

IN THE SUPREME COURT OF INDIA
ORIGINAL CRIMINAL JURISDICTION
MISCELLANEOUS APPLICATION NO. _____ OF 2020
IN
WRIT PETITION (CRL.) NO. 102 OF 2007

IN THE MATTER OF:

In Re: Exploitation of Children in
Orphanages in State of Tamil Nadu ...PETITIONER

VERSUS

Union of India & Ors. ...RESPONDENTS

**APPLICATION FOR DIRECTIONS ON BEHALF OF THE
AMICUS CURIAE**

PAPER – BOOK

(FOR INDEX KINDLY SEE INSIDE)

AMICUS CURIAE: APARNA BHAT

INDEX

S. NO.	PARTICULARS	PAGE NO.
1.	Application for Directions on behalf of the Amicus Curiae.	
2.	ANNEXURE A-1 True and correct copy of the order dated 05.12.2018 passed by this Hon'ble Court in W.P. (Crl.) No. 102/2007.	
3.	ANNEXURE A-2 True and correct copy of the report titled "How detainees were denied legal counsel, medical help at the Daryaganj Police station" published by Caravan Magazine on 25.12.2019.	
4.	ANNEXURE A-3 True and correct copy of the report titled "UP Police accused of stripping cleric" published by The Telegraph on 29.12.2019.	

IN THE SUPREME COURT OF INDIA
ORIGINAL CRIMINAL JURISDICTION
MISCELLANEOUS APPLICATION NO. _____ OF 2020
IN
WRIT PETITION (CRL.) NO. 102 OF 2007

IN THE MATTER OF:

In Re: Exploitation of Children in
Orphanages in State of Tamil Nadu ...PETITIONER

VERSUS

Union of India & Ors. ...RESPONDENTS

**APPLICATION FOR DIRECTIONS ON BEHALF OF THE
AMICUS CURIAE**

TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS LORDSHIP'S COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPLICATION
OF THE ABOVE NAMED
AMICUS CURIAE

MOST RESPECTFULLY SHOWETH:

1. That the present Writ Petition stands disposed off by this Hon'ble Court vide order dated 05.12.2018 which also granted liberty to the Amicus Curiae herein to make an appropriate application if required.

2. That vide order dated 05.12.2018 in the present Petition, the Union of India was to undertake to prepare a report on the basis of data collected with respect to the management of institutions and the rights of children. The said report was to serve as a plan or vision document for the immediate future. The relevant portion of the order dated 05.12.2018 is quoted hereunder:

“It appears that the Union of India has made efforts to collect data on its own through the Ministry of Women and Child Development. It has also been able to collect data from the National Commission for Protection of Child Rights as well as from the Childline.

We have been given to understand that the data collected is voluminous.

It is stated by the Joint Secretary that the analysis of the data is being carried out under her supervision with the assistance of officers of the Ministry of Women and Child Development as well as professional help from the National Institute of Public Cooperation and Child Development (NIPCCD).

It is expected that the data analysis will highlight some gaps in the data collection as well as in certain aspects of the management of institutions and the rights of children. Once these gaps are identified, professional help will be taken from the stake-holders which include civil society. Wherever necessary, inter-ministerial discussions will also take place so that these gaps can be filled up keeping the interest of the children in mind.

It is stated that after the analysis of the data and the gap analysis is concluded, a report will be prepared which can serve as a plan or vision document for the immediate future.

The suggestions given by learned amicus curiae may be taken into consideration during the analysis of the data and also during the gap analysis.

The submission of the learned amicus curiae is that data analysis may keep in mind Section 55 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

It is further stated that the idea is to have regular reports coming in and to institutionalize the process so that this exercise can be carried out year after year keeping the interest of the children in mind. She also says that a resource centre that is contemplated is already a part of NIPCCD and is approved under the Child Protection Service and that resource centre will be strengthened in due course of time.

In view of the above, the writ petition stands disposed of.

Liberty is granted to learned amicus curiae to revive the matter after the report is made available to her, if necessary.”

A true and correct copy of the order dated 05.12.2018 passed by this Hon'ble Court in W.P. (Cri.) No. 102/2007 is marked and annexed hereto as **ANNEXURE A-1** (Page No. ____ to ____).

3. That the Amicus Curiae has not been given a copy of the report as directed by this Hon'ble Court even though more than 14 months have passed since the directions to take into account the data available and prepare a roadmap was passed.
4. That in the meanwhile, children are reported to have been treated poorly bordering on severe abuse in many child care institutions across the

country. Two such instances which were widely reported in the media are being referred to in the present application to draw the attention of this Hon'ble Court to the continuing state of deplorable treatment meted to children in child care institutions. These two instances are of grave concern requiring immediate attention and action by this Hon'ble Court.

