कार्यालयः– जिला एवं सेशन न्यायाधीश, अजमेर

क्रमांक/स्था0/2026/ 32911-32965 दिनांकः– 8/10/26

माननीय राजस्थान राज्य विधिक सेवा प्राधिकरण जयपुर से प्राप्त पत्र एवं आदेश की प्रतिलिपि निम्नांकित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है। माननीय राजस्थान उच्च न्यायालय से प्राप्त आदेश की प्रति जिला न्यायालय अजमेर की वेबसाईट से डाउनलोड की जावेः–

1. समस्त पीठासीन अधिकारी अजमेर न्यायक्षेत्र
2. प्रिंसीपल मजिस्ट्रेट किशोर न्याय बोर्ड अजमेर को पत्र एवं आदेश में अंकित निर्देशों की कठोरता से पालना सुनिश्चित किए जाने हेतु प्रेषित है।
3. स्टेनोग्राफर ग्रेड–प्रथम/रीडर ग्रेड–प्रथम/फौजदारी लिपिक जिला न्यायालय अजमेर
4. सिस्टम ऑफिसर जिला न्यायालय अजमेर को जिला न्यायालय अजमेर की वेबसाईट पर अपलोड करने हेतु।

जिला एवं सेशन न्यायाधीश
अजमेर 8/10/26

RAJASTHAN STATE LEGAL SERVICES AUTHORITY
VIDHIK SEVA SADAN, VIDHIK SEVA MARG, C-SCHEME, JAIPUR
RAJASTHAN HIGH COURT CAMPUS, JAIPUR BENCH, JAIPUR
(Phone : 0141-2227481, FAX: 2227602, Toll Free Help line No. 9928900900)

No.: F-4(90)/RSLSA/DS-AP&ADR/JJ/2026/32664-32707 **Date:** 03-10-2026

Copy to: All the Secretaries, District Legal Services Authorities, Rajasthan, for information and necessary action.

Member Secretary
Rajasthan State Legal Services Authority
Jaipur

RAJASTHAN STATE LEGAL SERVICES AUTHORITY

VIDHIK SEVA SADAN, VIDHIK SEVA MARG, C-SCHEME, JAIPUR
RAJASTHAN HIGH COURT CAMPUS, JAIPUR BENCH, JAIPUR
(Phone : 0141-2227481, FAX: 2227602, Toll Free Help line No. 9928900900)

No. F-4(90)/RSLSA/DS-AP&ADR/JJ/2026/ 32616-32659 Date: 03-10-2026

From:

Member Secretary
Rajasthan State Legal Services Authority
Jaipur.

To:

All the District & Sessions Judges,
Rajasthan.

Sub: Circulation of NIMHANS Guidelines in compliance with the order dated 03.09.2026 passed by the Hon'ble Rajasthan High Court in S.B. Criminal Miscellaneous Petition No. 6874/2024, *Deepak Kumar v. State of Rajasthan & Others*.

Ref. Order dated 03.09.2026 passed by the Hon'ble Rajasthan High Court, Jaipur Bench, Jaipur.

Sir/Madam,

With reference to the subject cited above and the order under reference, a certified copy of the order dated 03.09.2026 passed by the Hon'ble Rajasthan High Court, Jaipur Bench, Jaipur, is hereby forwarded for information and immediate compliance.

In compliance with the directions issued by the Hon'ble Rajasthan High Court regarding **Preliminary Assessment under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015**, a copy of the **"Guidelines for Conducting Preliminary Assessment under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015"** issued by NIMHANS, Bengaluru, is also enclosed herewith.

The Hon'ble High Court has directed that the Preliminary Assessment under Section 15 of the Act shall be conducted strictly in accordance with the prescribed procedure and the **format prescribed under the NIMHANS Guidelines**.

You are, therefore, requested to kindly make available a copy of the aforesaid Guidelines to all the **Juvenile Justice Boards functioning within your district** for their information and necessary compliance, and to ensure that the directions contained in the order dated 03.09.2026 passed by the Hon'ble Rajasthan High Court, Jaipur Bench, Jaipur, as well as the procedure and format prescribed under the aforesaid Guidelines for conducting Preliminary Assessment under Section 15 of the Act, are **strictly adhered to**.

