

**HIGH COURT OF MADHYA PRADESH**  
**BENCH AT GWALIOR**

**SB : HON'BLE SHRI JUSTICE VIVEK AGARWAL**

**Writ Petition No.3717/2018**

Smt. Shail Bhatnagar .....Petitioner

Vs.

State of M.P. & Others ....Respondents

-----  
Shri Himanshu Pandey, learned counsel for the appellant.

Shri Prakhar Dhenguula, learned Govt. Advocate for the respondents/State.  
-----

**Whether approved for Reporting :**

**ORDER**  
**(Passed on this 13<sup>th</sup> day of December 2018)**

Petitioner has filed this petition seeking a writ in the nature of quo-warranto against appointment of respondent No.4 as Member of Juvenile Justice Board and Child Welfare Committee on the ground that Selection Committee had recommendation her name at serial No.1 vide Annexure P/6 for the post of Member, and therefore, she should have been given appointment as member in preference to respondent No.4.

**2.** Petitioner has placed reliance on the provisions contained in Juvenile Justice (Care & Protection of Children) Model Rules, 2016 (hereinafter shall be referred to as the 'Model Rules', wherein sub-rule (7) of Rule 88 reads as under :-

“(7) The Selection CommUittee shall, on the basis of the evaluation

procedure and criteria, select and recommend a panel of names **in order of merit** to the State Government for appointment as Members of the Board of Chairperson or Members of the Committee as the case may be.”

Placing reliance on these Model Rules, it is submitted that since the Selection Committee was required to recommend a panel of names in order of merit to the State Government for appointment as members of the Board or Chairperson or members of the Committee, as the case may be, and since vide Annexure P/6 name of the petitioner was mentioned at Serial No.1, she being more meritorious than respondent No.2 should have been appointed as member.

**3.** On the other hand, learned Govt. Advocate has also placed reliance on Model Rules as notified in Gazette notification dated 21<sup>st</sup> September, 2016.

**4.** There is ambiguity in the Model Rules published in English in the gazette under Rule 88 (7) and one notified in Hindi, inasmuch as there is no mention of the Selection Committee making the recommendations of panel of three names in the order of merit in sub Rule (7) of Rule 88 of the Model Rules, as have been published in the gazette in Hindi. In fact, when this sub Rule (7) of Rule 88 is read with Sub Rule (9), then it is apparent that Selection Committee is only required to prepare a three member panel of each position, which has validity for a period of one year. There is no mention of the fact in “Hindi” version of the Model Rules that such names are to be in order of merit and therefore contention of the respondents that in case of

ambiguity “Hindi” language will prevail over the “English” language is to be examined.

**5** It is submitted that Article 348 of the Constitution of India deals with language to be used in the Supreme Court and in the High Court and for Acts, Bills etc. Article 348 (1) (b) reads as under :-

**348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.—**

(1) ----

(a) -----

(b) the authoritative texts—

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language.

**6.** Thus, it is apparent that all the Bills, Acts passed by the Parliament or the Legislature of State and all orders, rules regulations and bye-laws issued under the Constitution or under any law made by Parliament or the Legislature of a State shall be in English language. Therefore, English language will have preference over Hindi language as far as bills, rules etc. are concerned because it is not a case of the respondents that as per the provisions contained in Article 348 (3), which reads as under :-

“(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English

language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.”

State Legislature has passed its independent Juvenile Justice (Care & Protection of Children) Rules authorizing it to have preference for Hindi language and English translation of such Hindi language enactment.

**7.** In fact, learned counsel for the petitioner has placed reliance on the provisions contained in the Official Languages Act 1963, which provides in Section 3 that the English language may, as from the appointed day, continue to be used in addition to Hindi for all official purposes of the Union, in which it was being used immediately before that day; and for the transaction of business in Parliament. It is submitted that Section 5(1)(b) provides for a translation in Hindi published under the authority of the President in the Official Gazette on and after appointed day of any order, rule, regulation or by-law issued under the Constitution or under any central Act, shall be deemed to be authoritative text thereof in Hindi. Thus, for the purpose of any rules promulgated by the authority of Central Government, as is the case of Model Rules framed by the Central Government in exercise of the powers conferred by the provisions of sub section (1) of

Section 110 of the Juvenile Justice (Care and Protection of Children) Act, 2015, English version will have predominance over Hindi version, as has been held by the Hon'ble Supreme Court in the case of **Prabhat Kumar Sharma Vs. U.P.S.C. and others** as reported in **(2006) 10 SCC 587**, wherein it has been held that English language continues to remain authoritative text in respect of Acts of Parliament.

**8.** On the other hand, learned counsel for the State has placed reliance on the Division Bench judgment of this court at Principal seat in the case of **Chief Municipal Officer Vs. Hindustan Copper Limited and others (W.P.No.1349/2017)**.

**9.** After hearing learned counsel for the parties and perusing the material placed on record, this court is of the opinion that judgment cited by the learned Govt. Advocate in the case of **Chief Municipal Officer (supra)** is not applicable to the facts and circumstances of the case, inasmuch as it is not the case of the State that they have framed their own rules on the basis of Model Rules and therefore, Hindi version as per the authorization of the Governor of the State in terms of the provisions contained in Article 348 (3) of the Constitution of India shall be authoritative version. In the present case, since State has also adopted the Model Rules framed by the Central Government, then English version alone shall be authentic version and since sub rule (7) of Rule 88 provides for recommending the name of eligible candidates in the order of merit, then the person, whose name is recommended at S.No.1 shall be deemed to be more meritorious, unless otherwise clarified by the Selection Committee. Therefore, this petition deserves to be

allowed and is allowed. State to bear cost of this petition payable to the petitioner which is quantified at Rs.10,000/-.

**(Vivek Agarwal)**  
**Judge**

SP