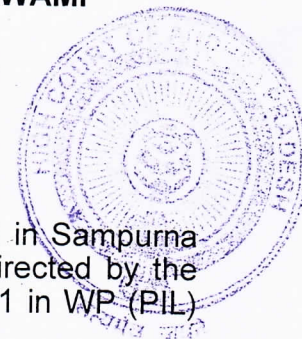


IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY ONE

:PRESENT:

THE HONOURABLE THE CHIEF JUSTICE ARUP KUMAR GOSWAMI
AND
THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

SUO MOTU WP (PIL) NO: 118 OF 2021



Between:

IN RE (Basing on the Judgment of the Hon'ble Supreme Court rendered in Sampurna Behura case vs. Union of India and others (2018) 4 SCC 433 and as directed by the Hon'ble Division Bench of this Hon'ble Court, vide Order dated 28.4.2021 in WP (PIL) No. 76 of 2021.)

AND

1. The state of Andhra Pradesh, Rep. by its Chief Secretary, AP Secretariat, Velagapudi, Guntur.
2. The State of Andhra Pradesh, Rep. by its Principal Secretary, Home (Prisons), AP Secretariat, Velagapudi, Guntur.
3. The State of Andhra Pradesh, Rep. by its Principal Secretary, Child Welfare Department, AP Secretariat, Velagapudi, Guntur.
4. The Director General and Inspector General of Police, Guntur.
5. The Director General of Prisons and Correctional Services, Guntur.
6. The State Legal Services Authority, Rep. by its Member Secretary, State of Andhra Pradesh, Guntur.

Suo Motu Petition under Article 226 of the Constitution of India, praying that for the reasons and directions issued in Writ Petition (Civil) NO. 473 of 2005 (SAMPURNA BEHURA v UNION OF INDIA and Ors.) by the Supreme Court of India, dated 09.2.2018 this Honble Court may be pleased to issue an appropriate Writ or Order or direction more particularly one in the nature of Writ of Mandamus to call for remarks and records from the Respondents herein relating to and in connection with.

i) Establishment of child friendly courts and vulnerable witness courts in each district; Inquiries under the Juvenile Justice Act and trials under other statutes, such as, the Protection of Children from Sexual Offences Act, 2012, the Prohibition of Child Marriage Act, 2006, trials for Sexual Offences under the Indian Penal Code and other similar laws require to be conducted with a high degree of sensitivity, care and empathy for the juvenile victims

ii) Further, to take steps to deal with the traumatic experiences of juvenile accused for an offence or the victim of a sexual offence, in the Courts to extend compassion towards, juveniles in conflict with law, who are entitled for the presumption of innocence and further establishing Child friendly/ vulnerable witness courts to ease their pain and suffering, which also can be used for trials in which adult women are victims of sexual offences since they too are often traumatized by the not so friendly setting and environment in our courts

iii) Further, to give necessary directions to the Respondents as per the guidelines/ directions in Writ Petition (Civil) No. 473 of 2005, SAMPURNA BEHURA v UNION OF INDIA and Ors, Supreme Court of India, dated 9.2.2018, which are as follows

1. The Ministry of Women and Child Development in the Government of India and the State Governments should ensure that all positions in the NCPCR (National Commission for Protection of Child Rights) and the SCPCR (State Commission for Protection of Child Rights) are filled up well in time and adequate staff is provided to these statutory bodies so that they can function effectively and meaningfully for the benefit of the children.

2.The NCPCR and the SCPCR should take their duties, functions and responsibilities with great earnestness keeping in mind the faith reposed in them by Parliament. A position in these statutory institutions is not a sinecure. These bodies have a very significant and proactive role to play in improving the lives of children across the Country.

3.The State level Child Protection Societies and the District level Child Protection Units have an enormous responsibility in ensuring that the Juvenile Justice Act is effectively implemented and Child Care Institutions are managed and maintained in a manner that is conducive to the well being of children in all respects including nutrition, education, medical benefits, skill development and general living conditions. These two bodies would be well advised to take the assistance of NGOs and civil society to ensure that the Juvenile Justice Act serves the purpose for which it is enacted by Parliament.

4.The State Governments must ensure that all positions in the JJBs and CWCs are filled up expeditiously and in accordance with the Model Rules or the Rules framed by the State Government any delay in filling up the positions might adversely impact on children and this should be avoided.

5.The JJBs and CWCs must appreciate that it is necessary to have sittings on a regular basis so that a minimal number of Inquiries are pending at any given point of time and justice is given to all juveniles in conflict with law and social justice to children in need of care and protection. This is a constitutional obligation

6.The NCPCR and the SCPCR must carry out time-bound studies on various issues, as deemed appropriate, under the JJ Act. Based on these studies the State Governments and the Union Territories must take remedial steps

7.In particular the NCPCR and the SCPCR must carry out a study for estimating the number of Probation Officers. It must be emphasized that the role of a probation officer is critical for the rehabilitation and social reintegration of a juvenile in conflict with law and due importance must be given to their duties as postulated in the Model Rules and Rules, if any, framed, by the State Governments and the Union Territories.

