

ITEM NO.209

COURT NO.5

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO.51 OF 2006

BACHPAN BACHAO ANDOLAN

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for interim directions, exemption from filing
O.T., permission to amend the directions sought in the written
submissions dated 7.4.2008 and office report)
(FOR FINAL DISPOSAL)

Date: 22/01/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s)

Mr. Colin Gonsalves, Sr. Adv.
Mr. Kishore Narayan, Adv.
Ms. Divya Jyoti, Adv.
Ms. Jyoti Mendiratta, Adv.

For Respondent(s)

Mr. Gopal Subramaniam, SG
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Mr. Anand Varma, Adv.
Ms. Sushma Suri, Adv.
Mr. Anubhav Kumar, Adv.
Ms. Sunita Verma, Adv.
Ms. Sadhana Sandhu, Adv.
Mr. S.N. Terdal, Adv.

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Mr. A. Rohen Singh, Adv.

Mr. Tara Chandra Sharma, Adv.
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Mr. Kamalendra Mishra, Adv.
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Mr. Anis Suharawardy, Adv.
Mr. S. Mehdi Imam, Adv.
Mr. T. Ahmad, Adv.

Ms. Momota Oinam, Adv.
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Mr. Mohanprasad Meharia, Adv.

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Mr. Gopal Singh, Adv.
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Mr. Arun K. Sinha, Adv.
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Mr. Edward Belho, Adv.
Mr. Rituraj Biswas, Adv.

Mr. Pragayan Pradip Sharma, Adv.
Mr. P.V. Yogeswaran, Adv.
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Mr. Manoj K. Mishra, Adv.

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Ms. Madhusmita Bora, Adv.

Ms. A. Subhashini, Adv.

Mr. Manjit Singh, AAG
Mr. Kamal Mohan Gupta, Adv.

Mr. K.N. Madhusoodhanan, Adv.
Mr. R. Sathish, Adv.

UPON hearing counsel the Court made the following
O R D E R

We have heard the learned counsel for the parties.

It has been brought to our notice that the Juvenile Justice (Care and Protection of Children) Act, 2000 has already come into force and rules have been framed thereunder but its provisions have not been implemented by most of the States.

According to the Statement of Objects and Reasons, a review of the working of the Juvenile Justice Act, 1986 would indicate that much greater attention is required to be given to the children in conflict with law or those in need of care and protection. The justice system as available for adults is not considered suitable for being applied to a juvenile or the child or any one on their behalf including the police, voluntary organisations, social workers or parents and guardians throughout the country. There is also an urgent need for creating adequate infrastructure necessary for implementation of the proposed legislation with a larger involvement of informal systems specially the family, the voluntary organisations and the community and in this context, a number of proposals have been made:

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(i) to lay down the basic principles

for administering justice to a juvenile or the child in the Bill;

(ii) to make the juvenile system meant for a juvenile or the child more appreciative of the developmental needs in comparison to criminal justice system as applicable to adults;

(iii) to bring the juvenile law in conformity with the United Convention on the Rights of the Child;

(iv) to prescribe a uniform age of eighteen years for both boys and girls;

(v) to ensure speedy disposal of cases by the authorities envisaged under the Bill regarding juvenile or the child within a time limit of four months;

(vi) to spell out the role of the State as a facilitator rather than doer by involving voluntary organisations and local bodies in the implementation of the proposed legislation;

(vii) to create special juvenile police units with a humane approach through sensitisation and training of police personnel;

(viii) to enable increased accessibility to a juvenile or the child by establishing Juvenile Justice Boards and Child Welfare Committees and Homes in each district or group of districts;

(ix) to minimise the stigma and in keeping with the developmental needs of the juvenile or the child, to separate the Bill into two parts - one for juveniles in conflict with law and the other for the juvenile or the child in need of care and protection;

(x) to provide for effective provisions and various alternatives for rehabilitation and social reintegration such as adoption, foster care, sponsorship and aftercare of abandoned, destitute, neglected and delinquent juvenile and child.

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Mr. Gonsalves, learned senior counsel for the petitioner appearing for the petitioners submitted that in accordance with Section 4 of the Act, Juvenile Justice Board have not been constituted in most of the States. He has further drawn our attention to Section 29 of the Act which deals with Child Welfare Committee. According to him, most of the States have not appointed Child Welfare Committees as required under the provisions of the Act. He has also drawn our attention to Section 63 of the Act, according to which Special Juvenile Police Units have to be appointed by the States. In this view of the matter, it has become imperative to direct all the States to implement the provisions of this Act forthwith and constitute Juvenile Justice Board, Child Welfare Committee and Special Juvenile Police Units in every districts within six weeks from today.

Mr. Gopal Subramaniam, learned Solicitor General has submitted Supplementary Submissions which are taken on record.

The learned Solicitor General has suggested that in order to faithfully implement the directions of this Court, there is requirement of a Nodal Agency. We have considered this aspect carefully and we deem it appropriate to appoint the National Commission for Protection of Child Rights, constituted under the Commissions for Protection of Child Rights Act, 2005, as the Nodal Agency which will monitor the implementation of the directions passed by this Court from time to time.

Mr. Gopal Subramaniam assures us that the Nodal Agency would be given all assistance and support by the Union of India in monitoring and complying with the directions of this Court.

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The Nodal Agency may also take assistance from other organisations, including the Non-Governmental Organisations.

List this matter for further directions on Friday, 29th January, 2010.

(A.S. BISHT)
COURT MASTER

(NEERU BALA VIJ)
COURT MASTER