

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.288 of 2018**

Arising Out of PS. Case No.-47 Year-2011 Thana- BASANTPUR District- Siwan

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Jitendra Mahto (Minor), S/o late Rameshwar Mahto @ Ramashrey Mahto under guardianship of the mother Ramawati Kunwar, W/o Late Rameshwar Mahto @ Ramashrey Mahto, resident of Narharpur, P.S.- Basantpur, District-Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajiv Kumar, Advocate Mr. Udit Nr. Singh, Advocate
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 04-11-2019

Heard learned counsel for the petitioner and learned

APP for the State.

2. The petitioner has moved the Court under Section 102 of the Juvenile Justice (Care & Protection of Children) Act, 2015, against the order dated 09.02.2018 passed by the 6th Additional Sessions Judge, Siwan, in Criminal Appeal No.18 of 2016 by which the order dated 30.03.2016 passed by the Juvenile Justice Board, Siwan, in G.R. Case No.1014 of 2011 corresponding to JE/J. Tr. No.154 of 2016 holding the petitioner to be more than 18 years on the date of occurrence, has been upheld.

3. Learned counsel submitted that he had raised the



plea of juvenility and the matter was sent to the Juvenile Justice Board, Siwan, and medical report was called for, which opined that the petitioner was 20-21 years in August, 2012. It was submitted that on a petition filed by the petitioner before the Juvenile Justice Board that X-ray report and Dental report be also called for determining the age, the Juvenile Justice Board had sent the matter again for another medical report, but in the order passed by it on 30.03.2016, it has relied upon first report holding the petitioner to be more than 18 years of age on the date of occurrence. It was submitted that the Juvenile Justice Board has wrongly relied upon first report when the second report was called for. It was also pointed out that entry in the school admission register of Class I was produced in evidence during enquiry, but has wrongly been not relied upon by the Juvenile Justice Board on the ground that the name of the father was not given.

4. Learned APP submitted that first medical report has not been disbelieved by the Juvenile Justice Board, rather, a report was called with regard to number of teeth the petitioner had which may be a relevant factor in determining the age. It was submitted that the second report was received holding that the petitioner had 32 teeth. Thus, it was submitted that the



Juvenile Justice Board correlating the first medical report with the fact that the petitioner had 32 teeth had rightly arrived at the conclusion that he was more than 18 years of age on the date of occurrence i.e. 27.04.2011. It was further submitted that even in the first medical report the age of the petitioner has been estimated to be between 20-21 years.

5. He submitted that the contention of learned counsel for the petitioner that the date of birth in the school admission register of Class I has wrongly been not relied upon is erroneous for the reason that the teacher, who had deposed at the time of considering the admission register of Class I, had not stated either the date of birth or the name of father of the petitioner and had also admitted that entry made in the said register at two places were in different ink.

6. Learned APP submitted that the Juvenile Justice Board has rightly taken note of radiological; dental and physical examination for holding the petitioner to be aged more than 18 years on the date of occurrence. It was further submitted that the appellate Court has also rightly not interfered with the order.

7. Having considered the facts and circumstances of the case and submission of learned counsel for the parties, the Court does not find any merit in the present application. The



Juvenile Justice Board has correctly appreciated the facts and has given cogent reasons for reaching to the conclusion that the petitioner was more than 18 years of age on the date of occurrence. The same is based on the factual report before the Juvenile Justice Board as well as inference drawn with regard to acceptance of medical report and for not relying on the entry made in the school admission register purportedly of Class I with regard to the petitioner.

8. Thus, in the considered opinion of the Court, the orders of the Juvenile Justice Board as well as the appellate Court need no interference.

9. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

J. Alam/-

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