

Minutes of the Meeting of Juvenile Justice Committee High Court of Madhya Pradesh held on 2nd November 2018 at 4.40 PM through Video Conferencing

PRESENT:-

1. Hon'ble Shri Justice J.K. Maheshwari, Chairperson, JJC High Court of M.P.
2. Hon'ble Shri Justice Rohit Arya, Member, JJC High Court of M.P (Indore)
3. Hon'ble Shri Justice G.S. Ahluwalia, Member, JJC High Court of M.P.(Gwalior)
4. Shri Zakir Hussain, Secretary, JJC High Court of M.P, Jabalpur
5. Shri Vijay Chandra, Member Secretary, MP SLSA (Invitee)
6. Shi Kailash Makwana, ADG(CID) Police Headquarters, Bhopal
7. Shri Chhote Singh, Director, Directorate, Women Empowerment, DWCD, Bhopal
8. Shri Yogendra Yadav, Deputy Director, DWCD, Bhopal
9. Ms. Advaita Marathe, Child Protection Officer, UNICEF Field Office, Bhopal
10. Shri Shahbaz Shervani, State Consultant, Child Protection UNICEF Bhopal
11. Shri Baban Prakash Senior Technical Consultant, Secretariat, JJC –HC Jabalpur

SERIAL NO. 1: FOLLOW UP OF PREVIOUS MEETING

ITEM NO.1

District Judges were requested to continue holding coordination meeting on implementation of JJ Act and submit report to JJC accordingly.

It was observed that some of the Districts have not send report of coordination meeting to JJC. Hon'ble Chairperson and Members after perusal and discussion resolved as follows:

A reminder be sent to all District Judges to hold coordination meeting at District Level regularly and send report to JJC accordingly.

ITEM NO. 2

Matter pertains to Publicity of Child Line, development of Child Protection Policy and publicity and awareness generation on Child Protection Director(WE), DWCD has stated that several initiatives has been taken for Publicity of Child Line and awareness generation on Child Protection such as

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live telecast on Radio and Televisions, posters, wall writing etc. Department of WCD has further informed that formulation of Child Protection Policy in collaboration with UNICEF is in progress, drafts have been received and soon it will be finalized.

After perusal and discussion, Committee resolved as follows:

- i. More effective initiatives and action need to be done by the Department of WCD on functioning of Child Line across the State and on publicity generation on Child Help Line number and on Child Protection and submit detail report on next JJC meeting.
- ii. DWCD to develop the Child Protection Policy at the earliest and submit report in the next JJC meeting.

ITEM No. 3

2. Matter pertains to information about the policy of State Government with regard to prevailing de-addiction scheme / programme in the State.

Director (WE), DWCD informed the JJC that Department of Social Justice Department has constituted a committee to draft policy on de-addiction and received copy of the draft. Committee constituted by Social Justice is in process to finalize the policy on de-addiction.

After perusal and discussion, JJC resolved as follows:

DWCD to coordinate with Department of Social Justice on de-addiction policy and provide update on next JJC meeting.

Serial No. 2

Follow up of JJC Meeting held on 12.10.2018:

Matter pertains to 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 regarding news item published relating to a girl who residing in Shelter Home namely Snehalaya, Gwalior was subjected to rape and was forced to undergo abortion.

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Secretary, JJC has informed that letter has been sent to District and Session Judge Gwalior pursuant to direction earlier and action has been taken. Hon'ble Chairperson, JJC informed that pursuant to direction of JJC in earlier meeting, letter has been received from District and Sessions Judge, Gwalior and same is accepted. Hon'ble Chairperson, stated that Secretary DLSA alongwith inspecting ADJ should inspect all Child Care Institution, whereas, Principal Magistrate should inspect institution meant CCIs for Child in Conflict with Law such as Observation Home, Special Home, Place of Safety.

DWCD has informed that in the month of January, 2018, Snehalaya, Gwalior was given provisional registration for six month only by DWCD and the later it was the registration was withdrawn. Currently the Shelter Home namely Snehalaya, Gwalior is not registered by DWCD.

Hon'ble Justice Rohit Arya has sought response form police officer as to why Police is not keeping strict vigil in their jurisdiction where illegal activities are going. Police has vital role in prevention of illegal activities, taking action against culprits and in protection of children from physical and sexual abuse in their jurisdiction.

ADG (CID) Police has stated that appropriate instruction will be issued in this regard.

