

IN THE COURT OF ADDITIONAL SESSIONS JUDGE – I

-cum-

CHILDREN COURT

Kaimur at Bhabua.

Present: BALJINDER PAL,

Order in Criminal Appeal No. 34 of 2025

Chainpur P.S. Case No. 24 of 2024

(Appeal under Section 101(1) of Juvenile Justice

(Care and Protection of Children Act, 2015)

In the matter of :

Md. Shamim Quraishi, S/o Salim Quiraishi,
R/o Vill- Chainpur, Ward No. 2 Pathan Toli,
P.S.-Chainpur, District-Kaimur (Bhabhua).

.....Appellant

V/s

State of Bihar

.....Respondent

Bhabua dated 18th day of May 2026

Present:

Sri Shoab Ahamad Khan, Ld. Advocate on behalf of the Appellant.

Sri. Vijay Kumar, Ld. Advocate on behalf of the Informant.

Sri Virendra Prasad Singh, Ld. Advocate on behalf of the State.

J U D G M E N T

1. Present appeal has been preferred by the appellant named hereinabove against order dated 09.09.2025 passed by Juvenile Justice Board, Bhabhua (hereinafter referred as Board) in J.Tr. No. 800/2025, FIR No. 24/2024, P.S. Chainpur, whereby and whereunder the Board declared the appellant adult above 18 years of age on the date of commission of reported offence.

BRIEF FACTS :

2. As per the case of Prosecution, the informant Fulchand Paswan was working as Mahal Chowkidar in Chainpur P.S. On 11.01.2024 he was on law and order duty at the Mazar situated at Assam Kothi, when at about 14:30, he got information that the headless body of an unknown woman is lying in the mounded soil field of Muzaffar Khan village Naughra, in the east direction below Madurni hill, about 500 meters south of Assam Kothi. On getting this information, he reached there to inform

the police station and saw that there is a huge crowd of people there. And the headless body of an unknown woman is lying in the said fallow field, meanwhile the S.H.O. also reached there with police inspector Kumari Akanksha and armed force. After that, the headless body of the said unknown woman was brought there. The villagers present were asked for identification and verification but no one identified the body. On looking at the dead body, the age of the girl appears to be about 20-22 years and she was wearing a gray colour kurti, white coloured pyjamas and a brown coloured woolen sweater with futon sleeves and was wearing a screen touch watch on the right wrist. The head of the girl is missing from the body and there is blood spilled near the body. On looking at the body, it appears that an unknown person has murdered her and hidden the head somewhere to hide evidence and identify. Even after a lot of searching, the head could not be found.

3. The investigation was conducted and during the investigation accused was arrested. Further on completion of investigation, charge sheet was submitted before Ld. ACJM-II, Bhabhua forwarding the accused for trial. The learned ACJM-II, Bhabhua took cognizance of the offence u/s 302, 201 of IPC but before committal of the case the appellant claimed juvenility on 24.04.2024 claiming his date of birth 26.09.2007 and the learned ACJM-II, Bhabhua transferred the record to J.J. Borad Bhabhua for inquiry to determine the age of the appellant. After receiving the record before J.J. Board Bhabhua on 06.05.2024, appellant was examined before the J.J. Board also discovered the name of his first school **Al-Makhdum Heritage School** in which he allegedly studied up to class 4th standard and not passed class 5th but took admission in class 6th in Balak Madhya Vidyalaya Chainpur and studied there in Chainpur. The learned J.J. Board called the record of both schools to verify the claim of the appellant but in the meantime the learned Advocate for the appellant on 09.05.2024 placed on record the admit card of Bihar School Examination Board for the year 2022 and thereafter the J.J. Board Bhabhua examined Shiv Pujan Prasad Gupta, Headmaster, Balak Madhya Vidyalaya, Chainpur in inquiry and marked Exhibit-A, attested copy of original Admission Register and marked Exhibit-B the self declaration on the basis of which the age of appellant was assessed 01.01.2004. The original Admission Register was returned back to inquiry witness. The learned J. J. Board also made efforts to call the record of first school of the appellant from Al-Makhdum Heritage School Chainpur but the same was reported as closed so no record was produced before the Board and in the above circumstances the learned J.J. Board determined the age of appellant on the basis of evidence of Headmaster Balak Madhya Vidyalaya Chainpur with Admission Register and Self declaration and the learned J.J. Board assessed and determined the age of the appellant as 01.01.2004 for the purpose of J.J. Act 2015. The occurrence in the present case is of dated 11.01.2024 and therefore the learned J.J. Board found the appellant 20 years and 10

