

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 05TH DAY OF JULY, 2012

PRESENT

THE HON'BLE MR. VIKRAMAJIT SEN, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

W.P.No.4840/2012 C/w W.P.No.11271/2012
(GM-RES-PIL).

IN W.P.No.4840/2012

BETWEEN:

SUO MOTU

... PETITIONER

(BY SMT: SUMANA BALIGA, *AMICUS CURIAE*, ADV.)

AND:

1.STATE OF KARNATAKA,
REP. BY ITS CHIEF SECRETARY,
VIDHANA SOUDHA, BANGALORE.

2.THE PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF WOMEN AND CHILD
WELFARE, M.S.BUILDING,
BANGALORE.

3.THE CONCERNED FOR WORKING CHILDREN,
REP. BY SMT ROSHNI NUGGAHALLI,
D/O KISHORE KUMAR.N.S.,
AGE 29 YEARS,
303/2, L.B.SHASTRI NAGAR, VIMANAPURA,
BANGALORE.

(R3 IS AMENDED V/C
ORDER DATED 06/06/2012)

... RESPONDENTS

(BY SRI: SRI.R.DEVDAS, AGA FOR R1 & R2, SRI.NANDANA REDDY AND ROSHNI NUGGAHALLI, PARTY-IN-PERSON FOR R3 & R4, SRI.ARLENE MANOHARAN PARTY-IN-PERSON FOR IA 4/12, SRI.VISHWANATH.V.ANGADI, MEMBER SECRETARY FOR KSLSA)

THIS W.P. IS REGISTERED AS A SUO MOTO W.P. HIGHLIGHTING THE NEWS APPEARING IN VARIOUS DAILY NEWSPAPERS LIKE THE HINDU, THE DECCAN HERALD, TIMES OF INDIA AND THE NEW INDIAN EXPRESS, DEALING WITH THE UTTER APATHY OF THE OFFICERS RESPONSIBLE FOR THE RUNNING OF THE GOVERNMENT HOME FOR BOYS (BALAKARA BALA MANDIRA) AND THE GOVERNMENT OBSERVATION HOME FOR BOYS, RESULTING IN THE CHILDREN WHO ARE THE INMATES OF SUCH HOUSES BEING DEPRIVED OF THEIR RIGHTS GUARANTEED UNDER THE CONSTITUTION AS WELL AS THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000.

IN W.P.No.11271/2012

BETWEEN:

1.ASHRAYA,
A SOCIETY REGISTERED UNDER
THE KARNATAKA SOCIETIES
REGISTRATION ACT, 1960,
HAVING ITS REGISTERED OFFICE AT:
JAWANS' COLONY, BDA PARK,
DOUBLE ROAD, INDIRANAGAR I STAGE
BANGALORE-560 038,
REP. BY ITS SECRETARY
MS. NOMITA CHANDY.

2.ABHILASHA MONDAL,
AGED ABOUT 19 YEARS,
D/O LATE PRASUN KUMAR MONDAL,
R/AT # 309, NILGIRIS,
NATIONAL LAW SCHOOL OF INDIA
UNIVERSITY , NAGARBHAVI,
BANGALORE.

3.BASAVANAGOUDA PATIL,
AGED ABOUT 21 YEARS,
S/O SHIVARAJ B PATIL,
R/AT # 11, 5TH MAIN, 5TH CROSS,
PAPAI AH GARDEN, BANSHANKARI III STAGE,
BANGALORE-560 085.

4.TENZIN PALDRON TSERING
AGED ABOUT 20 YEARS,
D/O YESHI TSERING
R/AT # 309, NILGIRIS,
NATIONAL LAW SCHOOL OF INDIA
UNIVERSITY, NAGARBHAVI,
BANGALORE.

... PETITIONERS

(BY SMT: JAYNA KOTHARI, ADV.)

AND:

1.THE STATE OF KARNATAKA,
THROUGH ITS CHIEF SECRETARY,
VIDHANA SOUDHA,
BANGALORE.

2.THE DEPARTMENT OF WOMEN &
CHILD DEVELOPMENT,
STATE GOVERNMENT OF KARNATAKA,
M S BUILDING, DWCD, 1ST FLOOR,
DR AMBEDKAR VEEDHI,
BANGALORE-560 001,
REP. BY ITS PRINCIPAL SECRETARY.

