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Constitution Of Juvenile Justice Committee In High Courts Of India- A Critical Study.

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Abstract

Supreme Court has organized Chief Justices conferences which has passed resolutions in 2006, 2009, 2013, 2015 & 2016, in order to setup and strengthen Juvenile Justice Boards & Committees. Supreme courts Committee on Juvenile Justice was setup in August 2013 to ensure the proper working of Juvenile justice Act 2000 (earliest and now 2015 act). Lack of guidance for functioning of the High court Juvenile Justice Committee of different High courts.

The need of the study is to check whether the Chief Justice- conference to strengthen Juvenile Justice Committee, in every High court is fulfilled. The scope of the Research paper is limited to Juvenile Justice Committees of all states High courts functioning according to Chief Justice Conference resolutions 2006, 2009, 2013, 2015 & 2016.

Key words – Supreme Court Juvenile Justice Committee, High Court Juvenile Justice Committee, Chief Justice Conference, Resolutions, All High courts Juvenile Justice Committees.

Introduction

“Child is the father of man”. They are precious constituents of our society who are to be protected from abuse and exploitation. The JJ Act, 2015 is the spine of the legislation concerning to the protection of children in India. According to current estimates there are around 2 billion children with ages from zero to 14 years. ¹ India has 25.31% of children between 1960-2022 and ranks 97. ² There are about 172 million or 40% children in need of care and protection. ³

Constitutional Perspective

To achieve constitutional goal the Constitution of India under article 15 (3) has provided provisions to make social justice to Women and children. Art 21-A ensures right to education as a fundamental right, inserted through 86th Amendment Act, 2002. Art 21 enshrined early childhood. Art 39 (e) emphasis health and strength of children not forced by economic necessity to enter avocations unsuited to their age and strength. Art 39(f) provides opportunities to develop children in healthy manner and protect them from exploitation. Art 45 ensures early childhood care and education below 6 years. Art 51-A (k) imposes that a parent or a guardian should provide opportunities for education to his child between ages of 6-14 years.

International Perspective

UN took Geneva declaration in 1946. UDHR (United Declaration of Human Rights), 1948 was the first to uphold the rights of child in its Art 25(2) which provided that all children whether born in or out of wedlock shall be entitled to Motherhood and special care and assistance. Declaration of Rights of Child in 1959 failed to define "Child". International Year of Child, 1979 recognised importance of child welfare. In 1952, ICCW (Indian Council of Child Welfare) came into its existence. In 1953, ICCW became a full member of IUCW (International Union for Child Welfare). On 2nd October 1975, the ICDS (Integrated Community Development Scheme) project was launched by Government.

Constitution of Juvenile Justice Committee "is" and "ought"

Supreme Court held Chief Justice Conference-2006 on 9/3/2006 and 10/3/2006. ⁵ In this conference it was directed to setup JJB's (Juvenile Justice Boards) wherever it was not setup. It also stated that CJ (Chief Justice) may appoint a Judge of High Court (HC) to oversee the functioning of Observation and Remand Homes.

In 2009 ⁶ Chief Justice conference, it was quoted with respect to JJ Act, 2000 (erstwhile now new act, 2015) as "if every saint has a past every sinner has a future". It also discussed about calling upon all the State Governments to enforce and implement Children's Act according to SC Judgements held in Sheela Barse Vs Union of India ⁷. It also suggested that there would be complete uniformity if the central government initiates Parliamentary legislation relating to various provisions of the act relating to children in the entire territory of India instead of enacting different Children Act in different states.

In compliance with the directions of SC (Supreme Court) in Sheela Barse's case, the Government of India enacted JJ Act, 1986, which extends throughout India. It also discussed about formation of JJB's (Juvenile Justice Board) in districts through notifying in Official Gazette by State Governments. It also directed to constitute JJBs wherever not setup.

