

ITEM NO.302 CORRECTED COURT NO.9 SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s).473/2005

SAMPURNA BEHRUA Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(With appln.(s) for exemption from filing O.T. and extension of time and interim directions and permission to file additional documents and office report)

Date : 24/07/2015 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
Mr. Divya Jyoti Jaipuria, Adv.
Ms. Jyoti Mendiratta, AOR

For Respondent(s)
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Mr. Ajay Sharma, Adv.
Mr. S.S. Rawat, Adv.
Mrs. Anil Katiyar, Adv.
Mr. D. S. Mahra, AOR
Mr. S.N. Terdal, Adv.
Mr. B.V. Balaram Das, Adv.

NALSA Ms. Indu Malhotra, Sr. Adv.
Mr. Rajesh Kumar Goel, Director, NALSA
Mr. Gagan Gupta, AOR

Mr. Anuvrat Sharma, AOR

Mr. Sanjay R. Hegde, AOR

Mr. Radha Shyam Jena, AOR

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 Mr. Khwairakpam Nobin Singh, AOR
 Mr. P. V. Dinesh, AOR
 Mr. Naresh K. Sharma, AOR
 Mr. Ranjan Mukherjee, AOR
 Mr. G. N. Reddy, AOR
 Mr. Ratan Kumar Choudhuri, AOR
 Ms. Kamini Jaiswal, AOR
 Mr. Avijit Bhattacharjee, AOR
 Mr. T. Harish Kumar, AOR
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For States of
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Mr. Guntur Prabhakar, Adv.
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Puducherry	Mr.V.G. Pragasam, AOR Mr. Prabu Ramasubramanian, Adv.

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned counsel for the parties and have gone through the report prepared by NALSA.

At the outset, we compliment NALSA for having prepared a detailed and exhaustive report, which has revealed a large number of significant facts. Learned counsel may collect a copy of the report from the AOR of NALSA.

On the basis of the report and the submissions made by the learned counsel for the parties, we pass the

following directions:

- (1) It is mandated that every State should have a Juvenile Justice Board in place in every District on or before 31st December, 2015. Arunachal Pradesh is very vast and perhaps does not have much juvenile crime. If that is so, the State of Arunachal Pradesh need not have a Juvenile Justice Board in every District, but the other States and Union Territories must have a Juvenile Justice Board in every District, as mentioned above on or before 31st December, 2015.

It is made clear that there is no prohibition in law in having more than one Juvenile Justice Board in a District depending upon the number of pending inquiries and the distance involved in moving children from the Observation Home to the venue of the Juvenile Justice Board.

Therefore, it is made clear that a District can have more than one Juvenile Justice Board.

For example, in the District of Pune, there are 1935 inquiries pending (as on 31.3.2015) as reported by NALSA, and there seems to be no reason why there should be only one Juvenile Justice Board in that District.

Under the circumstances, wherever necessary, more than one Juvenile Justice Board should be set up in districts, wherever necessary.

We, therefore, direct the Registrar General of all the High Courts to take up the matter with Hon'ble the Chief Justice of the High Court and the Juvenile Justice Committee of the High Court and look into this matter in conjunction with the Executive Chairman of the State Legal Services Authority and the Member Secretary of the State Legal Services Authority and set up an appropriate number of Juvenile Justice Boards, wherever necessary.

As regards vacancies, we direct that all vacancies in the Juvenile Justice Boards should be filled up on or before 31st December, 2015 in accordance with Rule 92 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (for short "the Rules") by a Selection Committee presided over by a retired Judge of the High Court.

- (2) The number of inquiries pending with the Juvenile Justice Boards across the country as on 31st March, 2015 is an alarming figure of 1,30,572.

In the State of Uttar Pradesh, there appear to be 34,569 cases pending. The State of Uttar Pradesh is directed to comply with the directions we have given above at the earliest (and not wait till 31st December, 2015) so that the number of inquiries is substantially reduced.

Ideally, there should not be more than 100 inquiries pending before each Juvenile Justice Board so that they can be disposed of in the required period of four months. This will mean that many of the Juvenile Justice Boards will have to streamline their working so that the numbers are reduced at the earliest.

- (3) From the report prepared by NALSA, we find that the number of sittings of the Juvenile Justice Board per week is extremely inadequate in some places. For example, in the District of Pune, the Juvenile Justice Board meets three times in a week. Given the large number of inquiries pending in that District, it will be more appropriate if the Juvenile Justice Board holds its sittings daily.