3.THE COMMISSIONER OF POLICE,
OFFICER OF THE COMMISSIONER
OF POLICE, NO.1, INFANTRY ROAD,

BANGALORE.

4.THE KARNATAKA STATE COMMISSION FOR
THE PROTECTION OF CHILD RIGHTS
3RD FLOOR, NEAR-HUDSON CIRCLE
NRUPATHUNGA ROAD,
BENGALURU-560 002,
REP. BY ITS CHAIRPERSON
MRS. NINA NAYAK.

5.THE KARNATAKA STATE HUMAN
RIGHTS COMMISSION,
M S BUILDING, 4TH FLOOR, 5TH PHASE,
AMBEDKAR VEEDHI, BANGALORE-560 001,
REP. BY ITS REGISTRAR. ... RESPONDENTS

(BY SRI: R.DEVDAS, AGA FOR R1 TO R3, SRI.R.V.S.NAIK AND
SRI.NITIN PRASAD, ADVS. FOR M/S KING & PARTRIDGE
ADVS. FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 &
227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT
THE R2 DEPARTMENT TO ESTABLISH THE MANAGEMENT
COMMITTEE, THE INSPECTION COMMITTEE AND THE
CHILDRENS COMMITTEE IN ALL THE OBSERVATION HOMES
IN KARNATAKA WITHIN A SPECIFIED TIME PERIOD.

THESE PETITIONS BEING RESERVED AND COMING ON
FOR PRONOUNCEMENT OF ORDER THIS DAY, **NAGARATHNA**
J., MADE THE FOLLOWING:

ORDER

NAGARATHNA J.,

The suo-motu proceeding has been initiated in W.P.4820/2012, on the orders of the Hon'ble Chief Justice, pursuant to a letter addressed by Sri P.Krishna Bhat, Registrar-General, High Court of Karnataka *inter alia*, seeking the enforcement of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the "J.J.Act") and the Rules made there under, in the context of running of the Government Home for Boys and the Government Observation Home for Boys.

2. When the matter was listed before us on 19/03/2012, we requested Smt.Sumana Baliga, Advocate to act as *Amicus Curiae* in these proceedings and also extended the scope of enquiry to the administration of Government Home for Girls. Notice was also issued to Mrs.Nina Nayak, Chairperson, Karnataka State Commission for Protection of Child Rights.

3. The *Amicus Curiae* has filed her interim report and has also sought for certain directions.

4. During the course of these proceedings, the Concerned for Working Children has been impleaded as a respondent and Centre for Child and the Law, National Law School of India University, Bangalore, represented by Smt. Ariene Manoharan has also been heard.

5. W.P.No.11271/2012 has been filed seeking various directions for the implementation of certain provisions of the J.J.Act and Rules made thereunder.

6. The Member Secretary of Karnataka State Legal Services Authority, has appeared in these proceedings as also the learned AGA for the State.

7. We have heard the *Amicus Curiae* as well as the learned counsel on both sides and the persons representing certain Organizations working for the welfare of the children.

8. The Member Secretary, KSLSA, has brought to our notice that there is already in place a Committee constituted by the Hon'ble Chief Justice, to oversee the condition and functioning of the Remand/Observation Homes, established under the J.J.Act. The said Committee consists of the following Hon'ble Judges:-

01. Hon'ble Mr.Justice H.V.G.Ramesh, Chairman
02. Hon'ble Mr.Justice Ravi Malimath
03. Hon'ble Mr.Justice B.V.Pinto

He has also brought to our notice that the Committee has met on 16-06-2012 and has discussed various measures to be taken for the implementation of the J.J. Act and its Rules.

9. In the year 1989, the General Assembly of the United Nations adopted the Convention on the Rights of the Child wherein, a set of standards to be adhered to by all State Parties in securing the best interests of the child. The Government of India having ratified the Convention, found it expedient to re-enact the existing law relating to juveniles keeping in mind the standards prescribed in the Convention on the Rights of the Child and such other Rules and other International Covenants. To achieve the said objective, the J.J. Act was enacted.

