated 22nd July 2020 received from the Principal Magistrate, Juvenile Justice Board, Balurghat addressed to the District Magistrate, Balurghat, Dakshin Dinajpur and a communication dated 23rd July 2020 received from the Superintendent, Subhayan Home for Boys, Balurghat addressed to the District Social Welfare Officer, Dakshin Dinajpur respectively, wherefrom it appears that a newly constructed youth hostel, which is claimed to be adjacent to JJB, CWC and Subhayan Home for Boys, Balurghat, is to be converted as COVID hospital, which may not be in the best interest for the welfare of the children.

In view of the apprehension expressed by the Principal Magistrate as well as the Superintendent, Subhayan Home for Boys, we direct the State Authorities not to operationalize the said youth

hostel building as COVID hospital till we take up this matter for further consideration on 27th July 2020 at 2 p.m. The State Authorities are also required to inform us on the adjourned date about the health of the inmates of all the homes and the infrastructural improvements made in all the homes after our last order.

We request the learned Advocate General to look into this matter and shall apprise the Court about the steps taken in this regard and the decision of the Authorities in response to the communication dated 22nd and 23rd July 2020 from the Principal Magistrate as well as the Superintendent, Subhayan Home for Boys respectively.

The Member Secretary, Juvenile Justice Committee shall share the communication dated 22nd and 23rd July 2020 with Mr. Sinha, Junior Counsel, in course of this day.

Let this matter be listed on 27th July 2020 to be taken up at 2 p.m.

Re: Andaman and Nicobar Islands.

Mr. Krishna Rao, Learned Government Pleader

Mr. Sudipta Kumar Dey, Secretary (Law), A & N

Mr. Dipak Vermani, Link Officer to Secretary, Social Welfare Department,

Mr. Manoj C, SP, A & N District Administration

Mr. Madhusudan Baidya, Labour Commissioner

Mr. Indranil Bhattacharya, District Judge, A & N

Mr. Raju Mukherjee, ADJ, POCSO Court,

Mr. Tanmay Karmakar, Principal Magistrate, JJB

Mr. Omkar Singh, Director of Health Services

Mr. Sailendra Singh, Director of Social Welfare

In terms of our order dated July 2, 2020, the Superintendent of Police, South Andaman District, Superintendent of Police, CarNicobar and Superintendent of Police, North and Middle Aandaman and Secretary, Social Welfare, Andaman & Nicobar Administration, Port Blair have filed their respective affidavits.

The affidavit of the Secretary, Social Welfare has disclosed that steps have been taken to shift the office of the Juvenile Justice Board (JJB) from the existing PRAYASH building to the Observation Home for Boys at Nayagaon where the infrastructural facilities are now

available, save and except the Video Conferencing facilities which needs to be installed.

Mr. Rao, learned Counsel appearing on behalf of the Andaman & Nicobar Administration, has submitted that steps have been taken to install video conferencing facility of the said Home and the BSNL has already been approached for connection and within a week's time the JJB can be made fully operational for Observation Home for the Boys at Nayagaon.

It is submitted by all concerned that the JJB at the temporary site fully conforms to the requirements under the J.J. Act and as soon as the PRAYASH building is reconstructed after demolition it will be shifted to the said building.

On the basis of such submission, we permit the functioning of the JJB from the Observation Home for Boys at Nayagaon as a temporary measure till the new building is constructed after demolition of PRAYASH. On the basis of the assurance that the JJB at South Andaman District would be provided with adequate staff so as to facilitate smooth functioning of the JJB at that place, we for the time being do not pass any direction for appointment of any peon and sweeper, but we make it clear that the said office should be cleaned regularly and the health and hygiene are to be maintained at the said office. There also should not be any inadequacy of staff and infrastructure at the said place and the Government should make all endeavour to ensure smooth functioning of the JJB at Andaman.

We appreciate the steps taken by the Secretary for appointment of the members of the CWC for north and middle Andaman district.

We have been informed by Mr. Rao, that the last date for submission of the application of the willing candidates would expire on August 3, 2020. We have noted that as a temporary measure, the jurisdiction of CWC of South Andaman District has been extended to Nicobar District with the approval of the appropriate authority and a notification to that effect has been disclosed in the affidavit.

We expect the administration to take all steps for purchasing computer system and for ensuring connectivity to all the JJB and CWC, presently operational at Andaman & Nicobar Island.

Mr. Rao, has submitted that connectivity is an issue which has not yet been resolved instead of repeated request being made to the BSNL.

We direct the Chief General Manager, Andaman & Nicobar Island, to take immediate steps to ensure that all the JJB and CWC

have uninterrupted connections so that they can function smoothly and without any interruption. We also direct the CGM, BSNL, Andaman & Nicobar Island to be present on the next date of hearing to apprise us the steps taken in this regard.

The reports filed by the Superintendent of Police of the respective districts are found to be satisfactory. However, all the Superintendents echoed concern in one voice that they are not receiving the reports of DNA Test and Chemical Examination from the CFSL, Kolkata, CFSL & CDSL, Hyderabad and CFSL, Chandigarh. In view of such delay in receiving the reports from the said authorities, the trial has suffered.

Under such circumstances, we direct the CFSL, Kolkata, CFSL & CDSL, Hyderabad and CFSL, Chandigarh to ensure the supply of the reports of DNA Test and Chemical Examination at the earliest in order to facilitate the trial that are pending before the JJB and POCSO Courts.

The Member Secretary, Juvenile Justice Committee, is directed to communicate this order immediately to CFSL, Kolkata, CFSL & CDSL, Hyderabad and CFSL, Chandigarh for compliance.

We have noticed few cases where the victim is yet to be rescued and/or restored. We hope and trust that the police authority shall take immediate steps to rescue and/or restore the victims and proceed with the matter as expeditiously as possible.

The matter stands adjourned for four weeks.

Akd/sn/ab **(Soumen Sen, J.)**

(Harish Tandon, J.)