

**Minutes of the Meeting of Juvenile Justice Committee High Court of Madhya Pradesh held on 12<sup>th</sup> October 2018 at Jabalpur by Circulation**

**PRESENT:-**

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| 1. | Hon'ble Shri Justice J.K. Maheshwari | Chairperson, JJC High Court of M.P. Jabalpur                             |
| 2. | Hon'ble Smt. Justice Anjuli Palo     | Member, JJC High Court of M.P. Jabalpur.                                 |
| 3. | Shri Zakir Hussain                   | Secretary, JJC High Court of M.P. Jabalpur                               |
| 4. | Shri Vijay Chandra                   | Member Secretary, MP SLISA, Jabalpur                                     |
| 5. | Shri D. K. Singh                     | Dy. Secretary, MP SLISA Jabalpur   |
| 6. | Shri Baban Prakash                   | Sr. Technical Consultant, Secretariat, JJC, High Court of M.P. Jabalpur. |

On receiving a letter from Shri Mahendra Kumar Barik, Private Secretary to Hon'ble Shri Justice G.S. Ahluwalia, Judge and Member of High Court Juvenile Justice Committee, Bench at Gwalior, dated 9.10.2018, the matter has been taken up in the meeting of Juvenile Justice Committee held on 12.10.2018 by circulation. After going through the said letter, it is apparent that a girl who was pregnant residing in Snehalaya, Gwalior was subjected to rape and was forced to undergo abortion. The age of the girl is not clear as per the new letter received from the internet.

Hon'ble Shri Justice G.S. Ahluwalia apprised the matter to the District Judge, Gwalior asking report through the concerned Magistrate. On the visit of Hon'ble Shri Justice J.K. Maheshwari, Chairperson, Juvenile Justice Committee, High Court of Madhya Pradesh to Gwalior on 28.9.2018, it was apprised to His Lordship that Registrar, Gwalior Bench informed to the District Judge and the Judge concerned but because he is preparing for the examination of the ADJ, however, the report may be submitted subsequently. During discussion, it was apprised to Hon'ble Member that the Secretary, District Legal Services Authority and Additional District Judge nominated by the District Judge as Visitor Judge for inspection is having authority to visit all the Child Care Institutions within the jurisdiction of the District.

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They are authorized by Juvenile Justice Committee for carrying out the inspection. Hon'ble the Member has asked for the report as revealed from the letter but the report of the District Judge, Gwalior has not been received though the cause is related to Shelter Home namely, Snehalaya, Gwalior.

A perusal of the letter indicates that the action has not been taken by the District Judge, Gwalior however, the Members present in the meeting at Jabalpur have discussed the issue and resolved that an explanation be sought from the District Judge, Gwalior as to why the report regarding the issue of Snehalaya, Gwalior with respect to commission of rape with a girl and to force her for abortion has not been sent to His Lordship. It is further resolved that by a joint committee of Visitor Judge, ADJ nominated by District Judge and Secretary DLSA, Gwalior for Inspection of Child Care Institutions in Gwalior and report be prepared on the following issues:-

- a. Whether regarding commission of alleged rape, any offence has been registered in the Police Station and what is the stage of the said investigation.
- b. Whether Snehalaya, Gwalior is a registered institution?
- c. If any offence has been registered in the case, what steps have been taken by the Secretary, District Legal Services Authority Gwalior in the matter and whether any medical aid has been provided to the girl at any point of time?
- d. The allegation of commission of rape and to force the girl for abortion be enquired into in all respect affording opportunity of hearing to all stake holders that includes the officials of the Department and asking a report from them regarding the steps taken in this matter.

The aforesaid report be made available within two weeks

Apart from above agenda, these following additional matters has been taken up for discussion considering the urgency of the matter by the direction of Hon'ble the Chairperson, JJC and Hon'ble Member JJC present in the meeting:

**Item No. I.**

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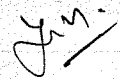
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Matter pertains to a Letter dated 14.8.2018 of CWC, Vidisha which has been received in the office of High Court of Madhya Pradesh, Jabalpur on 18.9.2018, which was sent to the office of Juvenile Justice Committee on 04.10.2018. The matter was placed before the Chairperson, Juvenile Justice Committee, High Court of Madhya Pradesh on 11.10.2018 for direction.