8.The MWCD must continue to make creative use of information and communication technology not only for the purpose of collecting data and information but also for other issues connected with the Juvenile Justice Act such as having a database of missing children, trafficked children and for follow up of adoption cases etc. With the Utilization of technology to the fullest extent, administrative efficiency will improve considerably, which in turn will have a positive impact on the lives of children

9.It is important for the police to appreciate their role as the first responder on issues pertaining to offences allegedly committed by children as well as offences committed against children. There is therefore a need to set up meaningful Special Juvenile Police Units and appoint Child Welfare Police Officers in terms of the Juvenile Justice Act at the earliest and not only on paper. In this context, it is necessary to clearly identify the duties and responsibilities of such Units and officers and wherever necessary, guidance from the available expertise, either the National Police academy or the Bureau of Police Research and Development or NGOs must be taken for the benefit of children.

10.The National Police Academy and State Police Academies must consider including child rights as a part of their curriculum on a regular basis and not as an isolated or sporadic event

11.The management of Child Care Institutions is extremely important and State Governments and Union Territories would be well advised to ensure that all such institutions are registered so that children can live a dignified life in these Institutions and issues of missing children and trafficking are also addressed.

12.State Governments and Union Territories would be well advised to appoint eminent persons from civil society as Visitors to monitor and supervise the Child Care Institutions in all the districts. This will ensure that the management and maintenance of these Institutions are addressed. We have no doubt that the State Legal Service Authorities and the District Legal Service Authorities will extend full assistance and co-operation to the government authorities in this venture as well as to the Visitors.

13.The JJ Fund is a bit of an embarrassment with an absence of an effective response from the State Governments and the Union Territories. If financial resources are not made available for the welfare of the children we shudder to think what could be better utilization of the funds.

14.NALSA has done a remarkable job in Collecting data and information relating to the Juvenile Justice Act, as evidenced by the three part Report prepared by it. We request NALSA to carry forward the exercise and complete a similar Report preferably before 30th April, 2018 to assist all the policy making and decision taking authorities to plan out their affairs.

15.The importance of training cannot be over-emphasized. It is vital for understanding and appreciating child rights and for the effective implementation of the Juvenile Justice act. All authorities such as JJBs and CWCs, probation officers, members of the Child Protection Societies and District Child Protection Units, Special Juvenile Police Units, Child Welfare Police Officers and managerial staff of Child Care Institutions must be sensitized and given adequate training relating to their position. A very positive step has been taken in this regard by NALSA and we expect the NCPCR with the assistance of the SCPCRs to carry forward this initiative so that there is meaning full implementation of the Juvenile Justice Act.

16.Since the involvement of the State Governments and the Union Territories is critical to child rights and the effective implementation of the Juvenile Justice Act, it would be appropriate if each High Court and the Juvenile Justice Committee of each High Court continues its proactive role in the welfare of children in their State.To make the involvement and process more meaningful, we request the Chief Justice of every High Court to register proceedings on its own motion for the effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 so that road-blocks if any, encountered by statutory authorities and the Juvenile Justice Committee of the High Court are meaningfully addressed after hearing the concerned governmental authorities.

The petition coming on for hearing and upon perusing the petition & memorandum of grounds filed herein and upon hearing the arguments of Sri O. Manohar Reddy Amicus curiae, GP for Home for Respondent No.1,2,4 & 5, GP for Women Development & Child Welfare for Respondent No.3 and of Sri S. Lakshminarayana Reddy, Standing Counsel for Respondent No.6.

The Court made the following: ORDER

(Taken up through video conferencing)

Mr. O. Manohar Reddy, learned counsel, is appointed as Amicus curiae in this case.

Registry will furnish all the requisite papers including the affidavits to the learned Amicus curiae within a period of 10 days from today.

The name of Mr. O. Manohar Reddy be reflected as Amicus curiae in the cause list.

List this case on 25.10.2021

//TRUE COPY//

**Sd/- K. TATA RAO
ASSISTANT REGISTRAR**

For ASSISTANT REGISTRAR

To

1. The Chief Secretary, State of Andhra Pradesh AP Secretariat, Velagapudi, Guntur.
2. The Principal Secretary, Home (Prisons), State of Andhra Pradesh AP Secretariat, Velagapudi, Guntur.
3. The Principal Secretary, Child Welfare Department, State of Andhra Pradesh, AP Secretariat, Velagapudi, Guntur.
4. The Director General and Inspector General of Police, Guntur.
5. The Director General of Prisons and Correctional Services, Guntur.
6. The Member Secretary, State Legal Services Authority, State of Andhra Pradesh, Guntur. (1 to 6 by RPAD- along with a copy of petition and affidavit)
7. Two CCs to GP for General Administration, High Court of Andhra Pradesh. [OUT]
8. Two CCs to GP for Home, High Court of Andhra Pradesh. [OUT]
9. Two CCs to GP for Women Development & Child Welfare, High Court of Andhra Pradesh. [OUT]
10. One CC to Sri S. Lakshminarayana Reddy, Standing Counsel (OPUC)
11. One CC to Sri O. Manohar Reddy, Amicus curiae (spl Messenger with affidavit and Grounds)
12. The Section Officer, Writ Posting Section, High Court of A.P at Amaravati
13. One spare copy

TVR

HIGH COURT

HCH & NCH

DATED:21.09.2021

WP(PIL).No.118 of 2021

POST ON 25.10.2021

