

Writ Petition(s)(Civil) No(s). 473/2005

SAMPURNA BEHRUA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With application for exemption from filing O.T. and interim directions and modification and permission to file additional documents and Office Report)

Date : 05/04/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.

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Mr. Gagan Gupta, Adv.

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Karnataka Mr. V. N. Raghupathy, Adv.

Mr. Lagnesh Mishra, Adv.

Mr. Parikshit P. Angadi, Adv.

Mr. Prakash Jadhav, Adv.

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Mr. Mrityunjai Singh, Adv.
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Mr. Radha Shyam Jena, Adv.
Mr. Ratan Kumar Choudhuri, Adv.
Mr. T. Harish Kumar, Adv.

Ms. Asha Gopalan Nair, Adv.

Ms. Kamini Jaiswal, Adv.

Ms. Sushma Suri, Adv.

M/s. Venkat Palwai Law Associates

UPON hearing the counsel the Court made the following

O R D E R

Learned Additional Solicitor General has brought to our notice the following status report as on 05.04.2017 in respect of the

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State Commission for Child Rights:

1. Andhra Pradesh

Six members joined in the month of February, 2014 but Chairperson had not joined. The term of 3 years of the existing members in SCPCR had expired in the month of February, 2017. Hence, the action is under process for appointment of Chairperson and Members of AP SCPCR.

2. Assam

The process for appointment of Chairperson and 4 members of the Commission is under process and will be completed shortly. At present Smt. Runumi Gogoi, Member of the Commission is temporarily holding the charge of the Chairperson.

3. Bihar

The State Government notified the selection of the following Chairperson and members on the SCPCR vide notification no. 362 and 363 respectively dated 21.02.2014:-

- (i) Mrs. Nisha Jha, Chairperson
- (ii) Mrs. Aparna Singh, Member
- (iii) Mrs. Lalita Jaiswal, Member
- (iv) Dr. Nishichandra Kinjalk, Member
- (v) Mr. Arun Kumar Verma, Member
- (vi) Mr. Satyendra Kumar Gautam, Member

In the year 2016, the Chairperson and members appointed vide notification nos. 362 and 363 resigned voluntarily on 17.05.2016 and the same has been accepted by the State Government. Currently, the administrative functions of the Commission are being looked after by the Member Secretary of the SCPCR. Selection of

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Chairperson and members is under process presently.

4. Chandigarh

Ms. Harjinder Kaur Chairperson 16-03-2017 For a period of 3 years

Note: The two members of the Chandigarh Commission for Protection of Child Rights have been appointed vide notification No. SW3/SCPCR/2014/11607 dated 10.12.2014 for a period of 3 years. The term of the members is likely to expire on 09.12.2017.

5. Delhi

The Department of WCD, GNCTD has already published an advertisement in the leading newspapers on 22.12.2016 to fill up the vacancies of the Chairperson and Members of the Delhi Commission for Protection of Child Rights (DCPCR). The meeting of the Selection Committee was held on 01.03.2017 under the Chairmanship of Minister (WCD)/Dy. C.M. for the post of Chairperson DCPCR. The file has been sent to the Lt. Governor, Govt. of NCT of Delhi for approval of the appointment of selected candidate for the post of Chairperson, DCPCR. The process for appointment of Member, DCPCR is under process.

6. Goa

Response awaited

7. Gujarat

The State Government has constituted Gujarat State Commission for Protection of Child Rights vide notification dated 28.09.2012. The State Government has appointed Smt. Jagrutiben Harenbhai Pandya as a Chairperson for the Gujarat State Commission for Protection of Child Rights vide notification dated 13.01.2016 for three years

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tenure. Appointment of members for the commission is under consideration.

7. Kerala

Kerala State Commission for Protection of Child Rights came into existence on 03/06/2013 consisting of a Chairperson and six other members for a period of 3 years. Smt. Shobha Koshy is the present Chairperson of the commission who was appointed on 06/03/15 for a period of 3 years and the term of the other members expired on 07/01/2017. Subsequent steps are being taken to fill up the vacancies and the process is still continuing.

8. Madhya Pradesh

Mr. Raghvendra Sharma Chairperson completed by March, 2019

Mrs. Nirmla Barela Members completed by February, 2020

Note: The rest of the vacancies will be filled as early as possible.

9. Maharashtra

The process of appointment of Chairperson and six members of State Commission for Protection of Child Rights are at final stage.