days of age i.e. above 18 years and send back the record to learned ACJM-II, Bhabhua for further proceedings and learned ACJM-II Bhabhua committed the record to the Court of learned Principal District & Sessions Judge, Bhabhua vide order dated 28.02.2025 and the record was transferred to the Court of District & Additional Sessions Judge-1, Bhabhua by the Id. Principal & District Judge, Bhabhua vide order dated 07.03.2025 and thereafter the record of the case in Session Trial No. 45/2025 coming for hearing on charge.

4. In the meantime, the appellant challenged the order dated 02.07.2024 of J.J. Board, Bhabhua and the appeal was also transferred to the Court of Children Court-cum-Additional Sessions Judge-1, Bhabhua, for disposal.

5. The order dated 02.07.2024 passed by the learned J.J. Board was challenged in appeal no. 24/2024 and the Appellate Court/Children Court after going through the record and appreciating the material on record had set aside the order dated 02.07.2024 and allowed the appeal vide order dated 25.06.2025 the copy of order of Appellate Court is annexed with the record wherein in para no. 18 the following directions were issued:- “(i) the Learned J.J. Board Bhabhua is to conduct further inquiry for the age determination by giving the opportunity to child /appellant to question the inquiry witness and examine the original record produced by him. (ii) The learned J.J. Board to give opportunity to file the Transfer Certificate relied by the appellant, filed with the record of appeal, by providing opportunity to call record from the Balak Madhya Vidyalay Chainpur, the Headmaster of which was examined in inquiry by the Board and also to provide an opportunity to call for record of said Transfer Certificate from the said school in which the child got admission in class 9th and appeared for matriculation examination conducted by Bihar School Examination Board, Patna. (iii) If any foul play is discovered by the learned J.J. Board for misleading or filing forged document in support of date of birth of the child by either party to divert the course of justice, the J.J. Board shall take requisite action as per law. (iv) the learned J.J. Board Bhabhua to conduct the inquiry within 30 days from the date of receipt of the order passed in this criminal appeal and if the appellant is found below 18 years to proceed further as per provisions of JJ Act and if in the inquiry, the appellant is found adult above 18 years, the record of the Session Trial No. 45/2025 be remitted back to court of Additional Session Judge-1, Bhabhua for further proceedings.

6. Now, the learned J.J. Board again passed the order dated 09.09.2025 and affirmed its earlier findings regarding age of the victim and declared him above 18 years on the basis of same documents, however, by giving opportunity to the appellant to cross-examine the inquiry witness and with detailed reasoning of the findings in the order by citing the rules and regulations of admissions of the children with relevant provisions of law.

7. Now, the person claiming juvenility/appellant again filed the present appeal to challenge the order dated 09.09.2025 of learned J.J. Board, Bhabhua on the following grounds:-

(i) That the learned J.J. Board, Kaimur at Bhabhua has not applied its judicial mind and passed the impugned order from wrong inferences and conclusion which resulted in miscarriage of justice.

(ii) The Ld. J.J. Board has not appreciated the order passed in Cri. Appeal no. 24/2024 and passed the impugned order without any fresh material brought on record.

(iii) The learned J.J. Board has not taken into account the cross-examination of the inquiry witness in para no. 10, 11 of his statement wherein he had admitted that he had issued Transfer Certificate on the basis of Admission Register and what is stated or recorded in Admission Register the same comes in Transfer Certificate issued by the school but the learned J.J. Board wrongly assessed the age of the appellant as 20 years 10 days without scrutinizing the evidence and Admission Register in which in column no. 6 date of birth has been mentioned in numbers as 01.07.2004 and in words first January two thousand four in place of 26.09.2007 whereas inquiry witness himself deposed in his examination-in-chief in para no. 8, that he issued Transfer Certificate to appellant on 20.08.2020 and admitted in cross-examination in para no. 23 that overwriting was done on 12.09.2017 then how can it be possible to issue Transfer Certificate on the basis of Admission Register which only indicates that the overwriting was done after issuing Transfer Certificate to appellant because the inquiry witness himself voluntarily has admitted the fact in para no. 11 that whatever is recorded in Admission Register same comes in Transfer Certificate.

