

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5913 of 2023

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Krishna Deo Mishra Son of Madan Mohan Mishra, Resident of Flat No.-101,
Saurabh Enclave, Road No.-5, Rajendra Nagar, P.S.-Kadamkuan, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through The Chief Secretary, Government of Bihar,
Patna.
2. The Principal Secretary, the Department of Social Bihar, Government of
Bihar, Patna.
3. The Member Secretary, The Selection Committee, The Department of Social
Welfare Government of Bihar, Patna.
4. The Director, Social Welfare, Department of Social Welfare Government of
Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Niraj Kumar, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha (GA7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-08-2023

The writ petition filed, in the nature of a public interest litigation, seeks direction to the respondents to constitute Child Welfare Committees in the Districts of Patna, Jehanabad, Gaya, Nalanda, Bhojpur, Begusarai, Siwan, Aurangabad, Bhagalpur, Madhubani, Saharsa, Gopalganj, Purnia and Araria as per the provisions of the The Juvenile Justice (Care and Protection of Children) Act, 2015 (For brevity, 'the Act') and the Bihar Juvenile Justice (Care and Protection of



Children) Rules, 2017 (for brevity, 'the Rules') brought out by the State of Bihar.

2. It is pointed out that the Respondent-State has been appointing Government officials as ex-officio members of the Districts, which is evident from Annexure P-2 dated 31.01.2019. Rule 16 (7) of the Rules specify that the Committee shall sit on all working days for a minimum of six hours, similar to the sitting hours of a Magistrate, unless the case pendency is less. It is the contention of the petitioner that when Government Officials are appointed as ex-officio members, then there would be frustration of the noble objective of the legislation and it would also lead to unnecessary prejudice being visited on the children, who require a helping hand.

3. A detailed counter affidavit has been filed by the State. It is pointed out that pending selection and appointment of Members in the Child Welfare Committees (CWCs), as a stop gap arrangement, in the best interest of the children, a Standing Panel of three persons were constituted under Section 36(6) of the Act. The Standing Panel is authorized to work only in those districts where quorum of three members do not exist and as soon as new members join, the panel would terminate automatically.



4. As far as the selection and appointment of the members including Chairpersons of Child Welfare Committees and Social Members of Juvenile Justice Boards, a Selection Committee has been constituted under the Chairperson-ship of a Retired Judge of this Court. The selection of Members and Chairpersons of CWCs and JJBs in 14 districts have been completed and the appointments would be made immediately, as soon the recommendations are received from the Selection Committee. It is also pointed out that in Bihar, a unique system of selection of the Members of CWCs and JJBs have been brought in place, where they are required to qualify in a written examination and an oral interview. The written examination is conducted by the Chanakya National Law University. The delay in selection and appointment only occurred due to the Pandemic. The stop gap arrangement was only made reckoning the welfare of the children and to get over the contingencies occurring due to the delay in appointment of the members.

5. We are convinced that the State is taking appropriate steps to make appointments. True, Rule 16(7) prescribes that the Committees should sit on all working days, similar to the working hours of Magistrate Court, however, after looking at the pendency of cases. The petitioner has filed the



above writ petition without any research being done as to the cases pending in various districts. The objection also was on account of the appointment of Government Officials to the CWCs; which has been stated to be a stop gap arrangement by the State.

6. We find no reason to keep the matter pending and close the writ petition.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	29.08.2023
Transmission Date	