10. The Government of India has adopted the National Charter for Children, 2003, having regard to Article 15(3), Article 21A, Article 24, Article 39(e), Article 39(f), Article 45, Article 51A of the Constitution of India.

11. The highlight of the said Charter is to ensure the survival, life and liberty of all children, promoting high standards of health and nutrition, assuring basic minimum needs and security, play and leisure, early childhood care for survival, growth and development, free and compulsory primary education, protection from economic exploitation and all forms of abuse, protection of the girl child, empowering adolescents, equality, freedom of expression, freedom to seek and receive information, freedom of association and peaceful assembly, strengthening family, responsibilities of both parents, protection of children with disabilities, care, protection, welfare of children of marginalized and disadvantaged communities, ensuring child friendly procedures.

12. Even prior to the promulgation for National Charter for Children, 2003, the J.J. Act was enacted in the year 2000 and subsequently, the Rules have been reenacted in the year 2007 and the Karnataka Rules have been framed in the year 2010.

13. The J.J. Act, 2000 has been enacted to consolidate and amend the law relating to juveniles in conflict with law and

children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto.

14. Essentially, the Act deals with juveniles in conflict with the law and those children who are in need of care and protection. Juvenile Justice Board deals with matters pertaining to children in conflict with law. Observation Homes and Special Homes have to be established for taking care of children in conflict with law. As far as children in need of care and protection are concerned, the Child Welfare Committees have to be established by the State Government, who through the Children Homes have to deal with the rehabilitation and social integration of a child during the stay in such Homes. The Act makes provision for framing of Rules and the Central Rules were framed in the year 2007 and the Karnataka Rules were framed in the year 2010. The Fundamental Principles to be followed in the administration of the Karnataka Rules are as follows:-

“I. Principle of presumption of innocence:

(a) *A juvenile alleged to be in conflict with law or child in need of care and protection is presumed to be innocent of any malafide or criminal intent, up to the age of eighteen years.*

(b) *The juvenile’s or child’s right to presumption of innocence shall be respected throughout the process of justice and protection, from the initial contact to alternative care, including aftercare.*

(c) *Any unlawful conduct of a juvenile or a child which is done for survival, or is due to environmental or situational factors or is done under control of adults, or peer groups, is ought to be covered by the principles of innocence.*

(d) *The basic components of presumption of innocence are:*

(i) Age of innocence:

Age of innocence is the age below which a juvenile or child cannot be subjected to the criminal justice. The Beijing rule 4(1) clearly lays down that “the beginning of the age of criminal responsibility shall not be fixed at too low an age level

bearing in mind the facts of mental and intellectual maturity". In consonance with this principle, the mental and intellectual maturity of juvenile or child below eighteen years is considered insufficient through out the world.

(ii) Procedural protection of innocence:

All procedural safeguards that are guaranteed by the Constitution and other statutes to the adults and that go in to strengthen the juvenile's or child's right to presumption of innocence shall be guaranteed to juveniles and children.

(iii) Provisions of legal aid and guardian ad litem:

Juveniles have a right to be informed about the accusations against them and a right to be legally represented. Provisions must be made for guardian ad litem, legal aid and other such assistance through legal services at State expense complemented by registered practicing lawyers, law students under supervision of their Faculty and recognized civil society organizations. This shall also include such juveniles' right to present his case

before the competent authority on his own.

II. Principle of dignity and worth

(a) A juvenile or a child shall be treated in a way that is consistent with the child's sense of dignity and worth; this is a fundamental principle of juvenile justice. This principle reflects the fundamental human right enshrined in Article 1 of the Universal Declaration of Human Rights that all human beings are born free and equal in dignity and rights. Respect of dignity includes not being humiliated, personal identity, boundaries and space being respected, not being labeled and stigmatized, being offered information and choices; and not being blamed for their acts.

(c) The juvenile's or child's right to dignity and worth has to be respected and protected throughout the entire process of dealing with the child from the first contact with juvenile justice system and throughout the implementation of all measures for dealing with the juvenile or child.

