

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

PUBLIC INTEREST LITIGATION No. 2495 of 2023

In Re: (Suo Moto)

v/s

State of Uttar Pradesh

**Coram: HON'BLE PRITINKER DIWAKER, CHIEF JUSTICE
HON'BLE AJAY BHANOT, JUDGE**

ORDER

Inspection of various child care institutions throughout the State of U.P. conducted by one member of this Bench (Ajay Bhanot, J.) revealed various shortcomings and deficiencies in the running of the institution which directly implicate the fundamental rights of children of the said homes under Article 21 of the Constitution of India. The children who are residing in these homes constitute among the most vulnerable sections of the society. The State is their *pater familias*.

Some of the shortcomings which need urgent attention are as follows:

i. The children are living in cramped conditions with little or no access to sunlight, fresh air, playgrounds or open spaces. The living conditions will impede a holistic growth of the children. The conditions as we have noticed are worse than prisons. This Court cannot countenance such apathy on part of State. Various directions have been issued by the Juvenile Justice And POCSO Committee of this Court requesting the State Government to forthwith initiate measures to shift the homes where children live in overcrowded conditions to more spacious places with adequate facilities. However, no response has been forthcoming from the State. Consequently, we are constrained to issue a direction to the State Government to accord top priority to the shifting of these

homes to more spacious environments with adequate facilities of sports and outdoor activities. This will be an interim measure till standard parameters for establishing observations homes are drawn up regarding the facilities and the infrastructure to be available in such homes.

ii. The staff in such homes is the most critical part of the functioning. In many cases the homes are not being headed by duly appointed supervisors and other staff members are not adequately trained. The interface of the children with the staff evolves their personalities and has an influence on their mental health. In case the staff is not well trained and sensitized to dealing with children, the environment in the Child Care Institutions may cause more harm than good to the children.

iii. The budget allocation for the food items/diet, and other necessities of live has not been revised in many years. This is again adversely impacting the growth of the children.

iv. The educational facilities also need to be upgraded and diligently monitored. The performance of the children has to be observed with unbroken vigilance. Efforts should be made by the staff and the teachers in the institutions to identify the weaknesses of individual children and provide the necessary support to enable them to overcome the same.

v. Emotional development and physical activities of the children in these homes need special attention since they live in circumstances very different from children who have a good fortune of stable and supportive families. For this purpose, a proper transformative environment and activity system has to be developed in consultation with professional bodies.

vi. The formal education system also needs substantial upgrade. Vocational training provided to the children has to be linked with employers in the market. Proper training which equips the inmates with

high quality skills has to be ensured in consultation with professionals in the field.

vii. It is clarified that the State Government will have to draw up to distinct lines of approach for children who need vocational training and those who are to be imparted regular school education.

viii. The girl child has to be taken special care of and lady counsellors should appointed to guide the girls during their growing years.

ix. The Right to Free and Compulsory Education of Children has been recognized by the legislature as a statutory right and exalted by constitutional courts as a Fundamental Right. It is the responsibility of the State to ensure that the rights of the children in the observation homes are brought to fruition.

The State Government shall undertake an exercise for admission of the children in schools of repute in the vicinity of the homes. The children of the homes shall be given the benefit of reservation in schools of repute in the Right to Education Act in the category of disadvantaged sections of society.

Considering the circumstances of the children, the State Government may consider waiving the requirement of income certificate of families for the purpose of grant of such benefit.

The Principal Secretary, Women and Child Development Department, Government of U.P. Lucknow shall file a personal affidavit on the next date of listing.

The Principal Secretary shall also disclose the number of observation homes of different categories whether run by the Government or private agencies in the State of U.P. and with the aid of the Government on the next date and the number of children of different age groups residing in such institution. The State Government shall endeavour to provide these details on the next date of listing.

Learned Chief Standing Counsel is directed to serve a copy of this order and make due consultations for settling of the affidavit with the Principal Secretary and other responsible officials of the State Government.

Considering the urgency of the matter in the event of non-compliance of this order, this Court may be constrained to take appropriate action on the next date.

Put up this matter on 06.11.2023.

A copy of this order be provided by the Registry to the Chief Standing Counsel.

Order Date: 19.10.2023

Vandit

(Ajay Bhanot, J.) (Pritinker Diwaker, C.J.)