A certified copy of the order dated 03.09.2026 passed by the Hon'ble High Court and a copy of the NIMHANS Guidelines are enclosed herewith for necessary action.

Encl.: 1. Certified copy of the order dated 03.09.2026 passed by the Hon'ble High Court.
2. Copy of the NIMHANS Guidelines.

Yours Sincerely

Member Secretary
Rajasthan State Legal Services Authority
Jaipur

RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 6874/2024
CNR: RJHC020867492024 | URN: CRLMP / 13921U / 2024

Rajasthan High Court
सत्यमेव जयते
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----Petitioner

Versus

State of Rajasthan, Through P.P.

----Respondent

For Petitioner(s)	:	Mr. Umesh Vyas
For Respondent(s)	:	Mr. Manvendra Singh Shekhawat, PP Mr. Mohammed Rahil Khan

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JUSTICE ANOOP KUMAR DHAND

Order

03/09/2026

Reportable

1. The instant misc. petition has been preferred against the impugned order dated 25.09.2024, passed by the Special Judge, POCSO Act 2012 & Commission of Protection of Child Rights Act 2005, Sawaimadhopur in Sessions Case No.90/2024, by which the application submitted by the petitioner for declaring him as juvenile has been rejected.

2. Counsel for the petitioner submits that the actual date of birth of the petitioner is 01.07.2006, as recorded in the Class-X mark-sheet of the petitioner issued by the Rajasthan Board of Secondary Education, whereas the date of alleged incident is 28.04.2023. Therefore, the petitioner was below 18 years of age and he was a juvenile on the date of alleged incident. Therefore,

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he is liable to be tried as a juvenile before the Juvenile Justice Board (for short, 'JJB'), and not as an adult accused before the Special Court, POCSO Cases. Counsel submits that in spite of the above, the petitioner was charge-sheeted before the Court of Special Judge, POCSO Cases. Therefore, he submitted an application for declaring him as juvenile on the basis of the Class-X certificate/mark-sheet, issued by the Rajasthan Board of Secondary Education. However, the Court below has erroneously rejected the said application on the basis of the school admission form of the petitioner, wherein his incorrect date of birth has been recorded as 14.11.2003. Counsel submits that in-fact the date of birth recorded in the school admission form is not the petitioner's actual date of birth and the same is incorrect. The Court below has relied upon the petitioner's school admission form for Class-X, wherein there is certain discrepancy/manipulation as to the year in which the petitioner was admitted to Class-I. But the aforesaid fact has been overlooked by the Court below, while rejecting the application submitted by the petitioner, hence, interference of this Court is warranted.

3. *Per contra,* learned Public Prosecutor as well as counsel appearing on behalf of the complainant opposed the arguments raised by counsel for the petitioner and submitted that in the year 2007, father of the petitioner namely got the petitioner admitted to Class-I at the Government Senior Secondary School, Mahukala, wherein his date of birth was recorded as 14.11.2003. Counsels further submit that even, in case, the petitioner's contention with regard to his date of birth being 01.07.2006 is accepted to be correct, it is wholly

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inconceivable that a child aged one year could have been admitted to Class-I. Counsel submits that the petitioner was admitted to aforesaid school on 03.07.2007, and the petitioner's date of birth in the school admission form of Class-I was specifically recorded as 14.11.2003. Thus, on the date of the alleged incident i.e. 28.04.2023, the petitioner had already attained the age of 18 years and, therefore, was not a juvenile. Counsel submits that considering all the above facts and circumstances, the Court below has rightly rejected the application submitted by the petitioner. Hence, interference of this Court is not warranted and the instant petition is liable to be rejected.

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4. Heard and considered the submissions made at the Bar and perused the material available on the record.