(iv) It is also the ground of appeal that the learned J.J. Board has not considered that the date of birth as also recorded in Admission Register in numbers as 01.01.2004 and in words first January two thousand four which itself a vital contradiction and cannot be reliable for determination of the age and conclusive proof and it is settled principle of law that when doubt or contradiction is surfaced then benefit always goes in favour of appellant or the person claiming juvenility but the learned J.J. Board relied on declaration Exhibit-B which is neither filed by mother or father of the appellant and from mere perusal of Admission Register Exhibit-A it is clear that in entries at serial no. 268, 269, 270, 274, 275, 276, 277, 278, no anybody filed declaration for elementary admission because no one has signed in column no. 11 in Admission Register, therefore, Exhibit-B is not valid and reliable piece of evidence. It is argued on behalf of the appellant that the learned J.J. Board has not followed the learned Supreme Court judgment passed in Rishipal Singh Solnaki Vs. State of U.P., PLJR 2021(4) SC page 477.

The learned Advocate submitted that the impugned order passed on 09.09.2025 and the copy was applied on 17.09.2025 and the copy was received on 13.10.2025 and thereafter the appeal was filed on 17.10.2025 and to avoid the delay he has filed condonation of delay and therefore appeal is within period of limitation.

8. Heard the arguments of learned Advocate representing the appellant and the learned A.P.P. in-charge representing the State in Children Court in absence of Spl. Public Prosecutor and also heard the learned Advocate representing the victim.

9. The learned Advocate on behalf of the appellant submitted that the learned J.J.B. again passed the impugned order dated 09.09.2025 on the basis of examination of same enquiry witness Shiv Pujan Prasad Gupta i.e. headmaster of Balak Madhya Vidyalaya Chainpur and two documents Exhibit-A (Admission Register) and Exhibit-B (Declaration of the guardian). The learned Advocate further submitted that said witness was not consistent with his testimony and could not explain the overwriting and difference of age in Admission Register Exhibit-A wherein date of birth is 01.01.2004 but in Transfer Certificate issued the date of birth is recorded 26.09.2007 which was entered in the admit card of the appellant issued by the Bihar Board and the same is reflected in his **Matriculation Certificate**. The learned Advocate further submitted that the learned J.J.B. passed the impugned order only referring and justifying the overwriting and cutting in entries in the date of birth as minor overwriting due to human error which cannot be accepted and justified as three years of age difference is made by these overwriting and cuttings in original Admission Register whereas the same headmaster (enquiry witness) has issued the Transfer Certificate having date of birth 26.09.2007 on the basis of which the appellant got admission in class 9th in Gandhi Smarak High School, Chainpur from where he passed matriculation from Bihar Board reflecting his date of birth 26.09.2007 in Matriculation Certificate. The learned Advocate further submitted that the learned J.J.B. relied and satisfied itself by taking aid of Section 35 of Indian Evidence Act which provides that “*any entry in any public or other official book, register or record or on electronic record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register, or record or an electronic record is kept, is itself a relevant fact.*” but the learned J.J. B at the same time ignored that the Transfer Certificate on passing 8th class was issued by the same headmaster reflecting date of birth 26.09.2007 in discharge of his public duty also, on the basis of which the CICL got admission in 9th Class in another High School and he could not explain on the basis of which document he had issued the said Transfer Certificate which casts not only doubt but also affirms the submission of appellant that the said entries in Admission Register and declaration were self filled by the headmaster with ulterior motive after passing

of 8th class by the CICL and alleged Exhibit-B was also not filled by the father or mother of the student who are themselves illiterate persons and the brother Saddam Quaraishi who allegedly taken the CICL for admission in Balak Madhya Vidyalaya had no document to support the date of birth of the appellant and he had only produced the Adhar Card at the time of admission and the headmaster have himself filled the entries in Admission Register and declaration Exhibit-B because the Saddam Quaraishi i.e. brother of CICL who took him for admission was himself not highly educated, only studied up to 4-5 class and he do not know his own date of birth then how he could have disclosed the date of birth of the CICL/Appellant.

