

(1990) 01 PAT CK 0025

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 67 of 1988

Shri H.B. Singh "Arsi" and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-01-1990

Acts Referred:

Constitution of India, 1950 — Article 21

Juvenile Justice Act, 1986 — Section 15, 2(1), 9, 9(1), 9(2)

Citation : (1990) 1 PLJR 231

Hon'ble Judges : S.N. Jha, J; L.P.N. Shahdeo, J

Bench : Division Bench

Advocate : Ashok Priyadarshi, for the Appellant; Kamlapati Singh and Surendra Kumar Singh, for the Respondent

Judgement

S.N. Jha and L.P.N. Shahdeo, JJ.—This writ application has been filed by the Petitioners as a public interest litigation for directing the Respondents to take action against those persons who are responsible for the mismanagement of Bal Bhawan cum-school (for girls) Deoghar, Bal Bhawan (for boys), Arrah and Government Deaf and Dumb Institute, Sultanganj, Patna. They have further prayed to direct the Respondents to make healthy living arrangement to the inmates of the aforesaid institutions and to provide adequate facilities for accommodation, education, training, healthy and proper food, clothing and protection.

2. From the statements made in the application, it appears that the aforesaid institutions are run by the Welfare Department of the State of Bihar. The two Homes, that is, Bal Bhawan (for boys) at Arrah and Bal Bhawan (for girls) at Deoghar are meant for lodging of such children who have not attained the age of 16 or 18, respectively, and who have been either neglected by their parents or they are lost children.

3. The grievance of the Petitioners is that the children who are inmates of the aforesaid institutions are not given proper care and they are not being supplied

with proper diet. There is no proper toilets nor there is any water facility nor any care is taken for their development by the authorities concerned.

4. To provide proper care, protection, treatment and their development and rehabilitation, the-State Government came with an Act known as The Juvenile Justice Act, 1986. Prior to this Act there was Bihar Children Act which was repealed and this Act came into force and published in the Gazette of India (Extraordinary) Part-II, dated 3rd December, 1986. This Act came into force in the State of Bihar on 2.10.1987.

5. u/s 9 of the Juvenile Justice Act 1986 (hereinafter called as "the Juvenile Act") the State Government may establish and maintain as many Juvenile Homes as may be necessary for the reception of neglected juveniles under the aforesaid Act. Under Sub-section (2) of Section 9 where the State Government is of opinion that any institution other than a Home established or maintained under Sub-section (1) is fit for the reception of the neglected juveniles to be sent there under the aforesaid Juvenile Act, it may certify such institution as Juvenile Home for the said purpose

6. Neglected juvenile has been defined in Sub-section (1) of Section 2 of the Juvenile Act which means a juvenile who is found begging; or is found without having any home or settled place of abode and without any ostensible means of subsistence and is destitute; has a parent or guardian who is unfit or incapacitated to exercise control over the juvenile; or lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life; and who is being or is likely to be alured or exploited for immoral or illegal purposes or unconscionable gain. For the protection of such neglected juveniles the State Government has established apart from the aforesaid three insitutions, other juvenile homes as well in other parts of the State. u/s 15 of the Juvenile Act when a person alleged to be a neglected juvenile is produced before a Board, it shall examine the same and if it is satisfied on enquiry that a juvenile is registered juvenile and it is expedient so to deal with him, the Board may make an order directing the juvenile to be sent to juvenile home for the period until he ceases to be a juvenile; provided that the Board may, for reasons to be recorded, extend the period of such stay, but in no case the period of stay shall extend beyond the time when the juvenile attains the age of 18 years, in the case of a boy, or 20 years in the case of a girl.

7. The Petitioners after reading a news item in "Hindustan Times" were shocked to find that the neglected juveniles are not being kept properly as they should be kept in accordance with the provisions of the -said Act and they filed this writ application for certain directions as noticed above.

8. A counter-affidavit has been filed on behalf of the Respondent State wherein it has been stated that the Director of Social Welfare, Bihar, visited the Home at Arrah and at the time of inspection 7 such boys were under care arid protection

and 6 boys were under trial. The boys under care and protection (neglected juveniles) and under trial were kept in separate rooms and each inmate was given Rs. 150/- per month for food including breakfast Rs. 150/- per year for cloths and Rs. 5/- per month for soap, oil etc.

9. It was contended by the learned Counsal on behalf of the Petitioners that Rs. 150/- per month given for food in these days is very inadequate amount. He is right in his submission. In another writ application namely Cr.W.J.C. No. 184 of 1988 which we had disposed of yestarday, we have directed the authorities to give proper dieting to the inmates of Care-Homes. Similarly, we direct the authorities to provide proper diet to the neglected juveniles as well as the under trial juveniles and take proper care for their protection and development as required under the aforesaid Juvenile Act.

10. In this connection we may indicate some of the observations of the Supreme Court in the case of Vikram Deo Singh Tomar v. State of Bihar 1988 P.L.J.R.S.C.9. It is better to quote the language of the Supreme Court:

India is a welfare State governed by a Constitution which holds the pride of place in the hearts of its citizens. It lays special emphasis on the protection and well being of the weaker sections of society and seeks to improve their economic and social status on the basis of constitutional guarantees spelled out in its provisions. It shows a particular regard for women and children, and notwithstanding the pervasive ethos of the doctrine of equality it contemplates special provisions being made for them by law. This is only to be expected when an enlightened constitutional system takes charge of the political and socio-economic governance of a society, which has for centuries witnessed the relegation of women to a place far below their due. We live in an age when this Court has demonstrated, while interpreting Article 21 of the Constitution, that every person is entitled to a quality of life consistent with his human personality...

11. We are fully endorsing the cherished view expressed by the Hon''ble Supreme Court. These neglected juveniles must be given proper care as required under the Juvenile Act. There are many such neglected juveniles. If proper care be taken they may become good citizens in future as well.

12. Taking into consideration of all the facts and circumstances of this case, we direct the authorities concerned to provide proper facilities regarding food, clothing, medical treatment, health and education to these inmates who are lodged in the aforesaid three institution as well as other Juvenile Homes already established by the State Government. The authorities will see that instead of paying the amount for food, they will be supplied proper food, in consultation with the Civil Surgeon of the concerned district.

13. With these directions, we dispose of this writ application. We make it clear, however, that in event of non-implementation of the directions we will feel no hesitation in taking such further steps as may be necessary for enforcing the order. Let a copy of this judgment be handed over to the Standing Counsel No. II

for necessary action.