5. Perusal of the record indicates that for the alleged incident dated 28.04.2023 and the subsequent incidents, which occurred with the prosecutrix, an FIR was registered against the petitioner and after investigation, the Police submitted charge-sheet against the petitioner for the offences punishable under Sections 376D, 376, 386, 363, 354 IPC and Section 3/4, 5/6 and 7/6 of the Protection of Children from Sexual Offences Act, 2012 and under Section 67 of the Information and Technology Act, 2000 before the Court of Special Judge, POCSO Cases, Sawaimadhopur treating the petitioner as an adult accused.

6. During the course of trial, an application was submitted by the petitioner for declaring him as juvenile, on the basis of his Class-X mark-sheet/certificate issued by the Rajasthan Board of Secondary Education wherein his date of birth is recorded as 01.07.2006.

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7. Section 94 of the Juvenile Justice (Care and Protection) Act, 2015 (for short, 'JJ Act') deals with the Presumption and determination of age. It reads as under:

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> "**94. Presumption and determination of age.**
> (1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.
>
> (2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining -
>
> (i)the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;
>
> (ii)the birth certificate given by a corporation or a municipal authority or a panchayat;
>
> (iii)and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board: Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.
>
> (3)The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person."

8. A perusal of the provisions of the JJ Act would show that under the new provisions of law, the primacy has been given to

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the assessment of the JJB/Court as to the age of the accused. This assessment can be done on physical appearance or even on the basis of the examination by other methods like putting up basic questions to adjudge the age and understanding of the accused. In any case, if there is any doubt in the mind of the Court/Board, then the provision prescribes that, it is the birth certificate given by the school or the date of birth as mentioned in the matriculation certificate; which shall be taken into consideration at the first instance. If these two certificates are not available, then the further certificates, as mentioned in the Section, are to be taken into consideration. Hence, the school certificate and the matriculation certificate have been put at par; for the first consideration of the Court for adjudging the actual age of the accused. It is for the Court/Board to take a final call on the date of birth of the accused, in view of either of these documents or coupled with other attending circumstances, which might have come on the record of the case. By any means, the place of primacy conceded to the matriculation certificate in the Rules, is no more available to it. The matriculation certificate no more enjoys that exclusive privilege. Although learned counsel for the petitioner has relied upon certain judgments of the Hon'ble Supreme Court to emphasize the primacy of Matriculation Certificate in determination of age of the accused, however, this Court finds that all those judgments are distinguishable on the peculiar facts of those cases. In all those cases, the offences committed before enforcement of the JJ Act were involved. So, the scope of Section 94 of the new JJ Act was not even under consideration in either of those cases. Hence, those judgments

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cannot be taken as precedent for the cases involving offences committed after the enforcement of the JJ Act.

9. The learned Court below while passing the order impugned examined the school admission form of the petitioner pertaining to his admission in Class-I in the month of July, 2007. The aforesaid document pertains to the petitioner's admission in the Government Higher Secondary School, Mahukala, District Gangapur City, wherein his date of birth has been mentioned, by none other than his father Ram Khiladi, as 14.11.2003. Hence, under these circumstances, it cannot be believed that a child of the age of one year would be admitted in Class-I.

10. Section 94 of the JJ Act only refers to date of birth certificate from the School. Matriculation Certificate can be given preference only when date of birth certificate from the school first attended could not be obtained.

In the considered opinion of this Court, where there is conflict with regard to the date of birth of any person, more value shall be given to the entry made at the first instance in the Government Primary School or Class-I Register because it is closest to the birth and there are less chances of its manipulation for jobs or age benefits.

The date of birth mentioned in the Class-I admission form of a person is required to be determined by age, as it is the most authentic and earliest record.

11. This Court finds no substance in the arguments of counsel for the petitioner that there is discrepancy/manipulation with regard to his year of admission in the school. There is no manipulation with regard to his year of admission. The petitioner was admitted

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to the aforesaid school on 03.07.2007 to Class-I, wherein his date of birth is mentioned as 14.11.2003.

