
(2008) 11 AHC CK 0063
In the Allahabad High Court

Vishnu Dayal Sharma

APPELLANT

Vs

State of Uttar Pradesh and Jitendra @ Pradeep

RESPONDENT

Date of Decision : 07-11-2008

Acts Referred:

Constitution of India, 1950 — Article 21A, 51A

Citation : (2008) 11 AHC CK 0063

Hon'ble Judges : Shiv Shanker, J; Amar Saran, J

Bench : Division Bench

Judgement

1. We have heard learned Counsel for the parties and perused the counter affidavits and other documents filed on 17.10.2006 and today.
2. Shri A.K. Sand, learned Additional Government Advocate has filed two affidavits on behalf of the Director General of Police, U.P., affidavits on behalf of Principal Secretaries, Women and Child Development, Labour and Primary Education, UP dated 17.10.2008 and two affidavits on behalf of the District Magistrate, Allahabad.
3. In the first affidavit on behalf of the Director General of Police, UP, Lucknow, it is mentioned that in response to the directions of this Court as to the latest position of missing children subsequent to our order dated 8.8.2008, it is pointed out that from the year 2002 to 15.7.2008, 6675 children have been traced out and the numbers of children, who are still required to be traced out are 1697. However, between the period 16.7.2008 and 30.9.2008 additional 709 children have gone missing and 910 children have been traced out, hence 1490 children are still missing. The break up of the children recovered, who were missing for different years, i.e. 2002 to 2005, 2005, 2007 and for the year 2003 have been given in Annexure 1 to 4 to this affidavit, which includes the age and gender, disaggregated break up of children recovered and children missing in various districts of UP.
4. We laud the Director General of Police and police authorities for their sustained

effort. However, this Court emphasises that there should be no let up in efforts to unite every missing child with his parents, and the Court shall be informed about the latest position as to missing children in the next and subsequent orders.

5. We have travelled a long road since the initial order dated 2nd January, 2007 was passed by this Court when the police was unwilling even to register any case or investigate the matters of missing children.

6. This Court, however desires that in a few districts to be selected by the authorities further information be sought about the traced out missing child by interviewing both the child as well as his guardian as to (a) the reasons why the child went missing in the first place, if it was a voluntary act. Possible reasons for the voluntary disappearance of a child could be child abuse in the home and local environment or absence of education or harsh treatment by the teachers, falling into bad company, going off to metro centres, such as Bombay for a film or other tempting career or hunger, unemployment of adults and starvation in the family, or disappearing from home with a mate because of a romantic liaison, especially in the case of children in their late teens. (b) In case the child has gone missing, because it has been kidnapped. whether the abduction was forcible or was it by way of inducement.

7. We would be happy if the UNICEF or other concerned NGOs, which have also been noticed in this matter get a survey conducted on the lines suggested above or by including her parameters which they consider important for some chosen districts or some blocks in a district on a pilot basis. The police authorities shall provide the UNICEF or other concerned NGOs information about the identities and addresses of the rescued/returned missing children relating to various districts. The Member Secretary. Legal Services Authority should also be provided an exhaustive list of all identities and addresses of all the rescued/returned missing children to render above assistance to the UNICEF or other NGOs in the matter. Once this information is available, the UNICEF and other bodies as well as this Court can adopt appropriate preventive and other measures for addressing this problem of the missing children. Let a progress report on the success in carrying out this direction be submitted by the State and other concerned parties on the next date of listing.

8. In the second affidavit filed on behalf of the Director General of Police, UP, Lucknow in regard to the progress report in response to the direction No. 11 in the order dated 22.5.2008 for uploading the data by any person or NGOs, which could be displayed on the police website, [www.upmissing persons. In](http://www.upmissingpersons.in), it is mentioned in paragraph 5 of the affidavit that the NGO Don Bosco sponsored by UNICEF had refused to accept the offer of the State Government to share their bulk data with the police. We think there appears to be some lack of understanding or want of communication between the NGO Don Bosco which had earlier been taking keen interest in the matter (and had voluntarily intervened to this Court) and the police and we would like a response from them with regard to the averments contained in paragraphs 5 and 6 of the affidavit on the next date

of listing.