III. The Principle of participation of child:

The basic components of the principle of participation of child are,

(a) Right to be heard: Every juvenile's or child's right to express his views freely in all matters affecting him shall be fully respected through every stage in the process of juvenile justice and these views shall be taken into consideration with due regard to age and maturity of the child. Juvenile's or child's right to be heard shall include creation of developmentally appropriate tools and processes of interacting with the child, promoting the juvenile's or child's active involvement in decisions regarding their own lives and providing opportunities for discussion and debate.

(b) Parent(s) and guardian(s): The parents or guardians shall be entitled to participate in the proceedings, unless the competent authority denies them participation in best interest of the juvenile or child.

IV. Principle of best interest:

(a) In all decisions taken within the context of administration of juvenile justice, the

principle of best interest of the juvenile or child shall be the primary consideration.

(b) The principle of best interest of the juvenile or child shall mean for instance that the traditional objectives of criminal justice, retribution and repression, must give way to rehabilitative and restorative objectives of juvenile justice. These objectives shall therefore govern decisions for children and their families.

(c) This principle shall be applied in arriving at any decision concerning a juvenile or child to ensure physical, emotional, intellectual, social and moral development of juvenile or child so as to ensure the safety, well being and permanence for each child thereby enabling each child to survive and reach his potential.

V. Principle of diversion:

The state shall establish rules, procedures or measures applicable to children alleged to be in conflict with law, that are appropriate and desirable, for dealing with such children without resorting to judicial proceedings, provided that human rights and legal safeguards are fully respected.

VI. Principle of equality and non-discrimination:

- (a) *There shall be no discrimination against a juvenile or a child or his family, or legal guardian on the basis of age, sex, place or birth, health, disability, race, ethnicity, religion, status, caste, cultural practices, work, activity or behaviour of the juvenile or child or that of his parents or guardians, or the civil and political status of the juvenile or child or parents or guardians.*
- (b) *Equality of access, equality of opportunity, equality in treatment under the said Act, is guaranteed to every juvenile or child.*

VII. Principle of family responsibility

- (a) *The primary responsibility of bringing up children, providing care, support and protection shall be with the biological parents. However, in exceptional situations, this responsibility may be bestowed on willing adoptive or foster parents.*
- (b) *All decisions making for the juvenile or child should involve the family of origin unless it is not in the best interest of the child to do so.*

(c) *The family – biological, adoptive or foster (in that order), must be held responsible and provide necessary care, support and protection to the juvenile or child under their care and custody under the Act, unless the best interest measures or mandates dictate otherwise.*

VIII. Principle of safety (no harm, no abuse, no neglect, no exploitation and no maltreatment):

(a) *At all stages, from the initial contact till such time he remains in contact with the care and protection system, and thereafter, the juvenile or child shall not be subjected to any harm, abuse, neglect, maltreatment, corporal punishment or solitary or otherwise any confinement in jails and extreme care shall be taken to avoid any harm to the sensitivity of the juvenile or the child.*

(b) *The state has a greater responsibility for ensuring safety of every juvenile or child in its care and protection, without resorting to restrictive measures and processes in the name of care and protection.*

IX. Positive measures:

- (a) *Provisions must be made to enable positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other mainstream community institutions or processes, for the purpose of promoting the well-being of the juvenile or child through individual care plans carefully worked out.*
- (b) *The positive measures shall aim at reducing the need for intervention under the law, as well as effective, fair and humane dealing of the juvenile or child and any other measure in the best interests of the child.*
- (c) *The positive measures shall include avenue for health, education, relationships, livelihoods, leisure, creativity and play.*
- (d) *Such positive measures must facilitate the development of identity for the child and provide them with an inclusive and enabling environment.*

X. Principle of non-stigmatizing semantics, decisions and actions:

Simple child friendly language and terminology shall be used during the conduct of any inquiry or proceedings. The non-stigmatizing semantics of the said Act must be strictly adhered to, and the use of adversarial or accusatory words, such as, arrest, remand, accused charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody or jail is prohibited in the processes pertaining to the juvenile or child under the Act.

XI. Principle of non-waiver of rights:

No waiver of rights of the juvenile or child, whether by himself or the competent authority or anyone acting or claiming to act on behalf of the juvenile or child, is either permissible or valid. Non-exercise of a fundamental right does not amount to waiver.