12. Considering the overall facts and circumstances of the case, the learned Trial Judge has rightly determined that the petitioner was not a juvenile on the date of the alleged incident, and he was above the age of 18 years. Hence, the Trial Court has rightly rejected the application submitted by the petitioner by recording cogent and justified reasons, which does not warrant any interference of this Court.

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13. Before parting with this order, this Court takes a serious note and notice of the systemic issues being faced by the Children in Conflict with Law (CCL) during preliminary assessment under Section 15 of the JJ Act, and the critical issue of After Care and Rehabilitation of Care Leavers, who have attained the age of 18 years and have no shelter, education or livelihood.

14. Hence, the following two major issues are required to be addressed by this Court and by all stakeholders of the Juvenile Justice System, including the Centre as well as the State Governments:

> (A) Proper Preliminary Assessment under Section 15 and 18(3) of the JJ Act; and
> (B) For After Care of the Care Leave i.e. children leaving Care Homes after attaining the age of 18 years.

<u>(A) Proper Preliminary Assessment of the Children under Section 15 and 18(3) of the JJ Act.</u>

In a case of heinous offence, if committed by a juvenile above 16 years and below 18 years of age, a preliminary assessment is required to be undertaken with regard to his/her

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mental and physical capacity to commit the offence and ability to undergo the consequences.

Section 15 reads as under:

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"**15.Preliminary assessment into heinous offences by Board.** -(1) 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 with regard to 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, and may pass an order in accordance with the provisions of subsection (3) of section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

Explanation.—For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the capacity of such child to commit and understand the consequences of the alleged offence.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 (2 of 1974:

Provided that the order of the Board to dispose of the matter shall be applealable under sub-section (2) of section 101:

Provided further that the assessment under this section shall be completed within the period specified in section 14."

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Section 18 (3) of the JJ Act deals with the provision to conduct trial of juvenile for heinous offence after preliminary assessment.

Section 18 of the JJ Act reads as under:

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"**18. Orders regarding child found to be in conflict with law.-** (1) Where a Board is satisfied on inquiry that a child irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen years has committed a heinous offence, then, notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child, the Board may, if it so thinks fit,—

(a) allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;

(b) direct the child to participate in group counselling and similar activities;

(c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;

(d) order the child or parents or the guardian of the child to pay fine: Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;

(e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the

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Board may require, for the good behaviour and child's well-being for any period not exceeding three years;

(f) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;

(g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformative services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home: Provided that if the conduct and behaviour of the child has been such that, it would not be in the child's interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

(2) If an order is passed under clauses (a) to (g) of sub-section (1), the Board may, in addition pass orders to—

(i) attend school; or

(ii) attend a vocational training centre; or

(iii) attend a therapeutic centre; or

(iv) prohibit the child from visiting, frequenting or appearing at a specified place; or

(v) undergo a de-addiction programme.

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

The preliminary assessment is the only procedure to decide whether a child (16-18 years) alleged to have committed heinous offence is to be tried as an adult, and the same is not being

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conducted in its true spirit. The Psychiatrists / Psychologists and the Experts of Child Psychology empanelled by the Juvenile Justice Boards are submitting reports in a mechanical manner.

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The detailed guidelines and format prescribed by the National Institute of Mental Health and Neurosciences, Bengaluru (for short, 'NIMHANS') titled "Guidelines for Conducting Preliminary Assessment under Section 15 of JJ Act, 2015" which includes assessment of:

(i) Physical and mental capacity,

(ii) Ability to understand consequences of offence,

(iii) Circumstances in which offence was committed,

(iv) Social, family and peer background,

However, such detained assessment is not being followed. The reports are often one-page without any psychological testing, without interacting with parents/teachers, and without assessing the maturity and mental health status.

It has also been noticed that in many matters, the juveniles are not sent for preliminary assessment for several months after the alleged incident/occurrence. In many cases, these juveniles are kept in a hospital for more than ten days by the Doctors/Physicians and then a formal report, by merely filling the blanks in a cyclostyle format, is issued even without conducting the actual preliminary assessment, which affects the child's right of trial.

