

File No.1524/11

This matter was heard for some time in presence of the applicant Sri Birendra Kumar Singh, S.P. Bhojpur Sri M.R. Naik and Deputy Director, Health Services Sri Chandra Shekhar Narayan who appeared on behalf of the Department.

The complaint of the applicant – a public activist – is that one Md. Guddu Ansari was a juvenile – nine years in age – at the time of occurrence – but tried as an ordinary accused along with others in Barhara P.S. Case No.27/05. He was not only put on trial but also convicted and sentenced to imprisonment for life in the case. He remained in jail for seven years until he was acquitted by the High Court and finally released.

Trial of a juvenile is not only violative of the Juvenile Justice (Care & Protection of Children) Act, 2000; it is in fact void ab initio. If it is established that Guddu Ansari was really a juvenile at the relevant time, the consequences would be serious. He would not only be entitled to compensation; the officials concerned would also be liable to disciplinary action.

The plea about one's juvenile status in the normal course should be taken in the magistrate's court. In the instant case, unfortunately, no such plea was taken either in magistrate's court or even in the trial court or the appellate court (High Court). The High Court, it is said, acquitted Guddu Ansari and others on merit. However, this Commission does not want to take a technical view in the matter which involves human right issues. The Commission cannot shut its eyes to the lack of awareness and general ignorance amongst people at large including the legal fraternity. The possibility of the person not getting proper legal assistance cannot be ruled out. Of course, the Commission is no expert on the point of age but nevertheless would like to observe that Guddu Ansari – who was personally present today – even as on date looks to be a person of tender age and therefore the chances of his being a juvenile on the date of the incident – eight years ago, cannot be ruled out. Sri M.R. Naik and Sri Chandra Shekhar Narayan also seemed to have the same perception. In the facts and circumstances, the Commission is of the view that it would be in the ends of justice to get the age of Guddu Ansari determined on the basis of scientific evidence. Dr. Chandra Shekhar Narayan stated that if direction is issued by the Commission the Department will constitute a committee of experts for determination of his age.

The Commission accordingly directs Principal Secretary, Health Department/Director-in-Chief, Health Services to constitute a committee/board to determine the age of Guddu Ansari @ Azad Mian son of Younis Ansari resident of village Daulatpur, P.S. Koilwar district Bhojpur and submit its report to the Commission within four weeks. Further orders will abide by the result of determination/report.

Put up on 4.3.2012.

Copy of this order may be sent to Principal Secretary, Health Department, Government of Bihar for compliance.

Copies may also be sent to the applicant and S.P. Bhojpur for information.

Justice S.N. Jha
Chairperson

Date: 21.1.2013