At present, the additional charge of Chairman, Maharashtra State Commission for Protection of Child Rights is given to the Secretary, Women and Child Development Department.

10. Odisha

Smt. Kasturi Mohapatra Chairperson 26-03-2015 25-03-2018

Mrs. Rajalaxmi Das Member 05-01-2015 04-01-2018

Ms. Sandhyabati Pradhan Member 05-01-2015 04-01-2018

Out of 6 members, 2 Members are present and steps have already

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been taken for filling up of the vacant positions of Members of Odisha Commission for Protection of Child Rights.

11. Tamil Nadu

Vacant Chairperson

Thiru P.

Sundaraparipooran Member

05-03-2014 04-03-2017

Thiru S. Mouleeswaran Member

12-03-2014 11-03-2017

Thiru M. Ramachandran Member

07-03-2014 06-03-2017

Thiru C. Selvakumar Member

05-03-2014 04-03-2017

Tmt. T Jayanthi Rani Member

06-03-2014 05-03-2017

Dr. A.D. Revathy Member

05-03-2014 04-03-2017

Note: Tmt. Saraswathi Rangasami, Chennai was appointed as Chairperson to SCPCR vide G.O. (Ms) No. 02, SW & NMP Dept. Dated 02.01.2013. Her tenure expired on 17.01.2016 and the post is vacant at present.

The Secretary, SCPCR has called for application for filling up of the post of Chairperson through Press Release and had sent the applications received by the Commission to Government for necessary action.

After a thorough scrutiny and after a careful consideration of the qualifications and experience of the eligible candidates, based on the recommendation of the Selection Committee, the Government shall appoint a person of eminence who has done outstanding work for promoting the welfare of the children as Chairperson of Tamil Nadu Commission for Protection of Child Rights.

12. Telangana

Government of Telangana have issued orders for constitution of State Commission for protection of Child Rights vide G.O. Ms.NO.

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11, Department for Women, Children, Disabled & Senior Citizens, dated:25-11-2014 with a Chairperson and 6 members, out of which 2 shall be women and rules were also framed vide G.O. Ms. No. 3, Department for Women, Children, Disabled & Senior Citizens dated: 20-01-2015. Notification was also issued inviting applications from the eligible candidates for appointment of Chairperson and members of the Commission. The appointment of the Chairperson and

members of the Commission is under process.

13. Tripura

Smt. Rupa

Ganguly Chairperson 24.02.2014 24.02.2017

Shri Paramartha

Datta Members 24.02.2014 24.02.2017

Dr. Sanjib

Debbarma Members 24.02.2014 24.02.2017

Smt. Indira Dhar Members 24.02.2014 24.02.2017

Smt. Padma Datta

Gupta Members 24.02.2014 24.02.2017

Shri Pramod

Ranjan Das Members 24.02.2014 24.02.2017

Smt. Rita

Debbarma Members 24.02.2014 24.02.2017

Note: The process for re-constitution of Tripura State Commission for Protection of Child Rights (TCP CR) has been initiated and would be notified shortly.

14. Uttarakhand

Shri Yogender

Khanduri Chairperson 20.05.2015

Smt. Beena Joshi Member 07-02-2014 06-02-2017

Shri Aashish

Uniyal Member 21-02-2014 20-02-2017

Smt. Anima

Halidar Member 05-03-2014 04-03-2017

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Smt. Jaya Mishra Member 06-02-2014 05-02-2017

Dr. Zeeshan Ali Member 12-02-2014 11-02-2017

Shri Shailendra

Shekhar Kargeti Member 16-09-2015

It is obvious from the above that there are 14 States that are in clear violation of Section 18 of the Commissions for Protection of Child Rights Act, 2005.

Under the circumstances, these State Governments should fill up all the vacancies of the Chairperson/Members under the Commissions for Protection of Child Rights Act, 2005 within four weeks from today subject to payment of costs of Rs.50,000/- to be deposited by each State Government within three weeks with the Supreme Court Legal Services Committee for utilization of juvenile justice issues.

It is made clear that in case the appointments are not made, we may require the presence of the Secretary of the Women and Child Development Department in the concerned State Government to explain the difficulty in doing so and for violating the law.

We may record the fact that the statute referred to is a parliamentary law and the provisions thereof must be adhered to by the State Governments.

List the matter on 11 th

July, 2017.

(Meenakshi Kohli)

Court Master (SH)

(Sharda Kapoor)

Court Master (NS)

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