The purpose of preliminary assessment is not to decide whether child has committed the offence or not, but to assess his mental maturity. The Hon'ble Supreme Court in **Barun Chandra Thakur Vs. Master Bholu & Another**, reported in **(2023) 12**

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SCC 401, has clearly held that the assessment must be child-friendly and not a mere formality.

(B) After Care of the Care Leavers i.e. children leaving Care Homes after attaining the age of 18 years

Under the Act, after a child attains 18 years and is released from Child Care Institution / Place of Safety, there is no statutory provision / mechanism for his stay, education, skilling and reintegration. The child who has left his home and has no family support is left on the road, leading to recidivism and vagrancy.

The juveniles i.e., Care Leavers who have attained the age of 18 years have no shelter, home, education and livelihood.

15. A healthy and happy childhood for every child ensures opportunities for them to discover their full potential and flourish in all aspects of life.

16. Protecting children's right is not just a legal obligation, it is a moral imperative that directly impacts the future of our society. In India, millions of children face challenges that threaten their safety, well-being and development. The right of protection includes freedom from all forms of exploitation, violence, abuse and inhumane or degrading treatment.

17. The Fundamental Rights incorporated in Part-III, the Directive Principles of State Policy in Part IV and the Fundamental duties in Part IV-A of the Constitution of India, play a significant role in affirming child rights. Article 15 of the Constitution of India authorizes the State to make special provisions for children and

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Article 21 guarantees them right to protection of life and personal liberty.

18. Article 39 of the Constitution of India mandates that the State should formulate its policies in a way so as to protect children of tender age from abuse. While doing so, the State must ensure that children are provided with ample opportunities and facilities to develop in a healthy environment, ensuring conditions of freedom and dignity and safeguarding their childhood and youth from being exploitation, moral and material neglect.

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19. The 21st century has heralded a number of important policies, legislative initiatives and significant judicial interventions protecting child rights in India. Several important bills, in this regard, are also presently pending before the Parliament of India. The JJ Act was enacted to strengthen the law relating to children who are in need of care and protection by meeting their basic needs through adequate care and protection, development, treatment along with the social reintegration by adopting and implementing a child-friendly approach in the finest interest of children and their rehabilitation. Under the JJ Act, a Child Welfare Committee (CWC) is constituted as an autonomous body for addressing the issues pertaining to children who are orphan, lost and abandoned or otherwise in need of care and protection, treatment, development and rehabilitation. The JJ Act also provides for supply of necessary requirement to the children for fulfillment of their basic needs including safety and well-being and such children are taken care of by the CWC so constituted. A child in need of care and protection are placed in Children’s Home,

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where they receive treatment, education, training, development opportunities and necessary support for their rehabilitation.

20. A Child Care Institution (CCI), commonly known as an orphanage, as defined under the JJ Act, means Children's Home, Open Shelter, Observation Home, Special Home, Place of Safety, Specialised Adoption Agency and a Fit Facility recognized under the Act for providing care and protection to children, who need such services. Children in conflict with the law are provided residential care and protection in Observation Homes, Special Homes, and Places of Safety.

21. An Observation Home is meant for every child, alleged to be in conflict with the law, who is not placed under the charge of a parent or guardian. Special Homes are for rehabilitation of those children in conflict with the law who are found to have committed an offense and who are placed there by an order of the Juvenile Justice Board. The purpose of the Place of Safety is to place a person above the age of eighteen years or a child in conflict with the law, who is between the age of sixteen to eighteen years and is accused of or convicted for committing a heinous offense.

22. According to the United Nations Children's Fund (UNICEF), India has approximately 30 million orphaned and abandoned children. SOS Children Village conducted a study in 2011 and concluded that orphans in the country equal 4% of India's child population. However, disconcerting figures provided by Childline India Foundation (CIF) supported by the Women and Child Development Ministry showed that in 2017, of these 30 million children (which is most likely an under-reported figure), there

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were only 470,000 children in institutionalized care. Institutional care is provided within a clusteredliving environment designed to meet the functional, medical, personal, social, and housing needs of individuals who have physical, mental, and/or developmental disabilities. And of these roughly half a million children, only a fraction finds its way into family care because adoption rates in India are abysmally low.

