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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REF. 1/2020**

COURT ON ITS OWN MOTION

..... Petitioner

Through: Mr. H.S. Phoolka, Senior Advocate (*Amicus Curiae*) with Ms. Shilpa Dewan, Advocate.

versus

STATE

..... Respondent

Through: Ms. Nandita Rao, ASC (Criminal), GNCTD for the State and CWC with Inspector Pardeep Kumar, SUPWAC/Delhi Police.

Ms. Prabhsahay Kaur and Ms. Laavanya Kaushik, Advocates for Bachpan Bachao Andolan.

Mr. R.H.A. Sikander, Advocate for Delhi Commission for Protection of Child Rights (DCPCR)/R-3 with Mr. Anurag Kundu, Chairperson, DCPCR.

Mr. Kanwal Jeet Arora, Member Secretary, DSLSA.

Mr. Ripudaman Bhardwaj, CGSC for UOI.

Ms. Anu Grover Baliga, Secretary,
DHCLSC with Mr. Harsh
Prabhakar, Advocate for
DHCLSC.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
27.10.2021

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Order released on: 29.10.2021

In para 16 of order dated 29.09.2021, this court had passed the following directions :

*“i. In all cases alleging petty offences against children/juveniles, where the inquiry has been pending and remains inconclusive **for longer than 01 year**, regardless of whether the subject child/juvenile has been produced before the JJB, all such inquiries shall stand terminated with immediate effect; a formal order closing all such matters shall be passed by the JJBs in each file within 02 (two) weeks from the date of this order; and any children/juveniles detained in relation to such inquiries, shall be released immediately without waiting for recording the formal orders. In issuing this direction we take note of the fact that when a report/final report is filed alleging a petty offence, it is the State’s own case, that the subject **is a child or juvenile**. We are passing these directions *ex debito justitiae*, to correct an error in the judicial dispensation, since we believe there is no justification in keeping such matters pending any longer;*

*ii. Insofar as cases against children/juveniles who are alleged to have committed petty offences, where inquiries are pending for **between 06 months and 01 year**, the State is directed to apprise this court of the number of such cases pending in each JJB in*

Delhi along with the date of institution of the inquiry and the date of first production (if any) in each case, within 10 (ten) days from the date of this order, so that further necessary directions in that behalf may be passed by this court.”

2. In compliance of the directions contained in para 16(i) of order dated 29.09.2021 extracted above, Ms. Nandita Rao, learned Additional Standing Counsel (Criminal) appearing for the State, has placed on record certain documents *vidé* Index No. 869725 dated 26.10.2021 indicating the status of cases as referred to above in our order dated 29.09.2021, in all 06 Juvenile Justice Boards (‘JJBs’) in Delhi by way of tabulated summaries. Furthermore, Ms. Rao has also handed-up in court an additional tabulated summary relating to JJB-II, Delhi Gate, New Delhi which gives the status of pendency of cases as of today 27.10.2021.
3. We are informed that as of date, only 19 inquiries relating to petty offences against children/juveniles are pending before JJB-II, while all such inquiries pending before other JJBs either stand closed; or it transpired that there were no such inquiries pending before such Boards.
4. Insofar as the 19 cases pending before JJB-II are concerned, Ms. Rao informs us that there are specific reasons for which these inquiries are yet to be closed, details of which are contained in the tabulated summary. Let the tabulated summaries relating to JJB-II as updated to 27.10.2021 be filed on record. In any case, Ms. Rao assures the court that these 19 inquiries will also be closed within the next few weeks.

5. Accordingly, going by the number of inquiries indicated in the tabulated summaries relating to the various JJBs in Delhi, it transpires that according to the State, a total of 913 inquiries alleging petty offences against children/juveniles stand closed as of 27.10.2021.
6. Insofar as the directions contained in para 16(ii) of order dated 29.09.2021 extracted above are concerned, Ms. Rao seeks further time to furnish to the court details of the number of inquiries alleging petty offences against the children/juveniles pending for a period between 06 months and 01 year, along with the date of first production, if any. Furthermore, Ms. Rao submits that the rehabilitation plans/individual childcare plans in relation to these juveniles would also be furnished within this timeframe.
7. Ms. Anu Grover Baliga, learned Secretary, DHCLSC who is assisting the court in the matter further suggests that since the first and most significant point of delay in disposal of inquiries is that no timeframe has been stipulated under the Juvenile Justice (Care and Production of Children) Act, 2015 or Model Rules, 2016 for completing the process of age-determination of juveniles, this court may lay-down timeframes within which the age-determination process ought to be completed. Ms. Baliga submits that it is common for an Investigating Officer to take substantial time to collect documents relating to proof of age; and even longer to get an ossification test conducted if directed by a JJB. She suggests that a timeframe of 02 weeks be stipulated by this court for each of the said two stages/processes of age-determination. She points-out that

