



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 04th JULY, 2023

IN THE MATTER OF:

+ **W.P.(C) 5137/2013 and C.M. Nos. 3203/2014 & 16882/2014**

COURT ON ITS OWN MOTION

.....Petitioner

Through: Mr. Anant Kumar Asthana, *Amicus Curiae*.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Ms. Hetu Arora Sethi, ASC with
Mr.Arjun Basra, Advocate for
GNCTD
Mr. Parviner Chauhan, Ms. Aakriti
Garg, Advocates for DUSIB
Mr. Satyam Thareja and Mr. Nishant
Sharma, Advocates for R-4
Insp. Ajay Yadav for SPUWAC.

+ **W.P.(C) 2600/2017**

SALEK CHAND JAIN

.....Petitioner

Through: Mr. Jitender Kumar Gupta, Advocate.

versus

GOVT OF NCT OF DELHI AND ANR

..... Respondents

Through: Ms. Hetu Arora Sethi, ASC with
Mr.Arjun Basra, Advocate for
GNCTD
Mr. Parviner Chauhan, Ms. Aakriti
Garg, Advocates for DUSIB
Ms. Shahana Farah and Ms. Sanna
Harta, Advocates for DDA
Mr. Anant Kumar Asthana, *Amicus Curiae*.



**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

JUDGMENT

1. An incident of vandalism in juvenile detention centre at Majnu Ka Tila was reported on 08.08.2013. Members of the Juvenile Justice Committee visited Majnu ka Tila complex on 10.08.2013. It was reported that the inmates set fire inside the home by burning blankets. A couple of cars which were parked outside were also damaged. The report indicated that the inmates accused the administration of treating them badly and not providing them food on time.
2. Juvenile Justice Committee of this Court met on 12.08.2013 to consider the report given by the Members of the Juvenile Justice Committee on 10.08.2013 and the Juvenile Justice Committee of this Court was of the view that the matter be placed before the Acting Chief Justice of this Court for appropriate directions of enquiring into the incident and also for suggesting remedial measures. An *Amicus Curiae* was appointed in the matter.
3. On 21.08.2013, this Court after hearing the learned *Amicus Curiae*, learned Standing Counsel for the Department of Women and Child Development and other Counsels found that the juvenile centres at Majnu Ka Tila houses an observation home, special home and a place of safety within the same building. This Court found that the observation home is primarily meant for receiving juveniles in conflict of law and during the pendency of the enquiry under the Juvenile Justice (Care & Protection of Children) Act, 2000, and this Court was of the opinion that the observation home, special home and the place of safety are to be separated and are to be



segregated since the purpose behind placing juveniles in each of these places is different and distinct.

4. There was another report dated 30.08.2013 from Sewa Kutir complex in Kingsway Camp, Delhi with regard to the escape of certain juveniles from the Sewa Kutir complex. It was found that due to lack of standard operating procedure as well as multiplicity of authorities such as National Commission for Protection of Child Rights (NCPCR), Delhi Commission for Protection of Child Rights (DCPCR), Supervision Committee, Juvenile Justice Board Committee, NGOs and social activists, etc. the department has not been able to control the incidents of violence. It was also pointed out that multiple authorities have undermined the status as well as the power of the Officer-in-Charge of the observation homes as they have frequently interfered with the administration of the observation homes.

5. The matter was listed from time to time for suggesting ways and measures to improve the administration of the various juvenile homes in the city. This Court in the present *suo motu* petition also dealt with filling up of vacancies of the staff in the various juvenile homes in the city. It was informed to this Court that a standard operating procedure to deal with normal and emergent situations was exclusively discussed and recorded in the form of draft suggested rules.

6. Certain measures were also suggested for amending the Delhi Juvenile Justice Rules. This Court vide Order dated 14.02.2014, observed that till the Delhi Juvenile Justice Rules are amended and notified, the officer in charge shall ensure that appropriate security measures are adopted at all times and that there shall be sufficient number of guards at all times in different shifts to be posted at the points to be identified by the Officer-in-



Charge, in consultation with the In-Charge of the security department. This Court suggested the following measures:-

"The Officer-in-Charge shall ensure that appropriate security measures are employed at all times, including the following:

1. There shall be sufficient number of guards at all the times in different shifts to be posted at the points to be identified by the Officer-in-charge in consultation with Incharge Security and the Department.