10. The learned A.P.P. in-charge and the learned Advocate for the victim have submitted in arguments that the learned J.J.B. has passed the impugned order by appreciating the evidence on record with explanation of circumstances of miner overwriting and cutting in the Admission Register (Ext.-A), recorded in numbers while writing the date of birth in words therefore the order passed by the learned J.J.B. is justified and having no erroneous finding and supported by Rule of Evidence u/s 35 of Indian Evidence Act and Admission Policy of the Government reasoning admission of the Children, with relevant provisions of law as explained in para no. 11 of the the impugned order. The learned Advocate further submitted that self declaration of the brother namely Saddam Quaraishi (Exhibit-B) is having photograph of child/student's signature of guardian of Saddam Quaraishi and the register with alleged overwriting is also having signature of Saddam Quaraishi so it can be very well said that the entries in Admission Register were based on the declaration and disclosure of Saddam Quaraishi who is the real brother and eldest child of the family and the date of birth 26.09.2007 was got recorded by the Headmaster in Transfer Certificate Ext.-C on the basis of Aadhar Card which the CICL got prepared in the year 2020.

11. After hearing both the parties in arguments, finding no relevant supporting evidence regarding entries in Admission Register, unexplained by the enquiry witness before the learned J.J.B. on some points, the Court being Children Court, while exercising the powers of J.J.B. u/s 8(2) of Juvenile Justice (Care and Protection of Children) Act, 2015 deemed it necessary to call and examine headmaster Shiv Pujan Prasad Gupta (enquiry witness) further and also deemed it necessary to call and explain the claim of date of birth of the CICL from his mother and father and also the brother Saddam Quaraishi who got him admitted in Balak Madhya Vidyalay Chainpur in class 6th.

11.1 When the enquiry witness Shiv Pujan Prasad Gupta (now retired from his service) was further examined in Children Court as EW-1 with Admission Register being brought by the present in-charge Headmaster EW-2 (Santosh Kumar), he reiterated his earlier statement as deposed before the learned J.J.B. but on court

question he disclosed that for admission of student the presence of his mother/father is necessary and if mother father is not there then only the guardian is necessary. He further admitted that no document in support of date of birth was filed at the time of admission and in his knowledge the admission in the school can be on the basis of birth certificate for the purpose of date of birth, being issued by the competent authority but in this case no date of birth certificate was produced. The witness identified exhibit-C school Transfer Certificate issued by him on 27.08.2020 wherein the date of birth was mentioned 26.09.2007. He further admitted that no entries of previous school were mentioned in column no. 7 & 8 and he had only given the Admission to student in this school only on the basis of some questions on subjects of curriculum. He also admitted cutting, erasing and doubling of words in column no. 6 regarding relevant entries of the appellant and also admitted the entries with separate pen from other entries and also admitted the signatures of Saddam Quaraishi with separate pen used for other entries in column no. 6 & 11 are with separate ink and writing, from that of column no. 1, 2, 3, 4, 5, 10, 14, 15, & 16 but stated that the entries in column no. 6 are in his handwriting but the witness could not explain why the entries in column no. 6 with separate pen and ink from the other entries in relevant columns. The witness could not answer if the entries in Admission Register were 01.01.2004, regarding date of birth of the student in question then on what basis the Transfer Certificate Ext.-C was issued having date of birth 26.09.2007. The witness has stated that on the basis of Aadhar Card he had issued the Transfer Certificate having date of birth 26.09.2007 but admitted that Aadhar Card is not proper document regarding age of any person unless the entries in Aadhar Card is verified by the agency issuing the Aadhar. The witness admitted his fault regarding making of the entries in Transfer Certificate on the basis of Aadhar and also admitted that there is no such rules from the Department of Education under Government of Bihar or Government of India that the headmaster can change the date of birth or amend the date of birth of any student. In cross-examination by the appellant the witness admitted that no application for correction or change of date of birth was ever made by the parents or guardian of the student in question.

11.2 EW-2 only brought the Admission Register and Guard File of the school regarding declaration of the parents / guardian of the student from Balak Madhya Vidyalaya, Chainpur as E.W-1 had already superannuated from service.

