

Serial No. 01  
Suppl. List

**HIGH COURT OF JAMMU AND KASHMIR**  
**AT SRINAGAR**

PIL No. 9/2015

Date of order: 31.01.2018

3.2.2018

Court on its own motion v. State of J&K and others.

**Coram:**

**Hon'ble Mr Justice Badar Durrez Ahmed, Chief Justice**  
**Hon'ble Mr Justice Ali Mohammad Magrey, Judge.**

**Appearance:**

For the petitioner(s) : Mr Shah Faisal, Advocate.  
For the respondent(s) : Mr B. A. Dar, Sr AAG.  
Mr Hashim Hussaim, Dy.AG.  
Mr N. A. Beigh, Advocate.

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|-----|--|--------|
| i)  | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press:           | Yes/No |

01. The constitution and operationalizing the Juvenile Justice Boards in each of the 22 districts of Jammu & Kashmir has been agreed to by the Government. However, the Government expressed its desire that the same should be done in a phased manner. This finds mention in paragraph 3 of our order dated 6.10.2017. In the first phase eight Juvenile Justice Boards were to be set-up—three in Kashmir Valley, three in Jammu Division and one each in Leh District and Kargil District. The three Juvenile Justice Boards in the Kashmir Valley are to be set-up at Srinagar, Anantnag and Baramulla and the three Juvenile Justice Boards in the Jammu Division are to be set-up at Jammu, Doda and Rajouri. We note that Government order No.367-GAD of 2017 dated 21.12.2017 (a copy whereof was marked to the Registrar General of this Court) accorded sanction to the operationalizing of eight Juvenile Justice Boards at the above mentioned

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31/1/18

places for implementation of the Jammu & Kashmir Juvenile Justice (Care and Protection of Children) Act, 2013, and rules made thereunder. The said Government order was issued as a sequel to the agreement for creation of eight posts of Magistrates for the Juvenile Justice Boards on regular basis as part of Phase-I.

02. Mr N. A. Beigh, learned counsel appearing on behalf of the Secretary, State Legal Services Authority as also the Jammu & Kashmir High Court Juvenile Justice Committee has brought to our notice a communication dated 26.12.2017 bearing No. SW/ICPS/16/2017 on the subject of implementation of the said Act and Rules with particular reference to the constitution of Juvenile Justice Boards. The said communication has been issued by the Under Secretary to the Government, Social Welfare Department to the Secretary to Government, Department of Law, Justice and Parliamentary Affairs and a copy whereof was marked to the Secretary to Hon'ble Chairman, Juvenile Justice Committee. The said communication *inter alia* points out with reference to the said Government order NO.367-SW of 2017 dated 21.12.2017 that the buildings for establishment of the Juvenile Justice Boards stand identified and are being hired on rent basis till such time their own structures are created by the department under ICPS. The communication further records that the staff for the District Child Protection Units (DCPUs) under ICPS have been recruited and put in place and that the said DCPUs shall function as the Secretariats for the Juvenile Justice Boards as well. The communication also records that the selection of members of the Juvenile Justice Boards was under process and was likely to be completed by the Selection cum Oversight Committee constituted for the said purpose.

03. Mr Hashim Hussain, appearing on behalf of the Social Welfare Department, has brought to our notice Government order No10-SW of 2018 dated 12.01.2018 whereby the members of the Juvenile Justice Boards as recommended by the Selection-cum-Oversight Committee have been appointed

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for all the 22 districts. Since two members per district are required under the Act and Rules, 44 persons have been appointed, two for each district. This also includes the eight districts which are to be taken up in the first phase.

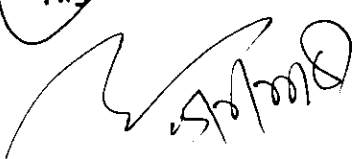
04. It, therefore, appears from the above that the only hurdle in operationalizing the eight Juvenile Justice Boards under Phase-I is the formal sanction of creation of eight additional posts of Magistrates. This process should be expedited and immediate action is required because everything else is in place for making the eight Juvenile Justice Boards in the aforesaid eight districts operational. We, therefore, direct the Government to ensure that the formal sanction order is issued for creation of eight additional posts of Magistrates not later than two weeks from today. A copy of this order be placed before the Chief Secretary, Government of Jammu & Kashmir to ensure that this direction is carried out immediately.

05. With regard to the setting up of Child Welfare Committees in all the 22 districts, Mr Hashim informs us that the selection process has been completed by the Selection cum Oversight Committee. However, the recommendation is yet to be made. We, therefore, request the Chairman of the Selection cum Oversight Committee to expedite the issuance of the recommendation.

06. In our order dated 6.10.2017, we had noted that there were no special homes in the entire State although that was a requirement under law. The Government has decided to establish two special homes as part of the first phase—one at Jammu and the other at Srinagar. The responsibility of doing so had also been fixed on the Commissioner/ Secretary, Social Welfare Department, and the same was to be done by 31.12.2017. Unfortunately, this has not been done. We direct the Commissioner Secretary, Social Welfare Department to expedite the process and to ensure that two special homes are established within four weeks. The status report be submitted before the next date of hearing.

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07. From the above sequence of events, it is evident that in so far as the Selection cum Oversight Committee is concerned, they have acted promptly and, keeping in mind the urgent requirement for the Juvenile Justice Boards and the Child Welfare Committees, have completed the task of interviewing personnel for all the 22 districts for both the Juvenile Justice Boards and Child Welfare Committees. We express our appreciation for this endeavor on the part of the Selection-cum-Oversight Committee. Since the Committee is not only one for selection but also for oversight, we direct the Government to strengthen the Committee so that in the initial phases when the Juvenile Justice Boards and the Child Welfare Committees are set-up, the functioning of the same can be overseen by the said Committee to ensure that the objects and purposes of the said Act and Rules are realized.

08. The Government of Jammu & Kashmir shall also indicate its plan of action with regard to providing care, support and rehabilitation to un-claimed/ abandoned children. A detailed report be submitted in this regard before the next date of hearing.

09. A status report shall also be filed with regard to the registration of Children Homes within the entire State of Jammu & Kashmir.

10. Mr N. A. Beigh is present and he represents the State Legal Services Authority. The status report should be filed with regard to directions given in paragraphs 4 and 5 of the order dated 11.08.2017 as also paragraph 10 of the order dated 06.10.2017. The same be filed before the next date of hearing postiviely.

11. Re-notify on 05.03.2018.

12. Copies of this order be provided Dasti to learned counsel for the parties.

Srinagar  
31.01.2018  
Abdul Qayoom, PS

res/  
Honble Judge

res/  
Honble Chief Justice

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Copy of order forwarded to  
Mr. Shariq Faizal, Advocate  
for compliance.

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