2. The dormitories shall be guarded from inside by the house representative at the time of night, who shall ensure discipline inside the dormitories amongst his house.

3. Any child, who complains of a medical problem or any similar other problem at the time of night, shall report to the house representative, who shall in turn inform the caregiver concerned. The caregiver shall take such necessary steps as may be required and in case of emergency shall inform the medical officer concerned or the officer in charge as the need may be, who shall immediately take appropriate steps.

4. During the night, patrolling officers shall be on guard and shall not quit their beat or sleep.

5. A roster of turns of duty shall be prepared and displayed in some prominent place. A record shall be prepared showing the person put on each beat during each watch. This record shall be maintained by the officer in charge.

6. Every caregiver, if he comes to know of any incident or probability thereof regarding unrest amongst the children, shall bring the same to the notice of the officer in charge without any loss of time, who shall take such necessary steps as may be the need of the hour to keep the situation under control and shall



inform the Board about the information as well as steps taken by him, in writing as soon as possible.

7. Officer in charge shall visit all parts of the home at the time of night as frequently as possible, but not less than once a week. The time of visit shall not be made known before hand. He shall make a record of the timings of his visit and also note his observations. This Register shall be in custody of gatekeeper.

8. If it be the case of disturbance outside the home the shift incharge shall immediately inform the police station concerned under information to the Secretary.

9. Should it be a case of riot or disturbance inside the home, the shift incharge shall take assistance of the police with permission of the Secretary. The shift incharge shall first issue a warning to the children. The doors shall not be opened till the unrest is settled. Necessary action shall then be taken as is the need of the situation.

10. To prepare the officers, children and guards to follow the above routine, a practice drill shall be held once a month, without previous warning or notice by the Officer-in-charge or any ex-officio visitor.

11. Closed Circuit Televisions shall be installed at all key points. "

7. This Court vide Order dated 14.02.2014 also suggested as under:-

"Regular and periodic searches shall be conducted and articles prohibited articles, if found seized and dealt with as stated hereinafter:

1. Searches.-



a. The officer in charge and CWO shall search the entire premises of the home at regular intervals without giving any notice of the same.

b. The bathrooms and toilets shall be searched everyday by the caregiver under the supervision of a CWO.

c. The dormitories shall be searched regularly by the Officer-in-charge or the CWO, but not less than once a week.

d. Special precaution shall be taken for the safe custody of the children with addiction/allied problems. They should be searched regularly and if possible – twice daily and occasionally at uncertain hours.

e. Surprise searches of the staff shall also be conducted by the Officer-in-charge with the assistance of the guards.

f. The Incharge Security shall be responsible for the guards posted in the home.

2. Seizures.-

a. Any prohibited article found during the search shall be seized by the officer in charge. A list of the articles seized shall be prepared.

b. In case of arms, weapons or addictive substances being found from a child or dormitory, the officer in charge shall conduct an inquiry to ascertain how the article entered the home and the persons responsible for the neglect.

c. The officer in charge shall furnish his report in this respect to the Department and the Board or the Committee as the case may be.



d. The Department shall take appropriate action against the person responsible if such person be an officer of the home and forward an action-taken report to the Board or the Committee as the case may be.

e. As regards the child responsible, he shall be dealt with according to these rules.

3. Disposal of Articles Seized.-

b. All the Articles seized shall be destroyed having regard to the nature of the article if the said article will not be required in any inquiry/departmental action against any officer.

c. If the article will be so required, the same shall be deposited with the Department under receipt from the Director of the Women and Child Development."

8. On 08.07.2014, this Court, on the issue of creation of a separate cell/appointment of a Nodal Officer for functioning of the entire security system in the Juvenile Homes, observed as under :-

"The counsel for the Government of NCT of Delhi has submitted a joint affidavit dated 08.07.2014 of the Department of the Delhi Police as well as Department of Social Welfare and Women & Child Development. It is stated that a meeting was held on 07.07.2014 between the Commissioner of Police and Principal Secretary of Department of Social Welfare, Govt. of NCT of Delhi in which certain decisions were taken. The relevant extract of the affidavit with respect to creation of a Nodal Officer drawn from the cadre of the Delhi Police and the steps to be taken in emergent contingencies is extracted below:-