9. So far as the earlier directions of this Court in consonance with the earlier willingness of the State Government to set up a public display system, as pointed out in the affidavit on behalf of the DGP dated 8.8.08 we are pained to note that the State Government has not provided the funds even to start the public display system at the railway station and other public places even for the two districts, i.e. Lucknow and Allahabad. It is mentioned in paragraph that initially in the meeting dated 29.9.2008, UPDESCO and UP Electronics Corporation Limited, Lucknow refused to take the work of installation and maintenance of the public display system and even the NCRB, New Delhi and NIC run by Union of India have shown similar unwillingness to do this work.

10. It is further mentioned that 5000 missing persons have been mentioned in the aforesaid website and if it takes about 10 second time to display this information, then the information would not be available for 12 hours.

11. We think that these are lame excuses. Police and the State Government are not coming out with the true reasons for going back from their commitments to set up public display systems on a priority basis which could help in tracing missing children and for communicating other relevant information about terrorists or other social problems. Information about recently missing children can always be flashed in the busier hours and in other hours photographs and information of persons missing from longer periods of time may be flashed. Computerised websites are still not accessible by the general public and they can only be an adjunct and not a substitute for public information about missing children, which may be flashed on the public display systems in the railway stations, bus stations etc. or which are displayed in newspapers or television or other mass media.

12. Also no affidavit has been find by the Principal Secretary (Home) U.P., for giving the response of the State government to set up and fund setting up of such public display systems.

13. We would like the police department as well as the State Government (viz. the Principal Secretary, Home). U.P.) to come out with the real reasons for abandoning their earlier plans to set up the public display systems aforesaid on the next date of listing.

14. It is also mentioned to paragraph 8 of the affidavit that no approval by the Ministry of Railway, Union of India has been issued for setting up of public display systems in the railway station. On the next date we would like a response from the Ministry of Railway through the Assistant Solicitor General of India as to the reasons for not giving consent for this apparently useful measure, which has been proposed by the Court and had earlier been supported by the State Government. which presently appears to be resiling from its earlier commitment to set up the public display systems.

15. In the affidavit dated 17.10.2008 filed on behalf of the Principal Secretary, Women and Child Development, Lucknow, it has been mentioned that in regard to direction No. 4 in our earlier order dated 22.5.2008 whereby this Court wanted to know the time frame for constitution of Juvenile Justice Boards and Child Welfare Committees in each district it was pointed out that as the applications which have been received by the Director of Women and Child Welfare in pursuance of the advertisement were not satisfactory, hence fresh proposed from social workers have been sought by the advertisement in the newspapers dated 25.9.2008. A decision has now been taken for constituting the Juvenile Justice Boards and Child Welfare Committees earliest by 31.3.2009 after constituting the State Level Selection Committee for constituting the Juvenile Justice Boards and Child Welfare Committees. We hope that this commitment shall be fulfilled and we would like to receive a progress report in this matter on the next date of listing.

16. It has been mentioned in paragraphs 13 and 14 of the affidavit on behalf of the Principal Secretary, Women and Child Development, that in 17 Observation Homes established by the State Government 807 children have been detained for more than six months. Out of these children 25 children are over the age of 18 years, but they are still detained in the Observation Homes because of slow disposal of their trials. The affidavit further mentions that 442 children detained in the Observation Homes are facing trial for minor offences. A chart describing districts, courts and period, pendency of cases and nature of matters has been annexed as Annexure 1 to the affidavit.

17. We direct the Principal Secretary, Women and Child Development with the aid of the Member Secretary, Legal Services/Authority to move applications in the concerned Boards/Courts for expeditious disposal of these cases. The Boards/Courts concerned are also directed to dispose of the said cases against the minor Juvenile very expeditiously, as far as possible within three months of the production of this order before them. Impediments in carrying out this order may be pointed out to the Court.

18. By Order dated 8.8.2008 the Court had sought a progress report in compliance with the circular issued by the Chief Secretary, UP to all the Commissioners and District Magistrates and progress report regarding the raids by the Inspectors for identifying child labourers for showing that CMO are getting the medical examination for ages of the rescued child from hazardous occupations/processes within 48 hours and for demonstrating that the rescued child labourers are enrolled in schools by the BSA or State Project Director, SSA, and that economic rehabilitation of a family member of each child labour is being provided. In this connection, It was pointed out that from the period July, 2008 to September, 2008, 1544 raids/inspections have been conducted for identifying the child labourers. By these raids 1818 child labourers were Identified, which included 1329 child labourers in hazardous occupations/processes and 489 child labourers in non-hazardous occupations/processes. It was further pointed out

that as only 11 Child Welfare Committees (CWCs) under the Juvenile Justice (Care and Protection) Act, 2000 have been constituted by the State Government, hence there could be no effective convergence with the CWCs for the care/protection and determination of age of the child labourers.