After perusal and discussions, JJC has resolved as follows:

1. Detail report on action taken by DWCD and Police with respect to Shelter Home namely Snehalaya, Gwalior be sent to JJC Secretariat within 15 days.
2. It is further referred that inspecting ADJ and DLSA Secretary would inspect, the Snehalaya and submit detailed report to the JJC within 15 days.

ITEM NO. 1

Matter pertains to a Letter dated 14.8.2018 of CWC, Vidisha regarding termination of pregnancy of minor victim of alleged rape



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Secretary JJC has informed that letter has been taken pursuant to decision of JJC in earlier meeting.

Therefore, delay or latches on behalf of the stakeholders despite the knowledge that matter is most urgent and immediate necessary action be required but no immediate action has been taken by the stakeholders.

The committee resolved that such matter shall not happen again in future and to take necessary steps in future, therefore, report be called from District Judge that by whose part i.e. Police, CWC, Judges, secretary DLSA or anyone else delay and latches occurred.

ITEM NO. II.

Matter pertains letter dated 14.8.2018 received from CWC, Vidisha regarding death of a child of 2 months old in the Child-Line office/ Shishu Grih

Hon'ble Chairperson gave brief description of incident as appeared in the news reports and from the letter of CWC Vidisha. Hon'ble Chairperson expressed deep concerned on the report that child died within 24 hours after being received by Child Line and kept in unregistered Home.

Secretary, JJC has informed that letter to Secretary, DLSA has already been issued in compliance of direction of JJC in previous meeting for conducting the enquiry.

After perusal and discussions, JJC has resolved as follows:

DWCD to send detailed action taken by the DWCD regarding the incident and also report on required all measures be taken so that such incident should not occur in future. The report should be sent to JJC Secretariat within 15 days.

ITEM NO. III

Matter pertains inspection of the Child Care Institutions including Shelter Homes as per format prepared by the Juvenile Justice Committee by Visitor Judge and Secretary District Legal Service Authority Secretary JJC has informed that letter has already been sent to Member Secretary, MPSSA pursuant to decision of JJC in earlier meeting.

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New Agenda

Serial No. 1

Letter of Hon'ble Justice Shri Anand Pathak, Judge High Court of Madhya Pradesh Bench at Gwalior regarding status of Nari Niketan/Shelter Home/Orphanage and suggestions and corrective measures for consideration by the Juvenile Justice Committee

His lordship in his letter has stated that it appears from news paper reports and discussion therein, Shelter Home/Orphanages/ Nari Niketan are infested with deep rooted corruption, mismanagement and ill intention. His Lordship has apprehended that these institutions may be used as inventory or ready stock of organs smuggling, sexual abuse, human trafficking etc. therefore, corrective measures are required to be taken and suggested some of the following measures:

1. It is possible that these Shelter Homes/Orphanages/Nari Niketan/ Mercy Homes may be used as an inventory or ready stock of Organs and can be used for Organ Smuggling, therefore, suitable steps are required to be taken for thorough medical examination of all inmates of these institutions and thorough medical examination should be held at the time of entry of inmates (or members) at Shelter Homes/Orphanages etc. just like in Jails, so that exact physical status (with the status of organs) of inmates/members can be ascertained. Regular Medical Audit of these inmates is need of the Hour.
2. Another aspect is in respect of separation of living places for boys and girls (males and females) and female wards should be accessed and surrounded by female inmates only. Strictly, no male warden or supervisor be allowed in that area. Similarly children should be separated from the adult members.

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3. A mechanism is required to be evolved whereby source of funding be scrutinized thoroughly because with money; possibly; Lust of Pedophiles and Organ Seekers may take entry in the organizations.
4. Installation of CCTV Cameras in the premises and living rooms (if possible with the monitoring at office of District Women and Child Empowerment Officer or some like officer can be thought of for the safety of such places.
5. Documentation and preparation of Medical and behavioral report/papers of every inmates should be regularly maintained for their welfare which can be reviewed from time to time by any specified Government Medical Agency.
6. To give effect to these suggestions, a short duration training module can be conceptualized, like in Mediation and Conciliation, so that Professionals like Lawyers/Doctors/Professors/Students of Social Service Courses can be trained as per requirement.