“i. Joint CP/SPUWAC will be the Nodal Officer for holding Quarterly Meetings with the Secretary, Department of Social Welfare and Women & Child Development to discuss issues related to Observation Homes.

ii. For emergent law & order issues arising at Observation Homes, the Superintendent (Officer in charge) or Shift In-Charge of the Observation Home shall contact ACP, Command Room in Police Control Room, PHQ (on Mobile No. 9818099050 or Landline Nos. 23490310, 23490311, 23490312, 23490316, 23490249 or 100) who will initiate action to provide forces to deal with the Emergency Situation at Observation Homes for Juvenile in Conflict with Law and also inform concerned districts to deal the issue. ACP Command Room shall direct the area SHO to respond to the situation and the SHO shall take charge of all the force deployed at the Observation Home i.e. local police, force from 1st Battalion, PCR Vans as well as CP Reserve deployed who may enter the Observation Home to tackle the situation at hand with the permission (oral or written) of the Superintendent (Officer in charge) or In-Charge of the Home at that point of time.

iii. Regarding deputation of Delhi Police staff including an officer of the rank of ACP to the Department of Social Welfare and Women & Child Development, the Principal Secretary shall send a formal request in this regard to CP Delhi outlining the rank wise gist of job profile to enable deputation of officials from Delhi Police as per rules prescribed. ” ”

9. In this regard, on 20.08.2014 this Court was informed as under:-



" It is stated that a nodal officer of the rank of Joint Commissioner of Police has been appointed. Learned counsels seek some time to work out the modalities and ensure the deputation/posting of required number of police personnel in the Department of Women and Child Development, GNCT of Delhi. "

10. This Court also directed that security personnels, preferably females, be deputed in homes or in childcare institutions or wherever deemed fit by DWCD for the protection and monitoring of females housed in those homes/institutions.

11. On 30.01.2015, on the recommendation of the learned Amicus Curiae that the need for a Nodal Officer for the purpose of infrastructure being essential, this Court observed as under:-

"The respondents are hereby directed to ensure that a nodal officer from the PWD is also posted with the Department of Women and Child Welfare of a sufficiently senior rank, to ensure that ongoing building and repairing/renovation work and routine maintenance work concerning various homes and other institutions under the control of DWCD are monitored efficiently and necessary work done in a timely manner. This direction shall be complied with within four weeks."

12. On 24.02.2015, this Court was informed about the appointment of a Nodal Officer by the PWD and this Court observed as under:-

" It is stated that Chief Engineer Sh. Deepak Gupta has been appointed as the Nodal Officer by the PWD. Learned counsel submits that the status report of Sh. Gupta would be filed before the next date of hearing.

So far as the other directions of appointment of police personnel in the Department of WCD is concerned, the Court is informed that a meeting was held



between various senior officials in which it is noted that police personnel are not willing to apply for posting in the Department of Women and Child Development on deputation basis, given the terms offered. "

13. Pursuant to the on-going discussion for improvement of Juvenile Homes across the city, various Status Reports were filed. On 28.01.2016, the Govt. of NCT of Delhi submitted that the Department of Women and Child Development has proposed construction of observation home complex for boys in the present location at Kingsway Camp with an augmented capacity of 300 juveniles in conflict of law and this Court was assured that further progress would take place.

14. On 03.05.2016, the Govt. of NCT of Delhi informed this Court that though the premises at Majnu ka Tila is not adequate but no suitable land has been identified. This Court directed the Govt. of NCT of Delhi to coordinate with all its departments, i.e., DWCD, PWD and Land & Building Department to find out that if any land can be used close to the existing or proposed Juvenile Justice Boards or existing or proposed Child Welfare Committees.

15. On 19.01.2017, this Court was informed by Govt. of NCT of Delhi that 2.1 acres of land at Narela which was not being used would be re-developed for housing the 'After Care Home' and that there are four small plots owned by the DDA, abutting the aforesaid plot of 2.1 acres of land at Narela which was encroached and was not being utilized. In those circumstances, this Court directed the DDA to make the land available to the Govt. of NCT of Delhi for further development and housing the 'After Care



Home' under the Juvenile Justice (Care and Protection of Children) Act, 2000 and this Court therefore further directed to proceed ahead in that case.

16. On 28.07.2017, this Court was informed that four girls allegedly ran away from the Prayas Children Home and seven juveniles who were under the care and safety of the Child Care Institutes Alipur escaped and this Court passed directions to ensure that such incidents do not take place.

