

HIGH COURT OF SIKKIM
Record of Proceedings

W.P.(PIL) No.01 of 2018

IN RE: EFFECTIVE IMPLEMENTATION OF JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

Date: 15.03.2021

CORAM:

THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE
THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

For Petitioner	Mr. S.S. Hamal, Advocate as Amicus Curiae.
For Respondents	Mr. Sujan Sunwar, Assistant Government Advocate.

O R D E R

In terms of the Order of this Court dated 21.11.2020, the Secretary, Social Justice, Empowerment and Welfare Department i.e. State-Respondent No.2 had filed an Affidavit on 09.12.2020 on behalf of State-Respondents No.1 and 2, with reference to Order dated 09.02.2018, passed by the Hon'ble Supreme Court in Writ Petition(s) (Civil) No(s).473/2005 (*Sampurna Behrua vs. Union of India & Ors.*). 16 (sixteen) Directions were issued by the Hon'ble Supreme Court, as already extracted in the Order of this Court dated 26.02.2018, for compliance.

Heard Learned Amicus Curiae and Learned Assistant Government Advocate for the State-Respondents.

From the submissions of Learned Counsel and perusal of the Directions and Affidavit of the State-Respondents, dated 09.12.2020, it emerges as follows;

- (i)** 05 (five) Directions being "Directions No.1, 3, 9, 10 and 13" have been complied with and conceded by the Learned Amicus Curiae.
- (ii)** 03 (three) Directions viz., "Directions No.8, 14 and 16" are not relevant to the State-Respondents.
- (iii)** Of the remaining 08 (eight) Directions, with regard to "Direction No.2," Learned Amicus Curiae submits that this has largely been complied with

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but suggested that should any post fall vacant in the near future, the advertisement for such vacant posts should be made well in advance to avoid any negative repercussions. The State-Respondents shall heed the suggestion made by Learned Amicus Curiae for all future vacancies.

(iv) For "Direction No.4," it is found that there are vacant posts in the Juvenile Justice Board inasmuch as in all the four Districts there are no Members. That, the term of the sitting Member for South, West and North Districts have been extended up to 15.01.2021 and for Member of the East District up to 16.01.2021, as reflected in the Affidavit (*Page No.563 of the Paper Book*). The State-Respondents shall Report as to what steps have been taken thereafter since an updated Report in this context has not been filed.

(v) With regard to "Direction No.5," the position of Members of the Juvenile Justice Board have been dealt with in "Direction No.4" hereinabove. So far as Members of the Child Welfare Committee are concerned, it is submitted by the State-Respondents (*Page No.560 of the Paper Book*) that there are vacant posts of "Chairpersons" in East, West and South Districts and vacant posts for "Members" in North, West and South Districts and that advertisements have been issued in this context. Let the State-Respondents submit an updated Report in this regard.

(vi) In "Direction No.6," Learned Amicus Curiae submits that the Affidavit of the State-Respondents (*Page No.564 of the Paper Book*) does not address the issue raised while also referring to the earlier Affidavit of the State-Respondents, dated 06.05.2019. Let State-Respondents examine "Direction No.6" and file a

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Report in this context with necessary reference to their earlier Affidavit (*supra*).

- (vii)** Learned Amicus Curiae submits that with regard to "Direction No.7," there has not been total compliance nor is the Report a speaking one. State-Respondents shall inform the steps taken now with regard to this Direction.
- (viii)** With regard to "Direction No.11," it is submitted by Learned Amicus Curiae that the compliance is evidently incomplete as the provisions of Section 48 of the Juvenile Justice (Care and Protection of Children) Act, 2015, ("JJ Act") pertaining to "Special homes," Section 49 of the JJ Act concerning "Place of safety" and Section 50 of the said Act relating to "Children's Home" have not been complied with. It is seen that the details of the Child Care Institutions have also not been furnished. Necessary details be furnished with regard to compliance of the above provisions of law by the State-Respondent No.2 as also the details of the Child Care Institutions.
- (ix)** So far as "Direction No.12" is concerned, it is submitted by Learned Amicus Curiae that there has been no compliance by the concerned Department. Let State-Respondents examine what is required and submit a detailed Report, taking necessary inputs also from the Sikkim State Legal Services Authority and District Legal Services Authority.
- (x)** That, "Direction No.15" by and large has been complied with, however, Learned Amicus Curiae submits that in view of the fact that all functionaries, as required in the Child Welfare Committees and the Juvenile Justice Boards are not filled, the Training could obviously not have been carried out in a robust manner. State-Respondents shall take appropriate steps after

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appointment to the relevant vacant positions are made and file Report.

In view of the above, let the State-Respondents now submit a fresh Report with regard to "Directions No.2, 4, 5, 6, 7, 11, 12 and 15."

List on 20.04.2021.

Judge
15.03.2021

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