19. We are also a little distressed to note that out of 1818 child labourers, who are identified, only 22...child labourers were produced before the CWC during the period July, 2008 to September, 2008. That is why we are emphasising the Importance of constitution of CWCs in each district. We would like an improvement in this position and the submission of a compliance report in this regard on the next date of listing.

20. However, as it was mentioned in the affidavit of the Secretary. Women and Child Development that by 31.3.2009 CWC would be constituted in each district. We hope that there is an improvement in the situation by then. Let a progress report be, filed in the matter on the next date of listing.

21. So far as enrolment of child labourers in educational institutions is concerned, the affidavit points out that for the period July to September, 2008 a total of 4679 child labourers were available for enrolment, but only 2608 child labourers were enrolled, and the rest still remain to be enrolled.

22. This tardy progress in the matter is in violation of the Chief Secretary Circular dated 9.7.2008, which directed the labour department and State Project Director, SSA to ensure immediate enrolment of rescued identified child labourers in educational Institutions. Also, in our view, mere enrolment of child labourers in institutions will not suffice. It should be ensured that there is quality teaching in the institutions and that the child labourers do not again drop out or join the band of child labourers in hazardous or non-hazardous occupations/processes in some other place/employment.

23. We direct that by the next date of listing, efforts be made for enrolment of all the available remaining child labourers, i.e. 2823 as 215 child labourers are not traceable on their; addresses and that a compliance report be submitted to this Court on that date.

24. We also feel that giving benefits to only 193 families of the child labourers under different employment schemes of the Government during the period July to September, 2008 leaving out 4078 families from the employment/income generation schemes of the Government is again an inadequate compliance of the Chief Secretary Circular dated 9.7.2008. We would like to see an improvement in this position and a compliance report in this respect be submitted on the next date of listing.

25. In this context feasibility of extending credit to the families of the child labourers after constituting self help groups as has been achieved in some states, such as Tamil Nadu be explored, and a response be submitted in this regard on the next date.

26. The affidavit further mentioned that Rs. 5.8 lakh has been recovered as compensation in pursuance of the directions of the Supreme Court by order dated 10.12.1996 from the employers during the month of July to September, 2008, but Rs. 1452.94 lakh are still to be recovered from the employers. The Secretary, Labour has issued directions to all the District Magistrates for expediting the recoveries of the pending amount by his letter dated 8.8.2008 and the Labour Commissioner has given directions to the Regional Officers of the labour department to give sub-division-wise list of pending recoveries to the concerned District Magistrates for ensuring the recoveries. We hope that there is better compliance with these circulars and that substantial amount of compensation would be realized from the employers, for disbursement of the fund for the benefit of child labourers. Let a compliance report be submitted in this matter on the next date of listing.

27. The affidavit further mentions that during July to September, 2008 162 prosecutions were decided, out of which 73 were convicted and 89 were acquitted, This position is also inadequate when 8432 prosecutions are still pending before the concerned courts for disposal. The Labour Commissioner, UP has written a DO letter dated 2.10.2008 to all the District Judges apprising them about the anxieties of this Court regarding the pending cases. We, therefore, desire that the courts concerned should expeditiously dispose of these cases, if possible, within three months. The Courts may point out the impediments, if any in carrying out this direction. The Member Secretary Legal Services Authority shall also ensure compliance of this order and submit a compliance report by the next date of listing.

28. Only 4 review meetings of the Child Labour Elimination District Committee have been held in 22 districts between July to September, 2008 and 7 meetings were held by the District Magistrates with the prosecuting officers. We would like to see increase in the momentum in holding these, meetings. Let a compliance report be submitted in this regard on the next date of listing.