11.3 EW-3 Shalim Quaraishi is the father of the appellant and deposed that he is having ten children, Saddam Quaraishi aged about 29 is eldest and then is Rukshana, Afshana, Sabbana, Gulfasa and then Shamim Quaraishi (appellant) and Shamim is nine months younger to Gulfasa. He was born in 2007 then is Fatima about 2 years younger to him and after Fatima, Rubi was born and after Rubi, Roshani was born and then Soab. All the children are having 1-2 years age gap. Only Gulfasa, Fatima,

Rubi, Shamim and Roshani have studied in middle school of the village. He produced Transfer Certificate of Rubi Khatun, Exhibit-F/EW-3 and marksheet of Gulfasa Khatun Exhibit-G/EW-3 and marksheet of Fatima as Exhibit-H/EW-3. On court query the witness could not disclose his date or year of marriage, date of birth of eldest son Saddam Quaraishi and even the years after which the first child was born from his marriage but only was stating that Shamim was born in 2007 and he is nine months younger to Gulfasa. He could not even disclose how many children were born in the month of January and has stated that he has given the date of birth to school only on the basis of estimation not backed by any document. He further deposed that except for Shamim he is not having the knowledge of year of birth of any of the child and he never visited the school for admission of any of the children and only his elder son Saddam Qureshi used to visit the school for getting admission and Saddam has studied up to 8th class.

From the evidence of EW-3 it is clear that he has no knowledge of date of birth of any of the child including the appellant / CICL and whatever was disclosed before the school was only an estimate or on the basis of Aadhar Card or as disclosed by Saddam Qureshi the eldest son.

11.4 EW-4 Saddam Qureshi was examined in enquiry and he deposed that he is eldest brother of the family and studied up to fifth class from Al-Makdoom Private School, Chainpur which is now closed but he do not know his date of birth but it might be 29 years. He also deposed on similar lines on the point of age gap among his sisters and brothers as disclosed by his father but stated that date of birth of Shamim is 26.09.2007 whereas date of birth of Gulfasa is 01.01.2007 who is elder to Shamim. He further deposed that he had got admitted Shamim in Government School in village but no document was produced at the time of admission and he also got admission of other brothers and sisters. He further stated that he got the admission of Shamim Quaraishi on the basis of Transfer Certificate issued by Al-Makdum Private School but later on stated that he do not remember now. After passing 8th standard from Government school he was admitted in high school in 9th class. At the time of admission no form was got filled by him and no signature were taken but when case was registered against Shamim, he was sent by an Advocate Ghanshyam to visit school regarding Admission Register to be produced before the J.J.B. and when he visited the school the Principal had disclosed him that he will produce the register only on receiving the letter from his department and thereafter after 2-3 days he was called at school and two forms were given to him and he signed on both the forms and handed over to Principal of school.

On Court query, the witness could only disclose the date of birth of Shamim as 26.09.2007 and that of Gulfasa 01.01.2007 and also Soaib 01.01.2014 only on the basis of their Aadhar Cards. He disclosed that he do not know his own date of birth

but it might be 1994. and Shamim Quaraishi is twelve years younger to him. He deposed that except him, Shamim and Gulfasa, the date of birth of all the brothers and sisters is month of January as recorded in Aadhar Card which might be on disclosure of somebody but he do not know, which reflects that date of birth of his brothers and sisters in the month of January was only based on Aadhar Card and not authentic source. He further stated that he has visited Government School Chainpur for admission of Shamim along with Aadhar Card in the year 2017 and the age was disclosed on the basis of Aadhar Card and no birth certificate for age proof was produced meaning thereby that no document of age was available with Saddam Qureshi and the age was disclosed only on the basis of Aadhar Card and no authentic/verified source of age was produced at the time of preparation of Aadhar. The witness admitted that at the time of admission of Shamim he also got admitted Riyaz, his relative in the same school also and the headmaster got admitted the name of Shamim and Riyaz in the Admission Register and he has not given any declaration of Riyaz Quaraishi at the time of admission regarding his date of birth. The witness further deposed that Aadhar Card of all the family members including his brothers and sisters were prepared at the same time in Chainpur Bazar when the process of preparing of Aadhar Card was initiated in the area, and he has given all the Aadhar Cards to his Advocate to place on record and when the Aadhar Card of Shamim and Fatima were prepared they were small children. The witness also identified the Aadhar Card of his brother Shamim available on record wherein the date of preparation of Aadhar Card is recorded 05.09.2020 and the date of birth is recorded 26.09.2007 which is marked Exhibit-I/EW-4. The witness further admitted that all his brothers and sisters including Shamim (appellant) was got admitted in school by him and their date of birth was disclosed on the basis of Aadhar Card and no other document or proof of age was available at the time of admission in the school. The witness identified his signatures on both declarations regarding age proof, available on record in respect of Shamim and Riyaz having his signatures but self stated that these were filled by him after registration of the case. The witness admitted that he has signed in the Admission Register of the school at the time of admission of Shamim and Riyaz and identified his signature but stated that he signs with letter “K” not with letter “Q”.