After perusal and discussion, JJC has resolved as follows:

Corrective measures as suggested by Hon'ble Justice Shri Anand Pathak, Judge High Court of Madhya Pradesh Bench at Gwalior in its letter regarding status of Nari Niketan/Shelter Home/Orphanage action is accepted by JJC and DWCD is requested to take appropriate action on these suggestions and send status report to JJC Secretariat within six weeks.

Serial No. 2

Matter pertains to an Order dated 09.02.2017 of Department of WCD directing three days working of CWC which is in contravention of Section 28 (1) of JJ Act 2015 and Rule 16(7) of Mode JJ Rules 2016.

As per Sub-section (1) of Section 28 of JJ Act:

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The Committee shall meet at least twenty days in a month and shall observe such rules and procedures with regard to the transaction of business at its meetings, as may be prescribed.

Director, DWCD has stated that the aforesaid order fixing 3 days sitting for CWC was issued as per provision of earlier JJ Act, 2000. DWCD is rectifying the error and soon the order dated 09.02.2017 will be withdrawn and fresh order in compliance of section 28(1) of JJ Act will be issued.

After perusal and discussion, JJC has resolved as follows:

DWCD to withdraw the order dated 09.02.2017 regarding working days of CWC and issue order in compliance with section 28(1) of JJ Act. An action taken report be sent to JJC within six weeks.

Sr. No. 3

Matter pertains to timely appointment of CWC Chairperson and Members of CWC and Members of JJB in case of vacancy in terms of JJ Act and Model Rules.

Director, (WE), DWCD has stated that due to model of code of conduct with respect to state assembly election, vacant positions have not been filled. Hon'ble Chairperson has listed names of districts where position of Members of CWC and Members of JJB are vacant.

DWCD has assured the Committee that all vacancies in the CWC and JJB shall be filled soon.

After perusal and discussion, JJC has resolved as follows:

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DWCD to fill all vacant positions as soon as election is over and send status report to JJC within six weeks thereafter.

Sr. No. 4

Violation of principle of equality and non-discrimination in distributing the children among CCIs by CWC

Hon'ble Chairperson, JJC has informed that complaint has been received by JJC that CWC is sending children to particular CCI and some CCIs receives more children and some CCIs receives less children without any reason, which is not justified.

It has further came to notice that Childline's involvement in the placement of child in particular CCI is in nexus with CWC, due to which, children are kept in cradle at the CCI and deliver them thereby CWC. This is a matter of grave concern.

Director, DWCD has assured to the JJC that issue will be addressed. In this regard, a roster of CCIs will be issued and appropriate direction will be issued to CWC, Childline, CCIs, SAA and all the district level staff.

After perusal and discussion, JJC has resolved as follows:

DWCD to develop roster of CCIs and appropriate direction will be issued to CWC, Childline, CCI, SAA and all district level staff. A report will be sent to JJC within 30 days, if found any one violated the roster they may be dealt with according to law.

Sr. No. 5

Imposition of Fine or Cost to be utilized on Juvenile Justice issues.

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It has been observed that Courts while imposing fine on the convicts or order payment of cost in any case, direct that fine to be deposited in funds of District Legal Services Authority, however, sometime it does not specify where the funds of DLSA to be utilized. Member Secretary, SLSA has assured the JJC that a report will be presented on the distribution of funds into the account of SLSA out of imposition of cost and fine imposed by Courts

After perusal and discussion, JJC has resolved as follows:

MPSLSA to submit a report on the distribution of funds deposited in SLSA out of imposition of cost and fine imposed by Courts. The report of SLSA be submitted in the next JJC meeting.

Sr. No. 6

Addressing Representation/Complaints/grievances etc. received in JJC

JJC Secretariat has been receiving inspection reports from ADJ, Principal Magistrate as well as various representation, complaints or grievances relating to implementation of JJ Act such as condition of CCIs, functioning of CWC, JJB, SJPU, DCPU etc. issues relating to children in need of care and protection and children in conflict with law or a report in the media containing information relating to violation of JJ Act and other critical legislation meant to protect rights children such as POCSO Act, PCMA Act, 2006 etc.

A complaint from District & Sessions Judge, Bhopal has been received whereby it has been informed that there is dispute between Principal Magistrate

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and Members of Juvenile Justice Board Bhopal which is effecting the working of the Board.

Hon'ble Chairperson has observed that nodal person from DWCD should be appointed or designated to get in contact with JJC Secretariat in dealing all such Representation/Complaints/grievances etc. received in JJC relating to issues of children and implementation of JJ Act.