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23. Shelter homes especially those for vulnerable groups like women, children, the elderly, and persons with disabilities are crucial social support institutions. Comparing India's shelter home framework with those of other countries highlights gaps and strengths in terms of facilities, vigilance mechanisms, and judicial intervention.

24. Apart from government-run Shelter Homes such as Children's Homes, Open Shelters, Observation Homes, Places of Safety, etc., there are many registered centers and CCI who work for welfare of the children and receive grant-in-aid from the Central and State Governments as well. There is a provision for registration of such CCIs under Section 41(1) of the JJ Act as well as Amended Act of 2021. The provision contained under Section 41(1) of the JJ (Amendment) Act, 2021 is extracted as under:

> "41. Registration of child care institutions.—
> (1) Notwithstanding anything contained in any other law for the time being in force, all institutions, whether run by a State Government or by voluntary or non-governmental organisations, which are meant, either wholly or partially, for housing children in need of care and protection or children in conflict with law, shall, be registered under this Act in such manner as may be prescribed, regardless of whether they are

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> receiving grants from the Central Government or, as the case may be, the State Government or not: Provided that the institutions having valid registration under the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) on the date of commencement of this Act shall be deemed to have been registered under this Act.

25. It appears that such registered CCI are receiving grant-in-aid for each child admitted and residing in such centers. However, due to lack of coordination between the officials of the Central and State Governments, the grant-in-aid is not released to these child care centers. Since the State is guardian of such deprived and vulnerable children, it is the responsibility of the State to act promptly with all sensitivity for the welfare of the children.

26. This Court feels pain to observe that thousands of youth, individuals who, after growing up in CCIs, are thrust into the outside world upon turning 18. These youth, who "age out" of care homes, orphanages, juvenile centers and CCIs, often step into adulthood without a stable identity, permanent address, shelter or a support system to rely upon. Such individuals are known as “Care Leavers”.

27. Children who are orphaned, separated from their families, lost, rescued, born in prisons or taken into government care, are place in orphanages, children’s homes and CCI, where they remain until the age of 18. Upon reaching adulthood, they are required to leave these care centers/facilities. However, Care Leavers often face abrupt unsupported transition into adulthood, with no consistent/uniform support system. Once released, these young Care Leavers struggle to establish their identity. They have

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no place to live and also lack essential identification documents such as "Aadhar Card" "Voter Card", "domicile certificates", etc. to disclose the place of their permanent residence. Such documents are prerequisites for opening a Bank Account, obtaining a PAN Card and Driving License, etc.

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28. A child turning 18 years of age and leaving the "only home" which is known to him/her i.e. a Child Care Centre or an Institution has no identity documents, permanent address, a job and no community or people to fall back on. This is a harsh and practical reality faced by thousands of children in India every year who "age out" of Orphanage, CCI, care homes and juvenile childcare centre. These Care Leavers are expected to step into adulthood overnight. However, they often do so, without the basic tools that most people take for granted, such as a legal identity, a place to live, access to education, job/employment or emotional support.

29. Care Leavers face overwhelming challenges inasmuch as they lack legal identity documents required to access employment, higher education, healthcare and housing. They have no familial safety nets, and they frequently suffer from emotional isolation and trauma. A UNICEF study of the past decade revealed that around 30 million children in India are orphaned or abandoned and close 0.5 million are living in childcare shelter homes in India. As highly vulnerable unsupported youths, they are often exploited and quickly fall into the traps of homelessness, low-wage labor, crime or trafficking, and perpetuating cycles of poverty and marginalization.