Enquiry witness EW-4 admitted his signatures in the Admission Register Ext.A but alleged that he filled two forms after registration of this case, but the same is not supported by any evidence and the declaration Ext.-B (declarations filed by EW-4 before the Head Master of the school) is having photograph of the CICL which on bare perusal reveals that the picture in this photograph is older one of childhood of the CICL then the physical appearance of the CICL at present and also the picture of the CICL in photograph on Aadhar Card of the CICL, which is

Ext.-I/EW-4 (this Aadhar Card is downloaded on 14.09.2020) and placed on record by the Ld. Advocate of the CICL. The Ld. Advocate on behalf of the CICL could not explain that if the document Ext.-B (declaration by Saddam Qureshi that is EW-4) was got prepared by EW-1 Head Master of school after registration of the present case when allegedly the record was directed to be produced before the J.J. Board, Kaimur at Bhabhua and as stated by EW-4 that he filled two forms in the school when his Ld. Advocate someone Sri Ghanshyam had advised him to visit the school for production of the school record before the Ld. J.J.B. during enquiry, then if his form of the declaration was filled during enquiry by the Head Master of school (EW-1), then the picture in photograph on Ext.-B must have been newer one resembling the recent face appearance of the appellant at present time or as depicted in Aadhar Card Ext.-I/EW-4. The non-explanation of the photograph on Ext.-B indicates that form B ('declaration' was filed by the guardian/brother i.e. EW-4, Saddam Qureshi) at the time of admission of the appellant in school on dated 12.09.2017 and, in this document Ext.-B (declaration of guardian) also date of birth of the appellant is stated 01.01.2004.

15.5 Enquiry witness 5 Nasima Bibi aged about 50 years, stated that she is mother of Shamim Qureshi and is having 10 children out of them 7 are daughters and 3 are sons and eldest one is Saddam having 29 years of age but she do not know the date of birth of anyone of them because she is illiterate. She is further stated that all the children is having age gap of 1-2 years and only Shamim, Fatima, Rubi and Gulfasa have gone to school and none of others were school going. On Court question she has stated that she do not know the year of her marriage and first child was born after two years of marriage and thereafter there is difference of two years in all children. The age of eldest child is 29 and youngest child is 8 years and she cannot disclose the date of birth of any of the child. On Court query, she deposed that she has disclosed the age of eldest son Saddam Qureshi on the basis of Aadhar Card and the date of birth of all the children also is on the basis of Aadhar Card and she has got prepared the Aadhar Card of all the children and at the time of preparation of the Aadhar Card only date of birth of one child was disclosed and that of all other children was filled by the person who was making the Aadhar Cards, with the gap of two years. She has never visited school of her children and nor got their admission in the school. Saddam used to got admission of her all children and no date of birth certificate was ever got prepared by her, and all the children were got admitted in the schools on the basis of Aadhar Cards.

15.6 The declaration of first admission of Riyaz Qureshi and Shamim Qureshi is available on record and marked Exhibit-D/EW-1 and Exhibit-E/EW-1 respectively, which as per the prosecution and enquiry witness EW-1 were filed at the time of admission on 12.09.2017 disclosing the age of Riyaz as 01.01.2006 and that of

Shamim Qureshi 01.01.2004 but as per EW-4 the said declarations were got filled by him after registration of the case when he was called by Dilip Sir of Balak Madhya Vidyalaya, Chainpur after 2-3 days of his visit to school at that time when he had gone to school on advice of Advocate Ghanshyam for producing of the Admission Register before J.J.B. EW-4 has not denied his signatures and filing of Exhibit-D/EW-1 and Exhibit-E/EW-1 but disputed the time of filing of both these forms/declarations but the same is not supported by any other evidence. Document E/EW-1 is the same document i.e. Ext.-B (Declaration of the guardian) marked exhibit by the Ld. J.J.B. in enquiry.