In CJ's conference held in 2013, ⁸ the setting up of CWC's (Child Welfare Committee) in all committees was emphasized to meet the needs of Children in need of care and protection (CNCP). Juvenile Justice Committee (JJC) was setup in Delhi High Court under the guidance of Chief Justice and Senior judges. In this conference it was noticed that the state governments had not taken any serious steps towards establishment of various homes with reference to JJ Act, 2000 and JJ Rules of 2007. It was also taken into consideration that the conditions of Observation homes and Remand Homes were not meeting the standards of the JJ Act. It was also noted in this conference that JJ Act has yet to be implemented in State of Jammu and Kashmir.

In CJ's conference held in 2015, ⁹ that all the High courts should ensure the constitution of JJBs and CWCs where they were not setup. It also emphasised on visits to be made to Observation homes, Remand Homes, Shelter Homes, Special Homes on regular basis to check its implementation properly. It also laid emphasis on providing facilities to JJ, Rules and Policies.

In CJ's conference held in 2016, ¹⁰ has discussed about ensuring institutional support for CNCP. It also ensures that every district is equipped with child protection unit, Special Juvenile Protection Unit (SJPU), Observation Home and Children Home. Pending cases of orphaned, abandoned and surrendered children shall be monitored by JJC's of High Courts.

Office order of Rajasthan State Legal Service Authority dated 02/05/2017 has directed the Rajasthan High Court to implement JJ Act, by constituting High level Committee. ¹¹ Office order dated 25/08/2017 by High Court of Sikkim has pleased to form Juvenile Justice Secretariat to assist JJC.

Office order of Registrar General of High court of Manipur at Imphal dated 25/10/2021, has partially implemented the establishment of JJC. ¹² Office order dated 06/10/2021 of the High court of Jammu and Kashmir and Ladakh held fourth round table conference on implementation of JJ system.

Office order of High court of Himachal Pradesh, Shimla dated 08/08/2023 has pleased to constitute the JJC, presiding Hon'ble Mr. Justice Sandeep Sharma as its Chairman. ¹³

Office order dated 06/05/2023 of High court of Allahabad recruited One Mr. Manvendra Pratap Singh for fillingup the post of Accounts and fund management for the Secretariat, Hon'ble High Court Juvenile Justice Committee.¹⁴

Out of 25 High Courts in India only 13 High courts have setup the Juvenile Justice Committees.

- Kerala High Court - setup JJC in 2010.
- Karnataka High Court - setup JJC in 2012.
- Delhi High Court - setup JJC in 2013.
- Chattishgarh High Court - setup JJC in 2015.
- Madhya Pradesh High Court - setup JJC in 2016.
- Meghalaya High Court - setup JJC in 2016.
- Guwahati High Court - setup JJC in 2017.
- Jharkhand High Court - setup JJC in 2017.
- Orissa High Court - setup JJC in 2017.
- Sikkim High Court- setup JJC in 2017.
- Patna High Court - setup JJC in 2018.
- Punjab & Haryana High Court - setup JJC in 2018.
- Calcutta High Court - setup JJC in 2018.

Conclusion: The JJ Act was first enacted in 1986 and was amended and replaced by JJ (Care and Protection) Act, 2000 and was again amended in 2012 and subsequently was replaced by JJ (C& P) Act, 2015. Though the concept of protection of rights of children have been enacted through JJ Act in 1986 yet it is far from proper implementation and this is evident by setting up of Juvenile Justice Committees only in 12 High courts out of 25 High courts. And in some districts Juvenile Justice Boards are itself not yet formed which shows negligence in implementation of certain states though it is emphasized in Chief Justice Conferences. And it is an hour of need to constitute the same in order to strengthen Juvenile Justice System in India. The main function of Juvenile justice committee is to supervise whether the JJBs and CWCs are working according to the Juvenile Justice Act,2015 to upheld protection of child rights. There is no particular provision to mandatorily setup the Juvenile Justice Committee in the High courts of all states. Hence amendment with this regard is necessary.

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