By way of said letter, it has been apprised that rape was committed on a disabled girl 'A' who is resident of Salakhedi, Samshabad District Vidisha she became pregnant. The FIR was lodged on 26.5.2018 bearing Crime No. 165/18 under Section 376, 506 IPC, 3(2)(5), 3(1)(wii) SC & ST Act and 3/4 POCSO Act against the offender. The CWC has requested for appointment of a supporting person and also for termination of the pregnancy on the request made by the girl and her parents. However, the matter was referred to Special Court, Vidisha, where the application was decided on 7.8.2018 and it was observed that this Court is not having the jurisdiction to entertain such application. However, letter dated 14.8.2018 has been sent to the Secretary, Juvenile Justice Committee, High Court of Madhya Pradesh, Jabalpur. By this time, the pregnancy appears to be of about 25-27 weeks.

However, after discussion in detail and on perusal of various medical documents, the members present in the meeting are of the considered opinion that on the issue of termination of pregnancy, a writ petition under Article 226 of the Constitution of India may be filed urgently through a supporting person or by the State Legal Services Authority with their aid and it may be requested to be taken up urgently making request to Hon'ble Judge to hear the matter and decide it at the earliest affording an opportunity and taking report from all the concerned. The State Government shall be apprised well in advance thereby on the date of hearing the stake holders and the concerned parties may remain present. The request may be made to the court asking medical report from the medical college Gwalior regarding position of the girl for the proposed step.

The aforesaid resolution is being passed looking to the best interest of the child. In the meanwhile, the Member Secretary, State Legal Services Authority is requested to issue appropriate directions to the Secretary, District Legal Services Authority, Vidisha to provide all the medical aid and assistance as soon as possible and take steps in getting compensation, if permissible under the law.



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**Item No. II**

This matter is taken up on the basis of a letter received from CWC, Vidisha dated 14.8.2018 with respect to the death of a child of 2 months old in a Child Line. The report of CWC indicates that the Child Line is at fault and the child was kept in a Shishu Grih, which was not registered.

After going through the said letter, the Members of the Committee present in the meeting have resolved that an enquiry be conducted by the Secretary, District Legal Services Authority, Vidisha on the following issues:-

1. Working of the Child Line, Vidisha shall be enquired into more particular to the death of the child concerned published in the daily news papers of Bhopal Dainik Bhaskar and Nav Duniya on 13.8.2018.
2. It be enquired that the Shishu Grih where the child was sent, was registered or not and if not, why the child was sent there.
3. The role of the CWC be also ascertained in taking up this matter.
4. It be also enquired into whether intimation/production of the child was given to the CWC or not and if the intimation was received, why immediate medical aid has not been given to the child, by the stakeholders to save the life of the said child, and who is responsible for it.

Let the report containing aforesaid information be submitted within two weeks by the Secretary, District Legal Services Authority Vidisha affording opportunity to all stake holders that includes officials of the State asking their stand why they have not taken any steps in this matter. The Secretary, District Legal Services Authority Vidisha after preparing the aforesaid enquiry shall also take appropriate steps with respect to get compensation, if any permissible under the law, to be paid due to said demise of the child concerned.

**ITEM NO.III**

It came to the notice of JJC that the Additional District Judges ( Visitor Judges) nominated by the respective District Judges and Secretary, District Legal Services Authority are not conducting inspection on regular basis though they have been authorized for inspection which is a matter of

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serious concern to the Juvenile Justice Committee, High Court of Madhya Pradesh. Member Secretary, State Legal Aid Services Authority present in the meeting is requested to issue appropriate instructions regarding inspection of the Child Care Institutions including Shelter Homes as per format prepared by the Juvenile Justice Committee so that the inspections must be carried out in a month positively. It is also requested that in the matters in which any news item regarding deprivation of the right of the child whether he /she is in conflict with law or child in need of care and protection is published, it may be taken up by the respective Secretaries of District Legal Aid Services Authority of the District and their report must be made available through Member Secretary, State Legal Aid Services Authority to the Juvenile Justice Committee, High Court of Madhya Pradesh for taking appropriate action.

