



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 45731 of 2024

X Minor

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Tarun Jha
Counsel for Opposite Party(s)	:	G.A.

Court No. - 49

HON'BLE AJAY BHANOT, J.

Heard Sri Anoop Trivedi, learned Additional Advocate General assisted by Sri Paritosh Kumar Malviya, learned AGA-I for the State.

The JJ Act, 2015 read with JJ Rules, 2016 vests the mandate of adjudicatory functions with the obligation of the restorative justice upon the courts. Restorative justice under JJ Act, 2015 read with JJ Rules, 2016 is primarily achieved through the process of R & R programme/individual child care plan.

Post release R & R programme/individual child care plan is the most significant component of restorative justice under the JJ Act, 2015 read with JJ Rules, 2016. The R & R programme /individual child care plan has to be implemented through various agencies and individuals nominated in the JJ Act, 2015 read with JJ Rules, 2016. The aforesaid agencies which are charged with the duty of implementing the R & R programme/individual child care plan for a child post release from the observation home include "fit institutions/fit facilities," "fit persons," "group foster care institutions," "group foster care givers," "case workers".

After granting interim bail to the appellant in this case as well as in the connected appeal, this Court had assessed the need for an R & R programme/individual child care plan for the child in

both the cases. However, it transpired during the course of arguments that the agencies/authorities who would implement the aforesaid plan under the JJ Act, 2015 read with JJ Rules, 2016 were not nominated/recognised.

Learned AGA did not have any satisfactory instructions regarding existence of "fit institutions/fit facilities," "fit persons," "group foster care institutions," "group foster care givers," "case workers" under the JJ Act, 2015 read with JJ Rules, 2016 in district Kasganj and Mainpuri in particular. Consequently, the Court had to request the presence of the DPO Kasganj and DPO Mainpuri for assisting the Court in the matter.

Ms. Pallavi Singh, District Probation Officer, Kasganj and Sri Rajnath, District Probation Officer, Mainpuri are present in Court. District Probation Officer, Prayagraj is also present in Court as pairokar of the Additional Chief Secretary, Department of Women and Child Development. The officers have stated before the Court that no "fit institutions/fit facilities," "fit persons," "group foster care institutions," "group foster care givers," "case workers", have been identified and recognised in districts Kasganj and Mainpuri.

The officers shall file an affidavit to this effect. Both the officials namely District Probation Officer, Kasganj and District Probation Officer, Mainpuri shall file an affidavit by the next date of listing.

In the absence of a criteria for recognition and lack of recognised institutions as "fit persons," "group foster care institutions," "group foster care givers," "case workers" as contemplated in the JJ Act, 2015 read with JJ Rules, 2016 in districts Kasganj and Mainpuri, the R & R programme/individual child care plan cannot be executed. Without effective implementation of the R & R programme/individual child care plan the role of the Court becomes purely adjudicatory and the legislative mandate of

restorative justice is completely negated. In both the connected bail applications the foremost component of R & R programme/individual child care plan is education. There are many commonalties in the R & R programme/individual child care plan which are being framed and the rights of both the children vested under the Right to Education Act.

Sri Anoop Trivedi, learned Additional Advocate General assisted by Sri Paritosh Kumar Malviya, learned AGA have assisted the Court on behalf of the State. Learned Additional Advocate General as well as learned AGA fairly state that the instructions lack the necessary information as regards availability of statutory institutions throughout the State for implementing the R & R programme /individual child care plan, post release of the child in conflict with law. Time had been granted to the State counsels for obtaining necessary instructions on the last occasions in this regard.

On the basis of the aforesaid submissions and the records available with the learned AGA, prima facie, it appears that the fit institutions/fit facilities," "fit persons," "group foster care institutions," "group foster care givers," "case workers" do not exist in the State. This deficiency effectively frustrates the beneficent intent of the JJ Act, 2015 read with JJ Rules, 2016 and violates the rights of a most vulnerable section of the society namely children in conflict with law.

Sri Anoop Trivedi, learned Additional Advocate General assisted by Sri Paritosh Kumar Malviya, learned AGA pray for further time to file an affidavit on behalf of the State Government on the following issues:

1. Steps taken for determining the criteria of "fit institutions/fit facilities," "fit persons," "group foster care institutions," "group foster care givers," "case workers".
2. Details of "fit institutions/fit facilities," "fit persons," "group

foster care institutions," "group foster care givers," "case workers" duly identified/recognised under the JJ Act, 2015 read with JJ Rules, 2016, for post release R & R programme/individual child care plans.

3. Whether schools in which the children are proposed to be admitted as part of the R & R programme/individual child care plan to accomplish the educational mandate of the programme can be identified as "fit persons," "group foster care institutions," "group foster care givers," "case workers" and the teachers in the schools can be designated as "fit persons," "group foster care institutions," "group foster care givers." Prima facie schools and teachers respectively satisfy the criteria for such designation/recognition for the purpose of implementing the activities in the R & R programme/individual child care plan insofar as they relate to education.

4. Feasibility of giving incentives to institutions/schools to upgrade their facilities for nomination as "fit persons," "group foster care institutions," "group foster care givers," "case workers" and for teachers to upskill their qualifications for being recognised as "fit persons," "group foster care institutions," "group foster care givers," "case workers".

5. Nomination of other institutions, volunteer groups, civil society institutions, non government organizations, professionals which have requisite expertise and possess necessary capacity for being recognized as "fit persons," "group foster care institutions," "group foster care givers," "case workers" and the teachers in the schools can be designated as "fit persons," "group foster care institutions," "group foster care givers under the JJ Act, 2015 read with JJ Rules, 2016."

6. Feasibility of development of pedagogy/curriculum for the R & R programme/individual child care plan (including) the education of the child in conflict with law.

7. Feasibility of collaboration of various educational institutions and entities like SCERT, NCERT, NCTE, State Universities, Central Universities, schools and other institutions for development of the aforesaid pedagogy/curriculum for children in conflict of law.

8. Feasibility of having a proper training programmes for teachers and other mentors who are to be identified as "fit persons," "group foster care institutions," "group foster care givers," "case workers" for different activities under the R & R programme/individual child care plan in light of the provisions of the JJ Act, 2015 read with JJ Rules, 2016.

9. Feasibility of collaboration with various institutions like SCERT, NCERT, NCTE, State Universities, Central Universities, schools and other institutions for implementation of the R & R programme/individual child care plan.

10. Plan for coordination between various departments of the State including Department of Women and Child Development, Director General (Education), Departments of Education (Higher Education, Intermediate Education, Basic Education), Department of Empowerment of Persons with Disabilities, Department of Social Welfare, Mission Director for Skill Development, Department of Sports, Department of Health & Medical Education, Department of Culture, Police Department, Department of Law and any other department as may be deemed appropriate for implementation of the JJ Act, 2015 read with JJ Rules, 2016.

Sri Anoop Trivedi, learned Additional Advocate General assisted by Sri Paritosh Kumar Malviya, learned AGA shall hold a conference with the Additional Chief Secretaries of the respective departments and file the affidavit on behalf of the State. The affidavit shall reflect the stand of different departments but speak in one voice reflecting full concert between various departments of the Government.

District Probation Officer, Kasganj and District Probation Officer, Mainpuri, District Inspector of Schools, Kasganj and District Inspector of Schools, Mainpuri to be present in person on the next date of listing for assisting the Court in finalizing the R & R programme/individual child care plan.

List on 12.02.2026 for further hearing and dictation.

(Ajay Bhanot,J.)

January 29, 2026

Pravin