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Juvenile Crimes in India

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Why in News: The National Commission for Protection of Children (NCPCR) has recently issued guidelines for conducting a preliminary assessment by the Juvenile Justice Board (JJB) under Section 15 of the Juvenile Justice Act, 2015 (JJ Act, 2015).

A brief about Juvenile Crime in India

In India, child crime is classified as a juvenile crime. That is, delinquent acts committed by children under a specified age are classified as child crimes.

Several minor and serious crimes, including theft, burglary, snatching, robbery, dacoity, murder, and rape, are perpetrated on a regular basis throughout India, and the awful fact is that all of these crimes are perpetrated by youngsters under the age of eighteen.

There is also a trend among minors that those between the ages of 16 and 18 are more likely to be involved in terrible criminal crimes.

The figures from the National Crime Records Bureau (NCRB) state that across the country, a total of 31,170 cases were registered against juveniles in 2021, showing a 4.7% increase over 2020 when 29,768 were registered.

Supreme Court said about the preliminary assessment

In the Haryana case, the Board had decided in December 2017 to treat the 16-year-old as an adult. The order was challenged by his parents before the Punjab and Haryana High Court.

In October 2018, the High Court directed the Board to make a fresh assessment, stating irregularities, including that the documents relied on by the Board were not provided to the child, the reports of experts were incomplete and a recommendation by an expert to refer the child to a higher-level organisation was not acted upon by the Board.

The victim's family and the CBI filed appeals before the Supreme Court. In 2022, the SC dismissed the appeal and directed a fresh reconsideration by the Board.

It pointed out that the task of preliminary assessment had its own implications for the trial. It then noted that the Act or the Model Rules of the Act do not lay down guidelines or a framework to facilitate the Board in making a proper assessment.

It said that the obligation of the Board, consisting of one judicial member and two others, to conduct the assessment largely depended on the Board's wisdom, without there being any guidelines on how to conduct it. In the absence of any guidelines, the Board has to use its discretion.

Law provision on trying a juvenile as an adult

The JJ Act, 2015 has categorised the offences committed by children into three categories — petty offences, serious offences, and heinous offences.

Kamaraj IAS Academy

Plot A P.127, AF block, 6 th street, 11th Main Rd, Shanthi Colony, Anna Nagar, Chennai, Tamil Nadu 600040

Phone: **044 4353 9988 / 98403 94477 / Whatsapp : 09710729833**

Section 15 of the JJ Act provides that in case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment regarding his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence.

Section 18 (3) of the Act further suggests that, if the Board, after preliminary assessment under section 15 passes an order that there is a need for trial of the said child as an adult, then the Board may order the transfer of the case to the Children's Court having jurisdiction to try such offences.

Thus, the sole objective of having such a preliminary assessment is to determine whether a child within the age group of 16-18 years should be tried as an adult in case of heinous offences.

About JJB

There are 701 Juvenile Justice Boards (JJBs) in the country which are supported under the Integrated Child Protection Scheme (ICPS) of the Ministry of Women and Child Development.

The primary responsibility of setting up the JJBs vests with the State Governments/UT Administrations concerned.

Section 4 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015, provides that the State Government shall constitute for every district one or more JJBs for exercising the powers and discharging its functions relating to children in conflict with law and this is an ongoing process.

New guidelines for responsibility of JJB

The guidelines further make it clear that the JJB shall be responsible for the preliminary assessment and provide the child, the child's family, and their counsel a copy of the order.

It further states that in case the JJB does not have at least one member who is a practising professional with a degree in child psychology or child psychiatry, the Board shall take the assistance of psychologists or experts who have the experience of working with children in difficult times. .

The child should also be provided with a legal aid counsel through the District Legal Services Authority who shall be present during the preliminary assessment.

One of the important aspects of the guidelines is that it mandates experts, who have the required qualification to assist the JJB, to undergo training concerning Section 15 of the JJ Act, 2015

During the preliminary assessment, the Board and experts shall also analyse and take into consideration the Social Investigation Report (SIR), to be prepared by the Probation officer or Child Welfare Officer or any social worker, or a Social Background Report (SBR) to be prepared after interaction with the child or child's family.

Conclusion

The NCPCR is under a statutory obligation under Section 109 of the JJ Act, 2015 to monitor the proper implementation of the provisions of the Act. The guidelines have been made to remove any ambiguity and to clarify the steps that need to be followed while conducting the preliminary assessment. However, the major issue remains the implementation and absorption of these principles in the system, particularly to be followed by the JJB and the Children's Court. A lot of principles which have been made a part of the Act have not been given due prominence by the Board as well as by the Children's Court.