

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.586 of 2017

=====

Most. Husan Tara, Wife of Late Badruddin Ansari, Resident of Naya Tola, Basant
Bagh Purnea, P.S.- Sadar, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Bhim Paswan, Son of Sakaldeo Paswan, Resident of Naya Tola, Basant Bagh,
Purnea City, P.S.- Sadar, District- Purnea.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate.

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner files this revision application against
the order dated 22.03.2017 passed by the 1st Additional Sessions
Judge-cum-Special Judge, Purnea in Special Case No. 05 of 2016
arising out of Sadar P.S. Case No. 01 of 2013 whereby he has declared
Bhim Paswan, accused of the said case, juvenile.

3. Learned counsel for the petitioner submits that the
Juvenile Justice Board should have got the O.P. No. 2 examined by
the Medical Board so not followed the procedure laid down in the
Bihar Juvenile Justice (Care & Protection of Children), Rules, 2012
(hereinafter referred to as the 'Rules') for determination of age of a
juvenile. He submits that procedure to be adopted for determination of



age to a person claiming himself/herself to be juvenile, is required to be done as per Rule 11 of the Rules, which reads as such:

“11. Procedure to be followed in determination of age.-

(1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or the Committee referred to in Rule 20 of these Rules, as the case may be, shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.

(2) The Court or the Board or the Committee shall decide the juvenility or otherwise of the juvenile or the child in need of care and protection, as the case may be, the juvenile in conflict with law, *prima facie* on the basis of physical appearance or documents, if available and send him to the observation home or in prison as the case may be.

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the Court or the Board or the Committee, as the case may be, by seeking evidence by obtaining-

(a) (i) the matriculation or equivalent certificate, if available; and/or,

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by municipal corporation or a municipal authority or a panchayat; and

(b) only in the absence of either (i) and/or (ii) or (iii) of clause (a) above, or in case the court or the board or the committee finds it necessary, the medical opinion will be sought from a duly constituted



Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons recorded by them, may, if to be considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of 6 months and, while passing orders in such case shall, after taking into consideration such evidence as may be available or the medical opinion as the case may, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i),(ii),(iii) or in the absence whereof, clause (b) shall be proof of the age as regards such child or the juvenile in conflict with law.

(4) The duly constituted Board shall submit medical opinion to the concerned authority within one week from the date of receipt of the order.

(5) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the proof specified in sub-rule(3), the Court or the Board or, as the case may be, the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these Rules and a copy of the order shall be given to such juvenile or the parent/guardian/person concerned.

(6) To avoid misuse of the provision of the Rules, the Social Welfare Department, Director, Social Welfare or the District Magistrate of the concerned district may set up a medical board, for the determination of age of such juveniles in conflict with law residing in observation homes, who apparently appear to be above 18 years of age. The constitution of medical board and final report



from the board will be given within two weeks from the date of order issued by the concerned authorities.”

4. Now, it is only to be seen whether such procedure has been followed by the Juvenile Justice Board or not? The Court finds from perusal of the impugned order that admission register of the first attended school was examined by summoning the concerned headmaster of the school as well as the register relating to the present school where the petitioner was enrolled and both registers disclose his date of birth as 20.11.1995. In the present case, the alleged date of occurrence is 28.12.2012, so the Juvenile Justice Board rightly followed the procedure in letter and spirit and found O.P. No. 2 juvenile on the date of alleged occurrence finding him 17 years of age. So, I find no illegality in the impugned order, accordingly, the application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.10.2017
Transmission Date	13.10.2017