29. We are pleased to note that substantial compliance has been made with the directions contained in directions 12 to 21 to this Court's order dated 8.8.2008 in the affidavit filed on behalf of the Principal Secretary, Primary Education, UP dated 16.10.2008, Detailed instructions have been issued by the letter of the Director of Basic Education dated 1.10.2008 for holding monthly meeting of the Village (Educational Committee whereby concerned authorities were directed to call the parents/guardians whose children were not regularly attending the schools. In this connection Section 11 of the UP Basic Education Act, 1972 has been cited which has cast a duty on the panchayats for regulating and looking after the formal and Informal education of children.

30. The second letter enjoins that attendance be taken twice a day on school days and that parents be informed about the failure of children to attend the schools. In case of persisting absence of children, strict action be taken against headmasters and teachers. The education department has been directed to

ensure the attendance of teachers in schools and they are required to conduct effective inspections of the schools along with administrative officers.

31. In pursuance of the Government Order dated 30.7.2008, press release has been issued by the State Project Director, "Sarva Shiksha Abhiyan" in various leading newspapers wherein it is stated that it must be ensured that all children of the age group of 6 to 14 years will be enrolled in schools and they will be provided qualitative education as well as the other directions above-mentioned for attendance of children twice a day, to motivate the parents to send their children to schools and for measures for improving the physical infrastructure and for providing other attractive measures such as provision of mid-day meals, scholarships, free distribution of text books, provision of dresses for girls etc for retaining the children in the schools and for ensuring the regularity of attendance of teachers.

32. We think that although the duty for ensuring that every child between the ages of 6-14 years is in school essentially lies with the State as provided under Article 21-A of the Constitution, and also that the majority of out of school children, have either never been enrolled or dropped out because of poor functioning of government and municipal schools where they are not learning anything or because of financial constraints forcing them to seek an employment to help provide sustenance for the family. However we cannot also ignore the fact that in other cases the families of the children may not have been in such dire straits and although the children were in a position to go to school they have not been sent there, because the parent does not see the value of education, or is otherwise neglectful of his child's future. On occasions the father is given to drinks etc. and is ready to exploit the wife or the child to provide for him, and hence sends the child to work, instead of to school.

33. In this context Article 51-A Sub-clause (k); which has been inserted by the Constitution (Eighty-sixth Amendment) Act, 2000 provides that: "It shall be the duty of every citizen of India - who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

34. In the Right to Primary Education Bill 2005 which has in its original or modified form recently been cleared by the Cabinet, a duty was cast on the parents to send their children to school and some penalty was imposed on parents when they failed to perform this duty. In this connection Sections 48 and 50 may be usefully perused:

48. Ensuring Participation in Elementary Education

No person shall prevent a child from participating in elementary education;

Provided that notwithstanding anything contained in the Child Labour (Prohibition and Regulation) Act 1986 (No. 61 of 1986), no person shall employ or otherwise engage a child in a manner that renders her a working child.

50. Responsibility of the Parent/Guardian

(1) It shall be the responsibility of every parent/guardian to enrol his child or ward, who has attained the age of 6 years and above in a school, and to facilitate her completion of elementary education.

(2) If a parent/guardian persistently defaults in discharge of his responsibility under Sub-clause (1) above, the SMC may direct such parent/guardian to perform compulsory community service by way of child care in the school, in such manner as may be prescribed.

35. The Supreme Court of India in paragraph 15, p. 855, Rosy Jacob Vs. Jacob A. Chakramakkal, observes that:

The children are not mere chattels nor are they mere playthings for their parents. Absolute right of parents over the destinies and the lives of their children has, In the modern changed social conditions, yielded to the considerations of their welfare as human beings so that they may grow up in a normal balanced manner to be useful members of the society....

We therefore desire that some directions be issued by the State of U.P., even without awaiting the passage of the bill on Primary Education by Parliament which casts some liability also on the parents for performing the sacred duty of educating their children by co-operating with the State in every manner for ensuring that their child of the age 6-14 years attends school. We would like to have a response of the Principal Secretary Primary Education/Special Secretary. (Basic Education)/Chief Secretary U.P. on this direction on the next date of listing.

36. It is further mentioned that in pursuance of the High Court's directive for launching a drive for enrolment of children in the age group of 6 to 14 years under SSA, 3.39 crore children have been enrolled in schools by 31.8.2008. According to the household survey by SSA (vide Annexure 8), in the aforesaid period the total number of out of school children was 299309 after 39909563 children out of an estimated 40212089 children had been enrolled by 31st August, 2008 for the year 2008-09 and this amounted to 99.25 of the total per cent.