Hon'ble Chairperson has further observed that all Representation/Complaints/grievance etc. received in JJC should be prepared and forward to the Nodal person appointed by DWCD who will address and deal with all such complaints, grievances etc. as early as possible. Action taken report with respect to such complaint Representation/Complaints/grievance etc. be sent to the JJC Secretariat.

Committee after consideration has resolved that Department of Women and Child Development be asked to initiate action against the Juvenile Justice Board Members Bhopal and terminate their services, further Committee has directed to write letter to Registrar General to transfer Principal Magistrate Bhopal from his present place of posting.

After perusal and discussion, JJC has resolved as follows:

- i. A Nodal person from DWCD should be appointed or designated to get in contact with JJC Secretariat in dealing all such Representation/ Complaints/ grievances etc. received in JJC relating to issues of children and implementation of JJ Act within 10 days and communicated to JJC.



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- ii. All Representation/ Complaints/ grievance etc. received in JJC should be prepared and forward to the Nodal person appointed by DWCD who will address and deal with all such complaints, grievances etc. as early as possible. Action taken report with respect to such complaint Representation/ Complaints/ grievance etc. be sent to the JJC Secretariat from time to time.
- iii. Department of Women and Child Development Bhopal be asked to initiate action against Members Juvenile Justice Board Bhopal and remove them from their services. Further, Registrar General, High Court of M.P. be requested place the proposal for transfer of Principal Magistrate Bhopal before appropriate Committee.

Sr. No. 7

Establishing Child Friendly Courts and vulnerable witness courts

Matter pertains to Establishment of Child Friendly Court and Vulnerable Witness Court in State of MP as per direction of Hon'ble Supreme Court in its judgment dated 09.02.2018 in *Smapura Behrua Vs Union of India and Others*.

Hon'ble Chairperson has informed that in writ petition High Court of Madhya Pradesh is already pursuing this matter.



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Sr. No. 8

Matter pertains to appointment of District Inspection Committee under Section 54 read with Rule 41 (8) of Model Rules 2016.

As per Section 54 of JJ Act, the State Government is required to appoint Inspection Committee for the State and District. Such Inspection Committees are required to conduct inspection of all facilities housing children in the area allocated at least once in three months by a team not less than three members of who at least one shall be woman and one shall be medical officer and submit report of finding of visit within a week. As per Rule 41 (8) of Model Rules 2016 District Inspection Committee shall comprise of following members:

- i. *Member of the Board or the Committee.*
- ii. *District Child Protection Officer as the Member Secretary;*
- iii. *Medical Officer;*
- iv. *One member of the civil society working in the area of child rights, care, protection and welfare;*
- v. *One mental health expert who has experience of working with children.*

It has come to the notice that District Inspection Committee of most of the district have not been constituted as per Rule 41(8) of Model JJ Rules.

Hon'ble Shri Justice Rohit Arya, Member JJC has informed that Police officer of not below the rank of DSP should also be part of the District Inspection Committee and also a lady preferably principal of school and lecturers of colleges should be part of such Inspection Committee.

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Director, DWCD has stated that possibility will be explored to induct Police officers to be part of Inspection Committee.

Hon'ble Chairperson, JJC observed that Inspection Committee is a very important system in the juvenile justice system therefore, proper appointment of qualified and experience persons should be appointed and they must conduct inspection of all institutions and submit report regularly as per provision of JJ Act.

As per Model Rule, at least five member must be appointed in the District Committee and seven members in the State Inspection Committee. A format has been prepared by JJC Secretariat for inspection CCI, SSA and CWC which has been approved by JJC. As Inspection formats as prescribed under Model Rules mainly deals with infrastructure whereas the format developed by JJC deals with various aspects of functioning of CCIs and SAA and touches upon several aspects of child's living condition in Institution. Inspection Committee may use the format in addition to the format prescribed in the Model Rules.

Director ,DWCD has requested that format as developed by JJC be forward to DWCD which will be circulated to District Inspection Committee for Inspection of CCIs and SAA and to District Magistrate on functioning of CWC.

After perusal and discussion, JJC has resolved as follows:

- i. Director, DWCD to explore possibility to induct Police officers to be part of District Inspection Committee.
- ii. DWCD to ensure proper appointment of qualified and experience persons in the District Inspection Committee and they must conduct inspection of all institutions within two

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months and submit report regularly as per provision of JJ Act.

