

Item No.33(DB)

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

PIL No. 7 of 2018

Court on its own motion

....Petitioner

– Versus –

The State of Manipur through the Chief Secretary & 7 Ors.

.... Respondents

BEFORE
**HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU KABUI**

For the Petitioner : Mr. A. Romenkumar, Amicus Curiae.
For the Respondents : Mr. M. Devananda, Addl.AG assisted
by Ms. Jyotsana Devi & Adv KH. Tarunkumar, Sr. Adv.

J U D G E M E N T & O R D E R
(ORAL)

04.12.2024

D. Krishnakumar, C.J. :

This Suo Moto PIL has been taken up by this Court and during the course of arguments, the Amicus Curiae, appointed by this Court, has clearly stated before this Court that the directions of the Hon'ble Supreme Court dated

09.02.2018 passed in WP(C)No.473 of 2005 have been complied with except for the direction No. 13 and the directions of the Hon'ble Supreme is incorporated as under:

"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 SCPCRs 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 emphasized 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."

Pursuance to the said order, notice has been served to the respondent department and according to the respondent department, under Rule 83(4) of the Care and Protection of Children Model Rules, 2016 where the State Government shall create a fund for delivering Juvenile Justice fund for every child and the Juvenile Justice fund may utilize by the State Government under Rule 83(4) of the Care and Protection of Children Model Rules, 2016.

Learned Amicus Curiae, Mr. A. Romenkumar has pointed out to this Court that the direction of the Hon'ble Supreme Court in respect of utilization of the fund allocated under the category of Juvenile Justice's fund can be utilized for the particular category as allocated by the Government and it cannot be diverted to any other departments.

Further, the Amicus Curiae also suggested before this Court that this Court may passed appropriate order for utilizing the fund only for the purpose of sanction required under the said category and the amount allocated thereof shall be utilized under Rule 83(4) Juvenile Justice Rules, 2016 and this would help proper control and transparent utilization of the fund and prevent any diversion of the said fund.

The respondent No.2 has filed additional affidavit dated 01.07.2024 and in the para 3, it is stated as follows:

"3. That, the answering deponent beg to submit that as per the Directorate letter dated 7th March, 2024, the Department had already earmarked budget for the FY 2024-25 and a sum of Rs. 30 lakh has been allocated under the following Head of Account:

Major Head - 2235- Social Security & Welfare

Sub-Major – 02-Social Welfare

Minor – 106-Correction Services

Sub-Head – 04-Juvenile Justice Fund

Detailed – 00

Object – 49-Other Revenue Expenditure

As such, the aforementioned allocated amount can and shall be used solely for implementation of all the 17 purposes elaborated in Rule 83(4) of the Model JJ Rule, 2016 in letter and spirit and nothing else. This is done by sending financial proposal citing reason [any one or more purposes amongst the 17 purposes under Rule 83(4) of the Model JJ Rule, 2016] for the need of encashment of fund in the Sub-Head (04- Juvenile justice Fund) to the Finance Department and thereafter, only when it is approved, the requested amount is sanctioned. Hence, there is no possibility of the aforementioned allocated amount to be used for some other provision other than for the purposes elaborated under Rule 83 (4) of the Model Juvenile Justice Rule, 2016.

Further, the answering deponent humbly beg to submit that with regard to mapping up to different object heads separately as suggested by the learned Amicus Curiae vide Hon'ble High Court order dated 13th February, 2024, after careful deliberation and discussion with the Finance Department, it is found that mapping up of different object heads separately may prove to be detrimental as opposed to it being beneficial. Once the Sub-Head 04 Juvenile Justice Fund is sub divided into different object heads, the fund allocated in each object head becomes non-transferrable (amongst various object heads i.e. purposes). Such fund may go un-utilized in a particular Financial Year and may lapse while on the other hand, there might arise a need to allocate

additional fund for a purpose mentioned in some other object head, thereby causing non-availability of resources/fund to meet contingencies. It is not possible to asses which of the seventeen purposes listed under Rule 83(4) will require more fund during a financial year as it is not possible to predict the number of children to be assisted. For instance, if we create a separate object head under "Domestic Travel expenses" and earmark a budgetary provision of Rs.1.00 lakh, we might require much more than Rs.1.00 lakh if some children are to be transported from some other state during a particular financial year. On the other hand, we may utilize even less than Rs.10,000/- in a year if there are very few cases of children requiring travel/transportation.

Thus, keeping the Juvenile Justice Fund in the common pool (one Sub-Head with the same Object Head-49) has more advantage over creating various object-heads. However, the Department may earmark certain fund internally to each of the 17 purposes, except for those which have already been taken care of by other schemes. An indicative allocation submitted by the Director (Social Welfare), Manipur is shown at Annexure M/1 for better appreciation of the Hon'ble Court."

In view of the above additional affidavit, Mr. M. Devananda, learned Addl. AG stated that the apprehension of the learned Amicus Curiae may not be appreciated and the said affidavit clearly stated that the said fund will be utilized only for the purpose of the particular category which has been sanctioned by the State Government and if any excess amount are available, the said amount will be utilized to the other category as per Rule 83(4) of Model JJ Rules, 2016.

In view of the aforesaid statements made by respondent No.2 by way of filing additional affidavit as well as the submissions made by the Additional Advocate General, this Suo Moto PIL stands closed.

We are also appreciating the learned Amicus Curiae, Mr. A. Romenkumar who has been rendering his valuable assistance to the Court in disposing the aforesaid PIL and has given various suggestions to this Court by supplying the provisions of the JJ Act and the directions passed by the Hon'ble Supreme Court.

John Kom

JUDGE

CHIEF JUSTICE