37. Though this appears to be an impressive achievement, but we entertain some doubt whether the extent of enrolment could be as high as this as co-ordinators who are required to enrol children in schools and school teachers may give exaggerated figures to protect their jobs. In this connection it may be mentioned that three district coordinators in Faizabad, Ballia and Gorakhpur have been repatriated to their parent departments for their unsatisfactory performance.

38. We would also like a progress report regarding the success in getting the figures of the household surveys of out of school children conducted by the teachers, verified by some external agency, and the names of the external agencies which are conducting the aforesaid survey.

39. Also it is not a mere question of enrolment of children, but the essential issue is or retaining the children in the schools from week to week. In this connection an interesting website has been developed by an Ex-collector of Krishna Gin district in Tamil Nadu Dr. Santosh Babu titled "back2school.in" This website contains the detailed identities and family backgrounds of all out of school children, who are being enrolled in schools. Village level volunteers have been appointed to coordinate with the district, block and village level authorities and are trained to feed the data about out of school children every two weeks in the village or block computer, in case some child drops out or does not come to school or goes elsewhere. The reasons for the children dropping out or being withdrawn by the parents are also mentioned so that the District Collector can redress the issue.

40. We would like the educational and other authorities to examine this website and strategy devised by the aforesaid collector for ensuring the continuance of all out of school children in school. We also suggest that on a pilot basis a suitably modified website be created after surveying all out of school children in Allahabad and Luckow urban areas. For this available official "Sarva Shiksha Abhiyan" or other data be used as well as assistance of good NGOs like "Pratham", Childline etc. which are engaged in the task of identifying or mainstreaming out of school children be collected, which could mention the details of the identities of the out of school children, along with digitalized photographs and reasons for their being out of school. The computerized data be immediately accessible by the D.M., educational authorities and collaborative NGOs who can then take measures for addressing the problems and reason for the child being out of school, and for motivating or punishing concerned parties. If this experiment is successful it could be replicated for the entire Allahabad and Lucknow districts (i.e. inclusive of rural areas), and then the whole State. We would like a response from the concerned authorities in the matter on the next date of listing.

41. We also desire that State Government take the help of the UNICEF and other concerned NGOs who are working to enrol out of school children in school to ensure that they do not drop out again and to submit a report and proposal as to what measures may be taken in this regard on the next date of listing.

42. Annexure 11 of the affidavit contains the Government Order dated 6.10.2008 issued by [the Special : Secretary, Basic Education directing all public bodies and state primary and secondary schools for making data banks with digital photography of each child In school as directed by our earlier orders. In this connection a unique i.d. is to be provided to each child so that his progress in education may be evaluated. By an earlier Government Order dated 28.8.2008 Rs. 17,04,000/- had been sanctioned, which was kept with the Director, Basic Education and the Director, Basic Education has been directed to make the said funds available to each district within a week. In the first phase the digital photography of all the children would be taken up and in the second phase their

identity cards would be made. Only the children joining in the coming session would be photographed initially and the information about the children leaving the school would be updated. The Basic Education Officer would provide the executing agency with the software on a CD and an Installation manual. The software would contain the names of all the school children, condition of school buildings and school infrastructure, kitchen shed, toilet etc. with respect of each school in the block, which would be fed in the computer. The information on the software would be accessed on line. It is envisaged that this work would be completed by 22.3.2009. We would like to obtain a status report regarding the progress in implementation of this scheme on the next date of listing.

43. In one affidavit on behalf of the District Magistrate, Allahabad by the District Basic Education Officer, Allahabad in response to an affidavit of the Intervener Sister Sheeba Jose, it is mentioned that warnings of strict action against the concerned Gram Pradhan and Village Panchayat Secretary whenever the food in the mid-day meal is found to be of a poor quality, and that action has been proposed against 137 primary schools and 49 upper primary schools. In Allahabad city, NGOs have been entrusted with the responsibility of preparation and distribution of mid-day meals and inspections are conducted and steps are being taken for overcoming the difficulties. The menu varies each day and it is painted on the schools wall on bold letters. Pro-tasting of the food by the school teachers and "Shiksha Mitras" before serving it to the children, continuous supervision of prepared food by the mother-guardian association, every day entry of quality and quantity of the prepared food by the Head Master in the mid-day meal register especially prepared for the said purpose and by regular inspection of the schools by the district level task force, block level task force and other departmental officials is envisaged. Kitchen sheds and stalls have also been constructed in the schools

44. We hope that efforts for improving the quality of the meals distributed in the schools continue unabated and the District Magistrate and Basic Education Officer and other concerned authorities will respond if criticism and suggestions are made for the quality of food by the NGOs and parents association etc.

