

(2019) 01 MAN CK 0005

In the Manipur High Court

Case No : Public Interest Litigation No. 9 Of 2015

Registrar General

APPELLANT

Vs

State Of Manipur And Others

RESPONDENT

Date of Decision : 16-01-2019

Acts Referred:

Juvenile Justice (Care And Protection Of Children) Act, 2015 — Section 4

Citation : (2019) 01 MAN CK 0005

Hon'ble Judges : Ramalingam Sudhakar, CJ;Kh. Nobin Singh, J

Bench : Division Bench

Advocate : A. Bimol, N. Kumarjit

Judgement

Kh. Nobin Singh, J

[1] Heard Shri A. Bimol, learned Senior Advocate appearing for the petitioner and Shri N. Kumarjit, learned Advocate General, Manipur appearing for the respondents.

[2] The Juvenile Justice (Care & Protection of Children) Act, 2015 was enacted by the Parliament with a view to ensure that all the needs of the children are met and that their basic human rights are fully protected. It is reported that children constitute 40% of the population in the country. Section 4 of the Act provides for constitution of one or more Juvenile Justice Boards for every district in the country. While there are, at present, 16 Revenue Districts in Manipur, there are only 9 Judicial Districts. Juvenile Justice Boards have been constituted in all 9 Judicial Districts in Manipur but even after a lapse of more than three years from the date of passing the said Act, not a single post of Principal Magistrate has been created by the State Government, as a result of which the Judicial Magistrates First Class are to be assigned the additional charge of the Principal Magistrates. Since the Judicial Magistrates First Class are already over-burdened with their judicial works dealing with the pending cases, the functioning of the Juvenile Justice Boards has been greatly affected and hampered. In a decision

rendered by the Hon'ble Supreme Court in Sampurna Behrui Vs. Union of India, (2018) 4 SCC 433, it has emphasized the indispensable need of implementing the provisions of the Act for which various directions have already been issued by it. The Hon'ble Supreme Court has observed that the training of the Principal Magistrate is important as provided under Rule 89 of the Model Rules and that depending upon the number of inquiries pending before each JJB, it is the obligation of the JJB to sit on a daily basis. The relevant direction is as under:

"94.4. 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."

Therefore, the State Government is duty bound to implement the provisions of the Act and the failure on the part of the State Government to do so, may amount to contempt of Court. If the Principal Magistrates are not appointed on regular basis, the purpose of the Act will not be served at all and ultimately, it is the Society in general which will suffer and in particular, the children in the State. Consequently, the administration of justice to children will remain a far dream. On top of that, in the 4th Annual Round Table Conference on Juvenile Justice (Care & Protection of Children), Act held on 01-12-2018 in New Delhi, the need of strengthening the functioning of the Juvenile Justice Boards was emphasized with respect to infrastructure and manpower which are not adequately available in the State of Manipur.

[3] Keeping in mind the financial problems being faced by the State of Manipur, this Court does issue the following directions:-

(i) In the first phase, the State Government shall create four posts of Principal Magistrate, within three months from the date of receipt of a copy of this order, to hold the charge of Juvenile Justice Boards in respect of the four valley districts where the cases are more in number and the remaining five posts shall be created by the State by the end of this year;

(ii) In the same manner, the State Government shall establish, at least, four child friendly courts and four child friendly police stations, as required under the Rules, in respect of the four valley districts within three months from the date of receipt of a copy of this order and the remaining shall be established by the end of this year;

(iii) The State Government shall create separate posts of APP to conduct cases before the Juvenile Justice Boards;

(iv) Apart from what has been directed above, the State Government shall ensure that all the provisions of the Act and the Rules made thereunder are implemented without any loss of time.

List on 24-04-2019 for reporting compliance. Issue copy to all concerned.