at present S.O. No.68/2017 dated 17.11.2017 issued by the Commissioner of Police stipulates a period of 30 days for determination of age of a child reckoned from the date of making of the application before CWC/JJB. We are informed that this timeline of 30 days was in fact contained in Rule 12 of the earlier Juvenile Justice (Care and Production of Children) Rules, 2007; which timeline is however missing in the Juvenile Justice (Care and Production of Children) Act 2015 and in the Rules framed thereunder.

8. Mr. H.S. Phoolka, learned Senior Counsel/*Amicus Curiae* appearing in the matter has further drawn our attention to the following two aspects:
 - (a) That though a sizeable corpus is available in the Juvenile Justice Fund set-up under section 105 of the JJ Act, it appears no significant sum has been disbursed for the intended purposes over the past several years;
 - (b) That there was a proposal to set-up 11 JJBs for a territory as large as Delhi, which at present has only 06 JJBs, though it has 11 judicial districts.
9. In view of the above, it is Mr. Phoolka's suggestion that information be called from the State about the quantum of funds allocated and those disbursed from the Juvenile Justice Fund; and to also seek an update on the timeframe as regards setting-up of more JJBs to cater to the increasing requirements of Delhi.

10. We have heard learned counsel appearing for the parties at length. We have also given our serious consideration to the suggestions made by Ms. Rao, Ms. Baliga, as well as Mr. Phoolka.
11. Upon considering the various submissions, at this stage, we are persuaded to issue the following additional directions for further streamlining the process of inquiries relating to juveniles, for scrupulous compliance by all concerned authorities :
- (a) In all cases pertaining to juveniles in conflict with law, regardless of the nature of offences alleged, upon directions issued by a JJB after production of a juvenile before it, the Investigating Officer of the case **shall collect and file before the JJB** requisite documents towards proof of age of the juvenile **within 15 days from the date of issuance of such directions;**
- (b) In all cases pertaining to juveniles in conflict with law, regardless of the nature of offences alleged, upon directions issued by a JJB after production of a juvenile before it, the Investigating Officer of the case **shall ensure** that the ossification test in relation to the juvenile **is completed, a report is obtained and filed before the JJB within 15 days from the date the ossification test is ordered by a JJB;**
- (c) In all cases pertaining to juveniles in conflict with law, regardless of the nature of offences alleged, the JJB **shall ensure** that the process of age-determination of the juvenile **is completed within 15 days from the filing of documents relating to proof of age/ossification test report** by the Investigating Officer, as the case may be;

(d) It is further directed that all persons/educational institutions/medical institutions/governmental authorities to whom a request is made by an Investigating Officer for providing documentation towards age-determination or for conducting ossification test on a juvenile, *shall* give priority, cooperate and undertake necessary procedures and processes to enable compliance with the time-lines set-out above.

12. We grant to the State 04 weeks' time for furnishing the information as directed in para 16(ii) of order dated 29.09.2021 relating to inquiries for petty offences pending before all JJBs in Delhi between 06 months and 01 year, giving the number of such cases pending in each JJB in Delhi along with the date of institution of the inquiry and the date of first production of the juvenile, if any, in each case; and preferably also including the rehabilitation plan/individual care plan for each child/juvenile. It is further directed that data for each JJB be presented in the same/common format of the choosing of the State, so that the data is easily comprehensible and comparable as between various JJBs.
13. The State is further directed to apprise the court as to the quantum of money *sanctioned and allocated* for the Juvenile Justice Fund; and the quantum *disbursed* from the said fund, along with the purpose for which money was disbursed, as of 30.11.2021. (cf. Rule 83 of JJ Rules 2016)
14. The State is also directed to apprise the court as to the status of the proposal to increase the number of JJBs in the city, including the timelines proposed for the purpose.

15. List for further consideration of the matter on 14.12.2021.

SIDDHARTH MRIDUL, J.

ANUP JAIRAM BHAMBHANI, J.

OCTOBER 27, 2021

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[Click here to check corrigendum, if any](#)