17. On 13.09.2017, this Court was informed that a draft sample Standard Operating Procedure was finalized by the Department of Women and Child Development, GNCTD. The said draft Standard Operating Procedure was shown to the Court on 18.01.2018. This Court vide the said Order also accepted the procedure adopted by the Juvenile Justice Board of sending the children directly to the Child Care Institutions who were granted bail and were not considered to be dangerous. Furthermore, these children could not be handed over to their families due to various reasons. However, the housing of such children in the CCIs should be considered on case to case basis. This Court is, therefore, of the view that in case of such children, who are facing enquiry but are unable to avail benefits of bail in their favour should be monitored by the Probation Officers who should interact with children on weekly basis and transmit the report to Child Welfare Committee. The CWC in turn is to monitor the situation on a monthly basis.

18. This Court was informed about the lack of available area for construction of a large facility under the JJ Act as the area under consideration was under the Department of Social Welfare which proposed to develop a large complex for people suffering from mental issues. This Court was informed that there is clearly a problem of lack of coordination between various organizations who were looking after the children who



were in conflict of law, those children who were kept in observation homes etc. and this Court passed the following directions on 23.08.2018:-

"It appears that the confusion has arisen because of lack of interdepartmental coordination. In the circumstances, the concerned department shall coordinate with the DDA and ensure the following:

1. Draw up a comprehensive – 10/20 years plan, keeping in mind the past inflow of persons including lost children, who were diverted to places of safety for temporary care centres of Children in Need of Care and Protection [CCCP], as well as the inflow of cases of juveniles in conflict with law. In doing so, the concerned department i.e. DWCD, shall have regard to, including other things, the past five years of relevant data charting out the annual percent increase for the previous years for such incidents of children as well as taking into account of the number of children referred to CWCs. The long term projection shall then proceed to analyse the need for spaces and also appropriately locate, a plot/space in various parts of the city.

2. The Coordination Committee of the concerned departmental heads i.e. the Principal Secretary, Department of Social Welfare, Principal Secretary WCD and the concerned Commissioner (Land Disposal) of the DDA duly empowered to commit the necessary areas/plot shall draw up a plan.

3. The Coordination Committee shall also examine the possibility of earmarking a separate space within the larger Narela plot for the location of JJB and related homes and the minimum area required for the purpose under the Act and Rules."



19. On 09.05.2018, this Court was informed that the Standard Operating Procedure has been operationalised. It was proposed for the construction of an integrated complex at Narela.

20. On 21.10.2019, this Court was informed the detailed plan for accommodation of 11 Child Welfare Committees, 6 Juvenile Justice Boards and 21 Government operated Child Care Institutions. However, the plot offered by the DDA was 940 sq. mtrs. which was smaller, and, therefore, the DDA was directed to provide for a bigger plot.

21. In regard to the construction of an integrated facility, a Status Report has been filed by the Department of Women and Child Development on 12.05.2023, which reads as under:-

"1. That I am currently posted as presently posted as Assistant Director (Child Protection Unit), Dept. of Women & Child Development, Govt. of NCT of Delhi, and am well conversant with the facts of the case on the basis of records available and/or accessible to me.

2. That I have gone through the contents of WP (C) 2600 of 2017 filed by the Petitioner and have understood the same. I am aware of the facts and circumstance of the case from the official records maintained and thus am competent to swear this affidavit.

3. That I have read and understood the contents of the present Affidavit and state that the facts stated herein are true and correct to my knowledge on the basis of records available and/or accessible to me.

4. It is respectfully submitted that a meeting of the Hon'ble Juvenile Justice Committee was held on 29.08.2022 wherein the matter regarding the best usage of the land measuring 940 sq. mtrs. in Sector 28,



Rohini, New Delhi. allotted by the Delhi Development Authority was also discussed.

5. That, the Committee enquired from Secretary, DWCD about the progress made to ascertain the best usage of the land admeasuring 940 ss. mts. in Sector 28, Rohini, New Delhi, allotted by the Delhi Development Authority. In this regard, the Director, DWCD submitted that the piece of land, situated at Sector-28, Rohini, is very far from the Rohini Court Complex and does not have public transport facility.

6. That the Hon'ble Juvenile Justice Committee observed that the site at Sector-28, Rohini is not feasible for setting up of an Integrated Complex.