**Item No. IV.**

Matter pertains to a Smt. Durga Pawar who is Chairperson of Child Welfare Committee Shahdol and also at same time working as member of Consumer Dispute Redressal Forum in Anuppur. Department of Women and Child Development has issued a show cause notice to the concerned Chairperson and reply to the show cause notice is received. The Juvenile Justice Committee, High Court of Madhya Pradesh recommends that the Department of WCD may ask the resignation from the concerned and if she has not given resignation then pass appropriate order to remove the Chairperson, CWC, Shahdol for holding two office, which is against the spirit of Juvenile Justice Act and Rules within two weeks as per rules and provision and action taken be apprised to the Juvenile Justice Committee, High Court of Madhya Pradesh within two weeks.

**ITEM NO. V:**

It is frequently reported that the Members of CWC appointed in the Districts are not working with the coordination among each other and they are passing separate orders in the matters.

It is also reported that the members of Juvenile Justice Board who are appointed by the Government are not coordinating with Principal Magistrate and given their dissent view even without passing order or perusal of case records. The said practice is not in the spirit and objectives of the Juvenile Justice Act, 2015. Lack of coordination among the Members and Principal

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Magistrate can held up the proceedings of the case and affect the smooth functioning of the Board, Therefore it is necessary, to the Members and Principal Magistrate to cooperate each other and work in true spirit of the JJ Act

After discussion, it is resolved that the Principal Secretary and the Commissioner, Women and Child Development Department, Madhya Pradesh be requested to issue appropriate instructions to the Chairperson/Member of the CWC and the Members of Juvenile Justice Board appointed by the Government to issue appropriate instructions for their working in coordination with each other and with the Principal Magistrate of Juvenile Justice Board.

The aforesaid resolutions be circulated among Hon'ble Members for their kind perusal and approval.

**Therefore, if approved:**

1. May permit to write letter to District & Sessions Judge, Gwalior seeking explanation as to why the report regarding the issue of Snehalaya Gwalior with respect to commission of rape with the girl and to force her for abortion has not been secured inspecting ADJ and Secretary DLSA sent to Hon'ble Shri Justice G.S. Ahluwalia, Member JJC.
2. May write to District Judge that a joint committee of visitor judge ADJ nominated by District & Sessions Judge and Secretary DLSA be formed for inspection of Child Care Institution in Gwalior.
3. A writ petition under Article 226 of the constitution of India for termination of pregnancy of a minor girl child victim of alleged rape according to the resolution passed in Item No.1.

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4. May write letter to Member Secretary, MP SLA for providing medical aid and compensation according to the resolution passed in Item No.1.
5. May write letter to Secretary, DLSA Vidisha to conduct an enquiry and to take appropriate steps regarding compensation as resolved in Item No.1 & 2 and submit report within stipulated time.
6. May request to Member Secretary, SLA to write letter to Secretaries of DLSA to conduct regular inspections CCIs including Shelter Home with inspecting ADJ.
7. May request to Member Secretary SLA to write letter to Secretaries DLSA of all districts of M.P. to take note of any news items with respect to child in conflict with law and/or Child in need of care and protection.
8. May write letter to the Department of WCD to take steps as resolved in Item No.4 and concerns of JJC on the issues discussed above.
9. May write letter to Principal Secretary and Commissioner of Department of WCD to issue appropriate instructions as resolved in Item No.5.
10. May pass any other appropriate order.

[Zakir Hussian]

Registrar J-1 and Secretary  
Juvenile Justice Committee  
High Court of M.P.

HON'BLE SHRI JUSTICE G.S. AHLUWALIA

s/d

Member, JJC High Court of Madhya Pradesh Bench at Gwalior

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HON'BLE SMT. JUSTICE ANJULI PALO

s/d

Member, JJC High Court of Madhya Pradesh Principal Seat at Jabalpur  
(present in person)

HON'BLE SHRI JUSTICE ROHIT ARYA

s/d

Member, JJC High Court of Madhya Pradesh Bench at Indore  
(by circulation)

HON'BLE SHRI JUSTICE J. K. MAHESHWARI

s/d

Chairperson, JJC High Court of Madhya Pradesh Principal Seat at Jabalpur  
(present in person)