- iii. Format for Inspection of CCI and SAA as developed by JJC be forward to DWCD for circulation to District Inspection Committees for Inspection of CCIs and SSA in the District and to District Magistrate on functioning of CWC.

ADDITIONAL AGENDA

ITEM NO. 1

Matter pertains to Letter dated 26.10.2018 of Hon'ble Justice Shri Madan B Lokur, Judge, and Supreme Court of India to the Hon'ble Chief Justice of Madhya Pradesh High Court and Hon'ble Chairperson, JJC, High Court of Madhya Pradesh regarding sending of State Action Plan of Madhya Pradesh for analysis and presentation in National Round Table Conference to be held on 1st December 2018

His Lordship, in his letter addressed to Hon'ble Chief Justice of High Court of Madhya Pradesh stated that the elements of State Action Plans will be discussed in the National Round Table Conference to be held on 1st December 2018. It was further requested by His Lordship that State Action Plan be sent before 15th of November 2018

Hon'ble Chairperson JJC stated that State Action plan which was presented on 4th Western Regional Consultation on Juvenile Justice held on 21st July 2018 at Indore needs to be reviewed and finalised so that same can be sent to Hon'ble Justice Shri Madan B Lokur, Judge, and Supreme Court of India before 15th of November 2018. A consultation with stakeholders should be organised for review of the state action plan.

During the meeting, Ms. Advaita representing UNICEF has stated that a half day consultation with a small group of critical stakeholder such as Department



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of WCD, Police (CID, Crime Against Woman, Cyber Crime), UNICEF be organised and UNICEF can support and facilitate in organising the consultation at its Bhopal office.

Hon'ble Chairperson and members present accepted the suggestion of the UNICEF. Hon'ble Chairperson has suggested that review consultation meeting can be held on 12.11.2018 at UNICEF Bhopal office.

After perusal and discussion, JJC has resolved as follows:

1. A half day consultation with a small group of critical stakeholder such as Department of WCD, Police (CID, Crime Against Woman, Cyber Crime), UNICEF be organised by UNICEF at its Bhopal office on 12.11.2018.
2. After aforesaid consultation report on the final state action plan be sent to the JJC on 13.11.2018, thereafter JJC will review the report and will send the final report to Supreme Court of India Delhi.

Item No. 2

Matter pertains to directions by Hon'ble High Court of Madhya Pradesh in Civil Revision No.258/2017 and 260/2017 in order dated 12.02.2018

As per the earlier directions of JJC proper response in compliance with the directions of Hon'ble High Court of Madhya Pradesh in the aforesaid matter has not been received from MWCD, Steering Committee CARA, and State Government, DWCD Bhopal, SARA.

Hon'ble Chairperson JJC has observed that officials of the aforesaid departments are not complying the directions of Hon'ble High Court of Madhya Pradesh, it seems that they are not interested to follow the direction of Hon'ble High Court. Hon'ble Justice Shri G. S. Ahluwalia, Member JJC has stated that one more opportunity may given to the officials of aforesaid department to give their response before the contempt proceedings be initiated.

After perusal and discussion, JJC has resolved as follows:

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One more opportunity may given to the officials of MWCD, Steering Committee CARA, and State Government, DWCD Bhopal, SARA to give their response with regard to compliance with the directions of Hon'ble High Court of Madhya Pradesh in Civil Revision No.258/2017 and 260/2017 in order dated 12.02.2018 before the contempt proceedings be initiated against them.

Item No. 3

Matter pertains to complaints received from Kilkari Udaan, SAA, Bhopal

Zakir Hussian
13/11/2018

[Zakir Hussian]

Registrar J-1 and Secretary
Juvenile Justice Committee
(Committee No. 21)
High Court of M.P

HON'BLE SHRI JUSTICE G.S. AHLUWALIA s/d
Member, JJC High Court of Madhya Pradesh Bench at Gwalior

HON'BLE SMT. JUSTICE ANJULI PALO s/d
Member, JJC High Court of Madhya Pradesh Principal Seat at Jabalpur

HON'BLE SHRI JUSTICE ROHIT ARYA s/d
Member, JJC High Court of Madhya Pradesh Bench at Indore

HON'BLE SHRI JUSTICE J. K. MAHESHWARI s/d
Chairperson, JJC High Court of Madhya Pradesh Principal Seat at Jabalpur