12 From the discussion of the evidence in enquiry, produced by the appellant before the Ld. J.J.B. and examined by the J.J.B., and also the evidence in enquiry, conducted by this Court, exercising the power u/s 8(2) of the J.J. Act, the following facts are **proved** on record.

1. There is no birth certificate of the appellant available on record, issued from the Registrar, Birth and Death or any other competent authority to support the date of birth of the appellant with documentary evidence.

2. The parents of the appellant had never visited the school regarding admission of the appellant or any of their children regarding their admission in the school and the alleged guardian (Saddam Qureshi, the eldest child of the family) was the only person, who used to get admission of his siblings in the school including the appellant and, therefore, he was the only person who was discharging the duties of de-facto guardian for the purpose of admission of his siblings in the school.

3. No documentary evidence except the oral statement of the parents and eldest brother is there that appellant had studied in Al-Makhdum School before admission in class VI in Balak Madhya Vidyalaya, Chainpur. The evidence of EW-1 and EW-4 also reveals that the appellant had no document of his previous education documenting his date of birth, however, EW-4 has stated that he had produced the Aadhar Card of the appellant before the Principal of Balak Madhya Vidyalaya, Chainpur, at the time of admission of his brother/appellant in the said school but that Aadhar Card which allegedly EW-4 had produced at the time of admission is not brought by EW-1 during enquiry evidence, nor he stated that any such Aadhar Card was produced at the time of admission and further no such Aadhar Card is placed on record allegedly prepared before the admission of the appellant in Balak Madhya Vidyalaya, Chainpur. However, the parents of the appellant through Ld. Advocate have placed on record the Aadhar Cards of other children of the family having the pictures of all other children of their childhood but the Aadhar Card placed on record regarding appellant is having picture showing maturity with mustache on his face and the said Aadhar Card (Ext-1/EW-4) produced by the appellant on record during enquiry evidence in appeal, itself was downloaded on 14.09.2020 that is the period

much later than the date of admission of the appellant in Balak Madhya Vidyalaya, Chainpur on 12.09.2017.

4. The Ew-1 i.e. Principal of Balak Madhya Vidyalaya has stated that appellant got admission in his school on 12.09.2017 in class VI but he was not having any document of his earlier education and, therefore, was admitted in school on the basis of answer given on questions put by the Principal and that said child was got admitted in the school by his elder brother Saddam Qureshi and on the same date one cousin brother Riaz Qureshi was also admitted in the school by the same guardian. EW-1 during his evidence in enquiry before this Court identified his hand writing and signatures on Ext.-A (school Admission Register of the school) and explained the correction and overwriting in date of birth depicted in numbers and, therefore, date of birth was also written in letters. EW-1 also explained that said date of birth was written on the basis of declaration by Saddam i.e. elder brother of the appellant. The EW-1 also identified the declaration (Ext.-B marked in enquiry before the Id. J.J.B. and marked Ext.-E/EW-1 in appeal in evidence of EW-1 and EW-4), brought with school record and the same is having picture of the photograph of childhood of appellant and also having entry of date of birth 01.01.2004 and the said document was filed by Saddam Qureshi.

5. The Transfer Certificate (Ext.-C) produced on record on behalf of the appellant reflecting date of birth 26.09.2007, on the basis of which he got admission in 9th class in Gandhi Smarak High School, Chainpur and got passed matriculation from Bihar Board reflecting the same date of birth (26.09.2007) in matriculation certificate is not backed by any authentic document as the EW-1 (Headmaster Shivpujan Gupta) while examined by this Court in further inquiry has stated that date of birth in Ext.-C was filled by him, on the basis of Aadhar Card produced by the appellant at the time of transfer from Balak Madhya Vidyalaya on 20.08.2020 and he had not perused the school record and believed the date of birth reflected in Aadhar Card of the appellant. EW-1 conceded his fault and submitted that he had no authority to change the date of birth in Transfer Certificate and admitted his mistake in entering the date of birth 26.09.2007 in Transfer Certificate (Ext.-C) instead of date of birth 01.01.2004 mentioned in Admission Register (Ext.-A) and declaration of the guardian (Ext.-B).