We, therefore, direct that wherever there are a large number of inquiries, as decided by the Juvenile Justice Committee of the High Court

and the Registrar General of the High Court, instructions should be issued to the Juvenile Justice Boards to hold their sittings daily, so that the pendency does not pile up. In this regard, our attention has been drawn to Rule 9(3) of the Rules, which reads as follows:

"9. Sittings of the Board.-

(1) ***

(2)***

(3) The Board shall meet on all working days of a week, unless the case pendency is less in a particular district and concerned authority issues an order in this regard."

- (4) We are distressed to note that the distance between the Juvenile Justice Board and the Observation Home in some cases is extremely large. NALSA has pointed out that in Assam and Odisha, for example, the distance between the Juvenile Justice Board and the Observation Home is in the region of 400 kms/450 kms. This is totally unacceptable considering the fact that in Rule 9(1) of the Rules, it is required that the Juvenile Justice Board should sit in the vicinity of the Observation Home.

The State Governments are directed to look into the matter at the earliest and to comply with the Rules. The Juvenile Justice Committee of

the High Court and the Registrar General of the High Court are requested to look into the matter and ensure that the Juvenile Justice Boards hold their sittings in close proximity to the Observation Homes.

We direct the State Governments to ensure that, to the extent possible, certified Observations Homes are set up within the close proximity of the Juvenile Justice Boards, in case it is not possible to establish new Observation Homes.

We may note that in view of the large distances that are involved more often than not, the children are not able to be in touch with their relatives including their parents and this can also have a psychological impact on them. It is, therefore, necessary that the Observation Home should not be far away from the place where the Juvenile Justice Board is located.

- (5) From the report prepared by NALSA, we find that in many places the number of panel lawyers engaged by the State Legal Services Authority is inadequate. Ms. Indu Malhotra, learned senior counsel appearing on behalf of NALSA assures that this matter will be looked into and an adequate

number of effective lawyers will be empanelled to provide free legal assistance, advice and services to juveniles in conflict with law.

- (6) We are informed by the learned senior counsel appearing for NALSA that a Committee for Developing Module for Training of Lawyers has been set up with Hon'ble Mrs. Justice Manju Goel (retd.) as a Chairperson. We are told that the Committee is in the process of framing the curriculum and methodology for training of legal aid lawyers on issues relating to child rights. We request the Committee to complete its task on or before 31st December, 2015. While doing so, the Committee will take the assistance of others who are not connected with the legal fraternity and in terms of our order dated 10th April, 2015.
- (7) With regard to the number of Probation Officers and the nature and duration of training, we propose to take up the matter on some other date.

It has been suggested by Mr. Colin Gonsalves, learned senior counsel for the petitioner, that the Principal Magistrates heading the Juvenile Justice Boards should not be asked to do any other judicial work. This is a matter which is to be decided by the High Court and we

direct the Registrar General of each High Court to look into the matter. Of course, the Registrar General will take into consideration the number of pending inquiries before the Juvenile Justice Board and if there are a large number of such inquiries, it would be worthwhile to have a full time Principal Magistrate, In-charge of the Juvenile Justice Board.

We are also of the opinion that it may be preferable to have a lady judicial officer as the Principal Magistrate. This may also be looked into. We also direct the Registrar Generals of the High Courts to issue directions to the social workers to participate actively in the deliberations before the Juvenile Justice Boards.

Mr. Colin Gonsalves has also pointed out that a large number of posts and supporting staff of Juvenile Justice Boards are lying vacant. We request the Juvenile Justice Committee of the High Courts to look into the matter and direct the State Governments to fill up all the posts, in any case, by 31st December, 2015. The Member Secretary, NALSA will direct the Member Secretary, State Legal Services Authorities to look into this aspect and follow up with the State Governments so that the posts are filled up and our directions are complied with at the earliest.

We are distressed to note that in spite of our order dated 10th April, 2015, the Union of India, through the Ministry of Women and Child Development, has not filed its affidavit. We have commented on the laxity of this Ministry in other proceedings also and also about the lack of concern that this Ministry has for children. We are unable to appreciate this complete apathy of the Ministry on an important issue concerning the children of our country. We record our displeasure.

Learned Additional Solicitor General says that the affidavit in terms of our order dated 10th April, 2015 is ready and will be filed within one week. The Registry will accept the affidavit subject to payment of costs of Rs.25,000/- to the Supreme Court Legal Services Committee which shall be utilised for juvenile justice issues.

List the matter on 11th September, 2015.

A copy of this order be sent to the Registrar General of all the High Courts forthwith to be placed before the Juvenile Justice Committee of the High Courts.

(SANJAY KUMAR-I)
COURT MASTER

(JASWINDER KAUR)
COURT MASTER