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WP-13446-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 28th OF APRIL, 2026

WRIT PETITION No. 13446 of 2026

HARCHARAN AHIRWAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Amilesh Chaturvedi - Advocate for the petitioner.

Shri Anubhav Jain - Government Advocate for the respondents/State.
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ORDER

Per. Hon'ble Shri Justice Sanjeev Sachdeva, Chief Justice

Subject Habeas Corpus Petition has been filed by the petitioner contending that the minor daughter of the petitioner was missing and alleged to be in the wrongful confinement of respondent No.4.

2. Corpus has been produced by the Investigating Officer Shri Akash Rusia, Sub Inspector, alongwith Lady Constable - 496 Ms. Aarti Utpal of Police Station, Bamhori Kala, District Tikamgarh. The Investigating Officer has submitted a report stating that the inquiry has revealed that the Corpus is a major. It is contended that as per the Class X certificate of the Corpus, the date of birth is 07.04.2006 and this has also been confirmed from the Scholar Register of the School first attended which has matched the date 7th April, 2006 i.e. the date of birth of the Corpus.



3. *Per contra*, learned counsel for the petitioner submits that the birth certificate of the Corpus records as 8th October, 2008 and; as such, she is a minor.

4. The Corpus states that she has already performed a marriage with respondent No.4 and is residing with him in the matrimonial home.

5. Reference may be had to the provisions of Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (*hereinafter referred to as 'the Act'*) which reads as under:-

"94. Presumption and determination of age—(1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining—

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat; (iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person."

6. Similarly, reference may also be had to the Juvenile Justice (Care and Protection of Children) Rules, 2007 (for short '*the Rules*'). Rule 12 of the said Rules provides procedure to be followed in determination of age which reads as under:



12. Procedure to be followed in determination of Age.— (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.

(2) The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining –

(a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7A, section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed off cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub-rule(3) and the Act,



requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law.

7. The Act and the Rules mandate that for determining the age, first the date of birth certificate from the School or the Matriculation certificate of the Examination Board is to be taken as evidence and in the absence thereof the birth certificate given by the Municipal Corporation. Since the Matriculation certificate of the Board and the Scholar Register of the School first attended by the Corpus shows the date of birth of the Corpus as 07.04.2006, this Court will have to *prima facie* accept the same as the correct date of birth of the Corpus.

8. Reference may also had to the judgment of Supreme Court in *Abuzar Hussain @ Gulam Hossain vs. State of West Bengal, (2012) 10 SCC 489* wherein the Supreme Court has referred to Juvenile Justice (Care and Protection of Children) Rules, 2007 and held that for determining the age of a minor, first the date of birth as recorded in the Scholar Register or Matriculation certificate is to be taken as evidence and; in absence thereof, the certificate issued by the Municipal Corporation can be looked at. The judgment in *Abuzar Hussain @ Gulam Hossain* (supra) has been followed by the Supreme Court in *P. Yuvaprakash vs. State of Tamil Nadu, (2024) 17 SCC 684* wherein the Supreme Court has held that in terms of Section 94 of the Act, the date of birth certificate from the School or Matriculation by the Examination Board must be firstly preferred, in the absence of which, the birth certificate issued by the Municipal Corporation.

9. In the instant case, the Board Certificate as also the Scholar Register of the School first attended by the Corpus record the date of birth as



07.04.2006. The Corpus is to be taken as a major.

10. The Corpus who is present in Court, states that she has already performed marriage with respondent No.4 and does not wish to return to her parental home and is not in any wrongful confinement. No further order is called for in this petition.

11. Petition stands **disposed of**.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

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