5. That according to a report titled "How detainees were denied legal counsel, medical help at the Daryaganj Police station" published by Caravan Magazine on 25.12.2019, 8 minors were detained and denied medical attention by the Delhi Police in the Daryaganj Police Station on the night of 20.12.2019. A true and correct copy of the report titled "How detainees were denied legal counsel, medical help at the Daryaganj Police station" published by Caravan Magazine on 25.12.2019 is marked and annexed hereto as **ANNEXURE A-2** (Page No. ____ to ____).

6. That according to a report titled "UP Police accused of stripping cleric" published by The Telegraph on 29.12.2019, the Uttar Pradesh Police detained and assaulted orphaned students aged about 14-21 years from the Saadat Hostel-cum-Orphanage in Muzaffarnagar. The boys were denied access to the toilet at times, abused, thrashed with sticks through the night, forced to kneel against the wall, deprived of sleep, starved and shackled. The students were illegally detained in the aforementioned manner by the Police for about 3 days and then released. A true and correct copy of the report titled "UP Police accused of stripping cleric" published by The Telegraph on 29.12.2019 is marked and annexed hereto as **ANNEXURE A-3** (Page No. ____ to ____).

7. That at the outset, the detention of children in Police custody is in flagrant violation of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the “JJ Act, 2015”). Furthermore, the violent assault and torture that the minors in the aforementioned incidents have been subjected to requires immediate registration of FIR and investigation by an external agency. The Government of Uttar Pradesh and Government of Delhi must put on record the steps that they have taken pursuant to the aforementioned newspaper reports.

8. That under Section 10 of the JJ Act, 2015, a child alleged to be in conflict with law shall, under no circumstances, be placed in a police lockup or jail. The text of Section 10 of the JJ Act, 2015 is reproduced hereunder:

“10. Apprehension of child alleged to be in conflict with law.

(1) As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where such child was apprehended:

Provided that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail.

(2) The State Government shall make rules consistent with this Act,—

(i) to provide for persons through whom (including registered voluntary or non-governmental organisations) any child alleged to be in conflict with law may be produced before the Board;

(ii) to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.”

9. That according to the September 2018 Report for the Committee for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care and Protection of Children) Act, 2015 and Other Homes, the following data is available on the number of Child Care Institutions in the state of Uttar Pradesh:

DESCRIPTION OF CCI	NO. OF CCI
Observation Home	13
Special Home	0
Place of Safety	1
Children Home	101
Shelter Home	21
Swadhar Home	25
Ujjawala Home	2
SAA	0
Combination Homes	0
Other	7
Total	170

10. That it is not clear what is the mechanism put in place by the Respondents herein pursuant to the order dated 05.12.2018 in order to institutionalise the process of data collection of children in institutions and to ensure that regular reports are generated which contribute to the protection of the rights of children. In spite of this Hon'ble Court's order, it is apparent that there are grave deficiencies in the manner in which

State institutions deal with the welfare of and the conditions under which children are kept.

11. That the Respondents must also substantiate the steps that they have taken to ensure that the Police in each state complies with the provisions of the JJ Act, 2015 with respect to minors.
12. That it is apparent that there is no concern for the rights of children and that it is, in fact, State entities such as the Police which are in flagrant violation of the provisions of the JJ Act, 2015 as well as the orders of this Hon'ble Court in the present Petition.
13. That in these circumstances, it is humbly prayed that investigation of reports of children being detained in Police Stations in violation of the provisions of the JJ Act, 2015 be handed over to a centralised agency like the Central Bureau of Investigation (CBI) and reports be filed before this Hon'ble Court for monitoring. There is also a need to have a parallel process of protection of the children so that they do not get further affected during the course of the investigation.
14. That the Union of India must also indicate the steps they have taken to comply with the directions issued on December 5, 2018 by this Hon'ble Court.
15. That the present Application is being filed bona fide and in the interest of justice.

PRAYER

In the facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- A. Allow the present Application and direct investigation by the Central Bureau of Investigation of reports of minors being detained and tortured in Police custody in Uttar Pradesh and Delhi;
- B. Direct the Respondents to substantiate the mechanisms put in place to ensure compliance of order dated 05.12.2018 passed by this Hon'ble Court in the present Petition;
- C. And pass such other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Filed by:

**APARNA BHAT
(Amicus Curiae)**

PLACE: New Delhi
DATE: 07.02.2020