XII. Principle of right to privacy and confidentiality:

The juvenile's or child's rights to privacy and confidentiality shall be protected by all means and through all the stages of the proceedings, care and protection processes.

XIII. Principle of institutionalization as a measure of last resort:

Institutionalization of juvenile or child shall be a step of the last resort after reasonable enquiry and that too for the minimum possible duration.

XIV. Principle of repatriation:

(a) Every juvenile or child has the right to be re-united with his family and restored back to the same socio-economic and cultural status that such juvenile or child enjoyed before coming within the purview of the Act or becoming vulnerable to any form of neglect, abuse or exploitation.

(b) Any juvenile or child, who has lost contact with his family, shall be eligible for protection under the Act and he shall be repatriated and restored, at the earliest, to his family, unless such repatriation and restoration is likely to be against the best interest of the juvenile or the child.

XV. Principle of Fresh Start:

(a) The principle of fresh start promotes new beginning for the juvenile or child by ensuring erasure of his past records.

(b) *The State shall seek to promote measures for dealing with children alleged or recognized having impinged the penal law, without resorting to judicial proceedings, wherever appropriate and desirable.*

XVI. Principle of good governance and accountability:

The state shall be accountable to all juveniles and children as part of their patria role and civil society organizations shall be bound by all principles and systems of monitoring just as any statutory institutions managed.

XVII. Principle of effective administration:

Effective administration includes: selection of qualified personnel, adequate training for people involved in administration of juvenile justice, accountability and transparency, system of checks and balances, incorporation of various codes of conducts and other appropriate measures.

XVIII. The Principles of natural justice:

(1) *All persons or bodies acting in a judicial capacity under this Act shall abide by the principles of natural*

justice as minimum standards for procedural fairness in disposition. Natural Justice entails respect for the following basic rules:

- a) Rule against bias: No person shall be made a judge in his/her own cause and should therefore declare any personal interest that he/she may have in the case.*
- b) Rule of fair hearing: No case shall be disposed without fair hearing to both parties. This principle involves the following*

No one shall be denied the right to adequate notice of the allegations against him/her, the time, venue, procedure that would be followed and other relevant details shall be informed.

- i) Each party in the proceeding has a right to attend the hearing, be allowed to present his/her case, to ask questions and counter the evidence of the opposing party.*
- ii) The parties shall be allowed to call witnesses, make submissions and cross-examine the witnesses called by others. A person against whom any allegation is made must be given a fair opportunity to answer the case against*

him, of countering all allegations and of adducing evidence in support of his/her own case.

iii) The parties shall be informed about the decision, with reason for it.

iv) Proceedings shall be conducted such that justice is seen to be done.

(2) In the event of a hearing taking place or a decision being reached which breaches the principles of natural justice, the person charged may seek a review of the hearing and/or the decision.”

15. The Rules also prescribe the constitution of the Juvenile Justice Boards for dealing with juveniles in conflict with law, the procedure that they have to adopt, particularly in a non-adversarial environment, but with due regard to all the due process guarantees such as right to counsel and free legal aid.

16. With regard to the children in need of care and protection, the Rules envisage that, the Child Welfare Committees have to be constituted for every District by the State Government and the functions and the procedure to be adopted by the Committee while conducting enquiry have been

delineated in the Rules. The Rules also speak of rehabilitation and social reintegration through Adoption, Foster Care, Sponsorship or through After-Care Organisations. The standards of care to be maintained by the Observation Home, Special Home, Children's Home, Shelter Home, with regard to Clothing and Bedding, Sanitation and Hygiene, Daily Routine, Nutrition and Diet, Medical Care, Mental Health, Education, Vocational Training, Recreation facilities as well as Institutional Management of juveniles or children have been elaborated in the Rules.

17. Every Institution has to have a Management Committee for the management of the Institution for monitoring the progress of every juvenile or child. Children's Committees of three different age groups of children, viz., 6-10 years, 11-15 years and 16-18 years and these Children's Committees have also to be constituted solely by children.

18. Safeguards against abuse and exploitation of the juvenile as also against a child suffering from dangerous diseases and mental health problems are also provided.

