

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

**In Re : Effective Implementation of Juvenile Justice
(Care and Protection of Children), Act, 2015**

BEFORE

**MR. JUSTICE SATISH K. AGNIHOTRI, CJ. &
MR. JUSTICE BHASKAR RAJ PRADHAN, J.**

26.02.18 Present:
(Agnihotri, CJ)

Mr. Karma Thinlay, Senior Government Advocate with Mr. Thinlay Dorjee Bhutia, Government Advocate, Mr. S. K. Chettri and Ms. Pollin Rai, Assistant Government Advocates, for the State.

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The Hon'ble Supreme Court, in Writ Petition(s) (Civil) No(s). 473/2005 (Sampurna Behrua vs. Union of India & Ors.), examining the provisions and applicability of the Juvenile Justice (Care and Protection of Children) Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015, passed the following orders: -

"95. Keeping in mind the concerns expressed by all learned counsel and the need to invigorate the juvenile justice system in the country, we are of the view that the following directions ought to be given and we do so.

1. The Ministry of Women and Child Development in the Government of India and the State Governments should ensure that all positions in the NCPCR and the SCPRs are filled up well in time and adequate staff is provided to these statutory bodies so that they can function effectively and meaningfully for the benefit of the children.
2. The NCPCR and the SCPCR should take their duties, functions and responsibilities with great earnestness keeping in mind the faith reposed in them by Parliament. A position in these statutory institutions is not a sinecure. These bodies have a very significant and proactive role to play in improving the lives of children across the country.
3. The State level Child Protection Societies and the District level Child

Protection Units have an enormous responsibility in ensuring that the JJ Act is effectively implemented and Child Care Institutions are managed and maintained in a manner that is conducive to the well being of children in all respects including nutrition, education, medical benefits, skill development and general living conditions. These two bodies would be well advised to take the assistance of NGOs and civil society to ensure that the JJ Act serves the purpose for which it is enacted by Parliament.

4. The State Governments must ensure that all positions in the JJBs and CWCs are filled up expeditiously and in accordance with the Model Rules or the Rules framed by the State Government. Any delay in filling up the positions might adversely impact on children and this should be avoided.

5. The JJBs and CWCs must appreciate that it is necessary to have sittings on a regular basis so that a minimal number of inquiries are pending at any given point of time and justice is given to all juveniles in conflict with law and social justice to children in need of care and protection. This is a constitutional obligation.

6. The NCPCR and the SCPCR must carry out time-bound studies on various issues, as deemed appropriate, under the JJ Act. Based on these studies, the State Governments and the Union Territories must take remedial steps.

7. In particular the NCPCR and the SCPCR must carry out a study for estimating the number of Probation Officers required for the effective implementation of the JJ Act. Based on this study, the State Government must appoint the necessary number of Probation Officers. It must be emphasised that the role of a Probation Officer is critical for the rehabilitation and social reintegration of a juvenile in conflict with law and due importance must be given to their duties as postulated in the Model Rules and Rules, if any, framed by the State Governments and the Union Territories.

8. The MWCD must continue to make creative use of information and communication technology not only for the purpose of collecting data and information but also for other issues connected with the JJ Act such as having a database of missing children, trafficked children and for follow up of adoption cases etc. With the utilization of technology to the fullest extent, administrative efficiency will improve considerably, which in turn will have a positive impact on the lives of children.

9. It is important for the police to appreciate their role as the first responder on issues pertaining to offences allegedly committed by children as well as offences committed against children. There is therefore a need to set up meaningful Special Juvenile Police Units and appoint Child Welfare Police Officers in terms of the JJ Act at the earliest and not only on paper. In this context, it is necessary to clearly identify the duties and responsibilities of such Units and Officers and wherever necessary, guidance from the available expertise, either the National Police Academy or the Bureau of Police Research and Development or NGOs must be taken for the benefit of children.

10. The National Police Academy and State Police Academies must consider including child rights as a part of their curriculum on a regular basis and not as an isolated or sporadic event.

11. The management of Child Care Institutions is extremely important and State Governments and Union Territories would be well advised to ensure that all such institutions are registered so that children can live a dignified life in these Institutions and issues of missing children and trafficking are also addressed.

12. State Governments and Union Territories would be well advised to appoint eminent persons from civil society as Visitors to monitor and supervise the Child Care Institutions in all the districts. This will ensure that the management and maintenance of these

Institutions are addressed. We have no doubt that the State Legal Service Authorities and the District Legal Service Authorities will extend full assistance and cooperation to the government authorities in this venture as well as to the Visitors.

13. The JJ Fund is a bit of an embarrassment with an absence of an effective response from the State Governments and the Union Territories. If financial resources are not made available for the welfare of the children we shudder to think what could be better utilization of the funds.

14. NALSA has done a remarkable job in collecting data and information relating to the JJ Act, as evidenced by the three part Report prepared by it. We request NALSA to carry forward the exercise and complete a similar Report preferably before 30th April, 2018 to assist all the policy making and decision taking authorities to plan out their affairs.

15. The importance of training cannot be over-emphasized. It is vital for understanding and appreciating child rights and for the effective implementation of the JJ Act. All authorities such as JJBs and CWCs, Probation Officers, members of the Child Protection Societies and District Child Protection Units, Special Juvenile Police Units, Child Welfare Police Officers and managerial staff of Child Care Institutions must be sensitized and given adequate training relating to their position. A very positive step has been taken in this regard by NALSA and we expect the NCPCR with the assistance of the SCPCRs to carry forward this initiative so that there is meaningful implementation of the JJ Act.

16. Since the involvement of the State Governments and the Union Territories is critical to child rights and the effective implementation of the JJ Act, it would be appropriate if each High Court and the Juvenile Justice Committee of each High Court continues its proactive role in the welfare of children in their State. To make the involvement and process more

meaningful, we request the Chief Justice of every High Court to register proceedings on its own motion for the effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 so that road-blocks if any, encountered by statutory authorities and the Juvenile Justice Committee of the High Court are meaningfully addressed after hearing the concerned governmental authorities. A copy of this judgment and order should be sent by the Secretary General of this Court to the Registrar General of each High Court for being placed before the Chief Justice of every High Court for initiating suo motu proceedings.

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The State Government of Sikkim is, accordingly, directed to comply with the directions made therein.

Issue notice to the Chief Secretary, Government of Sikkim and the Secretary, Social Justice, Empowerment and Welfare Department, Government of Sikkim, returnable in four weeks.

Mr. Thinlay Dorjee Bhutia, Government Advocate, assisting Mr. Karma Thinlay, Senior Government Advocate, accepts notice on behalf of the State and is granted four weeks’ time to file reply.

Call on 02.04.2018.

Judge
26.02.2018

Chief Justice
26.02.2018