7. Officials from the Department visited the Department of Law, Justice & Legislative Affairs GNCTD, to discuss availability of the space land tor setting up of JJBs wherein it was informed that as of now, there is no vacant piece of land with the Law Department.

8. It is further submitted that, the Department of Women and Child Development, is in the process of setting up an integrated complex for children at Alipur, Delhi comprising various institutions for children, under Juvenile Justice (Care & Protection of Children) Act, 2015 and Juvenile Justice Model Rules, 2016. The institutions to be set up in this complex are as follows:

- a. 1 Place of Safety*
- b. 1 Special Home*
- c. 1 Observation Home for Boys*
- d. 1 Children's Home for Boys*
- e. 1 Child Welfare Committee*
- f. 1 Juvenile Justice Board*
- g. Medical Care Unit*
- h. Recreational Centre*
- i. Vocational Training Centre*
- j. Other office complex*



9. *This project is approved by the Hon'ble Minister Dept. of Women & Child Development and subsequent meetings and discussions have taken place between senior officials of the Department. Delhi is ready to lay foundation stone to set up, Vatsalya Sadan-Alipur, an integrated Complex as enumerated in revised guidelines Mission Vatsalya for effective implementation of Juvenile Justice Act comprising various Juvenile Justice Institutions and Statutory Bodies for care and Protection of children within single premises.*

10. *The Department is in process of setting up 03 Juvenile Justice Boards (JJB) at Dwarka, Sewa Kutir and Alipur to cater the cases of these arcas and to establish JJB in every district of Delhi. Civil & Electrical work has been started by Public Works Department (PWD) at JJB Dwarka. Sanction Order has been issued for making topography plan, soil investigation and architectural drawings for JJB Sewa Kutir Complex. Further, it is submitted that the layout plan was sent to PWD for the preparation of Preliminary Estimates for JJB at Alipur. In this respect, estimate amounting to Rs. 84,29,09,000/- has been received and file has been forwarded to Finance Department for the concurrence. The copy of letter received from Public Works Department in this regard, dated 18.04.2023 is annexed as ANNEXURE- I.*

11. *It is humbly submitted, that the developments regarding the above mentioned matter of 3 new JJBs are apprised as per process, to the Hon'ble Juvenile Justice Committee as well. "*

22. A perusal of the Status Report shows that Delhi is ready to lay foundation stone to set up Vatsalya Sadan, Alipur and an integrated complex as enumerated in revised guidelines Mission Vatsalya for effective



implementation of Juvenile Justice Act comprising of various Juvenile Justice Institutions and Statutory Bodies for care and protection of children within a single premises. The Status Report also reveals that the State is setting up three Juvenile Justice Boards at Dwarka, Sewa Kutir at Alipur to cater to the cases of these areas and to establish Juvenile Justice Boards in every District of Delhi.

23. The State Government is directed to establish the Centres which have been proposed within a period of two years from today.

24. In view of the above, no further orders are required to be passed in the present petition. The same stands disposed of, along with pending application(s), if any.

25. W.P.(C) 2600/2017 has been filed with the following prayers:

“It is, therefore most respectfully prayed that this Hon'ble Court may

kindly be pleased to direct the respondent to provide separate and independent shelter homes for the children (both boys and girls) below the age of 15 years to protect them from assaults and rape in these shelters in the interest of justice.

It' is further prayed that the respondent be directed to provide more spacious places of around 17 lakhs sq.ft.as per the Master Plan 2021, in the facts and circumstances of the case and in the interest of justice.

It is further prayed that these homeless persons be ordered to be given proper medical assistance and proper nutritious food in the facts and circumstances of the case.

Any other relief which this Hon'ble Court may deem fit and proper also be passed in favour of the homeless boys, girls and women taking shelters together with the bad elements in the same shelters.”



26. W.P.(C) 2600/2017 was connected with W.P. (C) No. 5137/2013 by the order dated 16.05.2017, as the issues raised in this petition were already being considered in W.P. (C) No. 5137/2013.

27. Therefore, this Court has considered all the prayers made in this petition and has therefore passed a comprehensive order keeping in view the prayers in W.P. (C) No. 5137/2013.

28. Accordingly, the present writ petition, with pending applications if any, are disposed of with the directions as made in W.P. (C) No. 5137/2013.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JULY 04, 2023

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