45. In the other affidavit on behalf of the Integrated Child Development Scheme Officer, Allahabad, in response to another application filed by Sister Sheeba Jose, it is mentioned that there are 128 Anganwadi Centres in Shankargarh (stock and survey has been made of 128 centres and a total sum of Rs. 17,47,600/- has been released in Shankargarh Block under the Hot Cooked Scheme for 128 centres. Baby weighing scales and adult weighing scales have been provided in the year 2001. However, as 109 machines are out of order, hence weight of children and pregnant women could not be taken. As the Lucknow Bench of this Court has stayed the purchase of machines by its order dated 1.6.2007, hence new-machines could not be supplied to the centres.

46. We think that an application should be moved by the State Government for getting the stay order vacated or writ petition (Writ Petition No. 3407 M/B of

2007 (M/S) Countrywide Marketing Association v. UP Upbhokta Sahkari Sangh Limited and Ors.) pending in the Lucknow Bench of this Court decided expeditiously as absence of food and poor health is another cause of indebtedness, which sometimes induces children to leave home in search of food; and work and is a push factor causing children to go missing. The District Magistrate, Allahabad himself has taken action against Smt. Deepa Verma, worker of Anganwadi, who was absent from duty and another person was found discharging her duty. It is mentioned that 573 kits have been provided for distribution in the centres and the health department is also providing Horlicks and necessary immunization.

47. We desire that there should be no let upon improving the functioning of Anganwadi centres and authorities concerned respond positively to constructive suggestions for running the same.

48. There is also a detailed note of the Member Secretary, UP: State Legal Services Authority, which shows his proactive; concern in the matter. As a substantial part of the said note contains the annexures, which have also been annexed in the affidavits filed by the various parties referred to above, we need not allude to thorn hero. However, we expect that the parties will furnish copies of the materials which are to be filed in the Court to the Member Secretary for appropriate directions intervention as he is a senior officer of the District Judge rank and has been providing valuable assistance to the Court.

49. In this connection the Member Secretary has written a letter dated 18.9.2008 to the Principal Secretary, Labour requesting him to send the list of 7700 cases pending in the different courts for action and intervention at his level, but the said list has not been furnished to him. He has also sent a letter dated 3.10.2008 to the Chief Secretary, requesting him that the compliance report from the different departments has been called by him, but the same has not boon sent. We think necessary directions in this regard may now be issued.

50. Annexure 17 of the note of the Member Secretary, however, contains certain documents of the NGO Pratham. There is a pointer paper of the experience of the NGO Pratham in rescuing the children engaged in child Work in Mumbai especially in Zari, leather, hotels, constructions, garage, goldsmith industries and who are working as rag pickers/vendors of platforms or in the night, in a public-private partnerships of the state actors, i.e. the labour and police departments with the NGOs, who have formed a task force and a strategy for conducting raids, and for persuading owners to send back or release the children from labour through dialogue and fear of legal action. It Would be well worth for the Government to consider this strategy of identifying and rescuing child labourers.

51. However as pointed out above that this Court Is more interested in identifying all out of school children, who may be potential victims of traffickers or who may voluntarily go away to work and how a comprehensive household survey for identifying such children can be conducted and a project initialed for

putting all out of school children in school and for ensuring that they remain there.

52. There is also a paper by Ehsaas, (Annexure 18), which seeks to develop a module for tracking children. The Court would like to see this module operational in some pilot area before it can make any comments on the same.

53. One important aspect has been covered in the letter of Deputy Secretary, UP Legal Services Authority dated 14.10.2008, which refers to her visit to the shelter home of Ehsaas, which houses children, who are lost from Lucknow and its neighbourhood. The issue of children suffering; from mental Infirmity and diseases are highlighted In the meeting for which there was no separate facility in any government or nongovernmental home and who are to face grave difficulties.