19. There is also provision for setting up of State Child Protection Unit as well as, District Child Protection Units for the Co-ordination and implementation of all child rights and protection activities the Act. The need for appointing a Special Juvenile Police Unit at the District Level is also envisaged under the Act. The recognition of the voluntary organizations and social organizations who are involved in the welfare of children is also ordained under the Act, to augment the duties of Probation Officers or Child Welfare Officers or case workers.

20. The Schedule appended to the Rules indicate the manner in which the Rules have to be implemented.

21. During the course of hearing, we have been appraised of the non-implementation of the various provisions of the Act as well as the Rules as well as the rampant violations in the implementation of the Act on account of lack of awareness on the part of the concerned officials responsible under the Act or due to a lack of inclination to prioritize the implementation of the Act as well as for other reasons, such as lack of co-ordination between various Departments of the

Government, lack of infrastructure etc. Since a Committee for the implementation of the J.J.Act has already been constituted by the Hon'ble Chief Justice, comprising of three Hon'ble Judges, we are of the view that the said Committee would be competent not only to strategize an Action Plan for the implementation of the J.J.Act and Rules but also ensure its implementation on a timely basis. We also deem it proper to designate the said Committee as a **“State-Level Committee”** and request the Hon'ble Chief Justice to consider the desirability of expanding the membership of the Committee by increasing the strength of the Judges on the said Committee.

22. As observed already, during the course of these proceedings, we have noticed that there appears to be a lack of co-ordination between various Departments of the State Government, who are concerned with the implementation of the J.J.Act and its Rules. In this regard, we deem it expedient that the following persons ought to be co-opted on the Committee constituted by the Hon'ble Chief Justice:-

1. *Prl. Secretary, Dept. of Women and Child Development, Government of Karnataka, Bangalore.*

2. *Member Secretary, Karnataka State Legal Services Authority, Bangalore as **Convenor of the Committee.***

3. *Chairperson, Karnataka State Commission for Protection of Child Rights, Bangalore.*

4. *Director, Dept. of Women and Child Development, Government of Karnataka.*

5. *Government Advocate, as designated by the Advocate General.*

6. *Amicus-curie - Smt.Suman Baliga, Advocate, Bangalore.*

7. *Representative of Centre for Child and Law, National Law School of India University, Bangalore.*

8. *Representative of Ashraya, NGO, Bangalore.*

9. *Representative of Concerned For Working Children, NGO, Bangalore.*

10. *Any other Authority or Organisation to be co-opted and/or invited as the committee deems fit.*

23. We are also of the view that directions should ensue through the Karnataka State Legal Services Authority, Bangalore, with regard to the constitution of the Committees

at the District Level. The **District Level Committee** shall comprise of the following members:-

1. *Prl. City Civil and Sessions Judge, Bangalore City/Prl. District and Sessions Judge, Bangalore Rural District/Prl. District Judge of concerned District.*
2. *Commissioner of Police, Bangalore. District / Superintendent of Police of the respective Districts.*
3. *Member Secretary, District Legal Services Authority as **convenor of the committee.***
4. *Chairperson/ Member of Child Welfare Committee.*
5. *District Child Protection Officer.*
6. *Any other Authority or Organisation to be co-opted by the committee.*

24. We are confident that the Committee constituted by the Hon'ble Chief Justice [State Level Committee], would issue directions for the implementation of the J.J. Act and its Rules, to the District Level Committees as and when necessary. The grievances elaborated in the petitions as well as the prayers sought therein, could be considered by the Committees during the course of their deliberations.

25. We are confident that the Committees would ensure timely implementation of the J.J. Act and its Rules.

26. The Member Secretary of the Karnataka State Legal Services Authority is directed to place a copy of this order before the Hon'ble Judges of the J.J. Committee, constituted by the Hon'ble Chief Justice and also circulate a copy of this order to the Principal District Judge of each District through the Member Secretary of the District Legal Services Authority.

27. With the above directions, these writ petitions are disposed of. Liberty is however reserved for initiation of a fresh proceeding, if deemed expedient.

We appreciate and place on record the services rendered by the learned *Amicus Curiae*, and direct Respondent No.1 to pay a token fee of Rs.25,000/- within 30 days.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

*mvs
Index: Y/N