6. As discussed by the Id. J.J.B., in para no. 11 of the impugned order, the procedure of admission of the children having no date of birth, the guidelines of the Government of India and State of Bihar, governing the policy of the State regarding Right to Education of the children, the Id. J.J.B. has discussed Sections 4 and 14 of the Right of Children to Free and Compulsory Education Act, 2009 and also Rule 9 of Bihar State Children to Free and Compulsory Education Rule 2011, cumulatively directing that no child should be deprived from his right to education and where the

date of birth, supported by birth certificate issued by Competent Authority is not available, the right to education cannot be denied and accordingly the schools are duty bound to give admission to children for which Rule 9 of the Bihar State Rules, 2011 provides the admission to children on the basis of the declaration of the parents/ guardian regarding date of birth of the child.

7. In instant case in hand, the parents and the elder brother who allegedly got admitted the appellant in Balak Madhya Vidyalaya, Chainpur are examined by this Court exercising powers u/s 8(2) of JJ Act, 2015, only to verify whether they had any other evidence regarding date of birth and how the date of birth 01.01.2004 was got entered in Admission Register of the school in class VI in Balak Madhya Vidyalaya, Chainpur, and from the evidence of EW-2, EW-3 and EW-4, it came on record that the person who was responsible for admission of the appellant and his other siblings in the school was EW-4 (Saddam Qureshi, the eldest child of the family) who was de-facto guardian responsible for the purpose of admission of the appellant and his other siblings in the school and the evidence of EW-1 and EW-4 cumulatively proves that date of birth of the appellant was 01.01.2004 entered in the school Admission Register (Ext.-A) on the basis of declaration (Ext-B) of EW-4 and, therefore, there is no any other school record reflecting the date of birth of the appellant prior to his admission in class VI in Balak Madhya Vidyalaya, Chainpur. The document Ext-A and Ext.-B were documented when there was no dispute regarding date of birth the appellant, are prior in time have more probative value whereas document Ext.-C i.e. Transfer Certificate issued by EW-1 on the basis of Aadhar Card downloaded on dated 14.09.2020 was not backed by school record but on the basis of Aadhar Card Ext.-E/EW-4 which itself was downloaded on 14.09.2020 and the Ld. Advocate on behalf of the appellant failed to explain why the said Aadhar Card Ext.-E/EW-4 reflecting date of birth 26.09.2007, was downloaded on dated 14.09.2020 and earlier Aadhar Card which his parents had allegedly got prepared years ago, is not made available on record whereas he has placed on record the Aadhar Cards of all other children of the family got prepared and issued earlier.

8. From the discussions of the material available on record, this Court is of the considered view that document Ext.-A and Ext.-B are genuine documents reflecting the date of birth of the appellant as 01.01.2004 and Ext.-C (Transfer Certificate) on the basis of which, the appellant got admission in class IXth in Gandhi Smarak School, Chainpur and, thereafter, passed matriculation and got matriculation certificate issued by the Bihar Board reflecting date of birth 26.09.2007 is not the genuine date of birth backed by documentary evidence for the purpose of enquiry regarding date of birth under Juvenile Justice (Care and Protection of Children) Act, 2015 and enquiry made thereunder by the Ld. J.J.B. is as per requirement of Section 94 of the JJ Act in compliance and accordance with Sections 4 and 14 of Right of

Children to Free and Compulsory Education Act, 2009 and also Rule 9 of Bihar State Children Free and Compulsory Education Rule, 2011. Accordingly, the impugned order passed by the Ld. J.J.B. declaring the date of birth 01.01.2004 and assessing him above the age of 18 years i.e. 20 years 10 days old on the alleged date of occurrence 11.01.2024 for the purpose of the J.J. Act, is correct finding and is hereby upheld by this court also and resultantly, the impugned order dated 09.09.2025 requires no interference and is hereby ***upheld*** in appeal and the appeal of the appellant is ***dismissed***.

Copy of this order in appeal be sent to Ld. J.J.B., Kaimur at Bhabhua and a copy of the order be also placed on record in original record of the case pending for trial in the Court of Additional Sessions Judge-I, Kaimur at Bhabhua and, thereafter record of the appeal be consigned to record-room after due compliance as per rules.

All 14 pages are dictated and corrected by me.

sd/-

(Baljinder Pal)
Addl. Sessions Judge-I
cum Children Court
Kaimur, Bhabhua.