54. We hope that some representatives of the aforesaid NGOs Pratham and Ehsaas will appear before the Court date of listing and brief the Court what action they are taking for advancing the cause of tackling the problem of missing children.

55. We think that the Government should give serious, concern to this issue of mentally challenged children, who are often abandoned by their families and give a feed back to the Court as to what are the existing facilities of the Government and NGOs for dealing with such children and for keeping them in homes and for their rehabilitation.

56. There is also a report of the Registry, which contains the feed back from the various District Judges. With regret to note, however, that up to now the data has not been filled up in the proper proforma with regard to date of placing of the matter before the District Monitoring Committees, the difficulties faced in providing legal aid in matters relating to missing children and other allied matters and the dearth of additional suggestions, which could have reflected a more proactive concern of the District Judges and the subordinate judiciary to the cause of giving legal aid to the parents Of the missing children, which were mandated in our earliest order in January, 2007 and have boon reiterated in various orders including the last order dated 8.8.2008. We are however happy that the majority of the district judges are ensuring that the matter relating to missing children is taken up in the monthly monitoring committee meetings with the SSP/SP, and D.Ms etc.

57. We would like to get better...particulars and responses from the District Judges on the next date of listing.

58. There is also an application on behalf of "Bharti Chetna Sanstha", Allahabad, which is an NGO, which; has conducted a survey of out of school children in villages Ganjia, Kharkhauni and Bhat in Naini, Allahabad. It has annexed a list of 516 children, who are out of school. This is an extremely high figure and we would like the Basic/Nagar Shiksha Adhikari and the District Magistrate,

Allahabad to get it verified whether the said children are included in the list of out of school children prepared by the Government in its household survey. If there are discrepancies in the two lists, give the reasons for the discrepancies. The NGO concerned and the education authorities may find out the reasons why the said children are out of school and whether the only reason for their being out of school is the absence of a primary school in Ganjia.

59. An affidavit has also been filed by Shri K.K. Roy, Advocate, on behalf of the Child Line, Allahabad, which gives concrete details of missing children. In paragraph 22 it is Indicated that 38 children are missing in Ghaziabad and Noida and that no FIR has been lodged in respect of the said children.

60. Likewise, Shri K.K. Roy has annexed a report (Annexure 2 to the affidavit) published in a research work by Bigul Mazdoor Dasta titled Kahan gaye way bachchey, and the missing children are mentioned in paragraphs 11 to 20. The said children also are said to be missing from Ghaziabad and Noida. If this averments is correct, they reveal a shocking, state of affairs because after this Court started monitoring of the matter after the aftermath of Nithari tragedy such an averments have been made relating to Ghaziabad and Noida districts. We would like the Director General of Police, UP to get a proper investigation done and to seek clarification of the allegations made regarding the aforesaid missing children and to submit a report in this regard on the next date of listing.

61. Let copies of this order and relevant documents be sent/given by the Registry at the earliest to the Chief Secretary, U.P.; the Principal Secretary, Govt. of U.P: Labour; Primary. Education; Women and Child Development; Home; Commissioner, Social Welfare; Member Secretary, State Legal Services Authority, Lucknow; Project Director, "Sarva Shiksha Abhiyan," concerned District Judges; Director General Police, U.P., Lucknow; District Magistrate, Allahabad; Nagar Shiksha Adhikari, Allahabad; Sri A.K. Sand, A.G.A.; Sri K.S. Shukla, Counsel for Secretary .(Basic Education), U.P.; Assistant Solicitor General, Govt. of India, Sri K.C. Sinha; Union Secretary: Ministry of Women and Child Development; Secretary: Ministry of Human Resources. Development; Ministry of Social Justice and Empowerment and Labour, Govt. of India, New Delhi; Child Protection Officer, UNICEF, Lucknow; the intervener Don Bosco Ashayalam, Lucknow; the intervener Child Line Allahabad through Sri K.K. Roy; the intervenor Sri Smitin Brid, State Director Pratnam, Lucknow, the intervenor "Bharti Chetana Sanstha," Allahabad through Sri Sudeep Kumar Singh, Advocate, the intervenor Ehsaas care of Member Secretary, Legal Services, Authority, the Advocate intervenors, Jagati Singh and Sanjeev Singh/Sister Sheeba.

List this case on 16.1.2009 for further orders and for submission of compliance reports.