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30. There is a high level of stigma around children who grew up homeless and the public is not aware of the realities these young people face while growing up. There is no database for care leavers exiting the system and no system to monitor their progress. An independent survey revealed that 40% of those surveyed had no proof of residence, 64% had no voter cards and 54% had no PAN cards. Criminal justice records show that although care leavers make just above 1% of the Indian population, they are 25% more likely to be involved in crime than the general population. 23% of the young people (between ages 18 to 21 years) in the criminal justice system have spent their childhood or part of it in care. Surveys also reveal around 40% of care leavers in India faced difficulty in completing schooling and education, 61% faced recurring emotional distress and mental health issues. Over half of the population is unemployed. But of those care leavers who have received some sort of vocational training or support to create a livelihood for themselves- 93% have remained in jobs and generate income. This clearly shows that their vulnerability is not because they lack potential, but because they lack support.

31. Many organizations and individuals come forward to create programs and rehabilitation projects for care leavers, but these efforts are fragmented, small-scale and executed in pockets. Juvenile laws suggested aftercare support for care leavers between the age of 18 to 21 years, but very few state governments kept aside funds for supporting care leavers in their states as it was not mandatory to support these "new adults".

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Partner organizations who wanted to provide skill development or training for these vulnerable youth did not know how to find them as states did not maintain a formal registry of care leavers.

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32. Without a formal aftercare support system government run institutions and civil societies did not have formal mechanisms to track or rehabilitate these young care leavers. Without awareness of rights or systems available, these care leavers do not know whom to approach and what resources they can avail. They get systematically excluded and existing government schemes and resources made available for care leavers are not effectively distributed and policies do not get implemented in the absence of the beneficiaries with legal identities.

33. Some state governments have been pushing for reintegration of children in care system with families, subsequently reducing the number of childcare institutions required in the state. Not all children in care systems are orphans. Many of them come from dysfunctional families, single parent families or families without financial or other agency to care for children. Some children who have been abandoned after parents remarry also end up in care homes. NCPCR (National Commission for Protection of Child Rights) started GHAR project- Go Home and Re-Unite as a formal program to promote re-integration of children in with families. This project has been actively taken up by the states of Maharashtra, Bihar, Gujarat, Jharkhand, Madhya Pradesh, Odisha, Kerala and Rajasthan. The state of Kerala has a five-year plan to reduce the number of children in care homes by 50%, focusing on reintegration- reducing 800 care homes to just 550. Alternate

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models of family-based care for children is not successful in India, evidenced by the adoption rates which are as low as 0.01% in 2024. When the state governments force children to reintegrate with their direct or extended families (called de-institutionalizing), they are often pushed back into the same vulnerable situations that put them in childcare institutions in the first place or even abandoned. De-institutionalization also contributes to the number of missing or runaway cases of children in the country-and hence officers in State Commission for Protection of Child Rights speak against the steps to de-institutionalize children, pointing out that without the care and protection from the government, children will fall prey to crime, abuse and sexual exploitation. Subsequent to this governmental action, it becomes exceedingly important that care leavers, upon leaving care homes, benefit from the support of a community that comprehends their circumstances and intervenes where governmental or familial support reduce.

34. These young individuals face significant challenges resulting from their disrupted upbringing. To successfully transition into adulthood, they need support in areas such as education, housing, employment and emotional well-being.

35. According to data from the Ministry of Women and Child Development, there are approximately 4,00,000 children living in childcare facilities across India. Many of them are at high risk of being involved in criminal activities. Without adequate support and resources, these risks can severely affect their well-being and hinder their successful integration into the society.

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36. Both Central and State Government authorities are required to make every possible effort to address the specific needs of these children.

37. The Ministry of Women and Children serves as the nodal Ministry for ensuring the welfare of children in India. The Parliament has enacted several landmark legislations to protect and promote the child rights. India is also a signatory to important International Treaties such as the United Nations Conventions on the Rights of Child and the Hague Adoption Convention which mandate systematic development and strengthening of juvenile justice system in the country.

38. The poor implementation of laws and schemes has led to the situations where children, who are residing in CCI and are leaving such institutions, are facing great challenges both within these institutions and in the outside world.

39. The Ministry of Women and Child Development (MWCD) launched its flagship scheme named "Mission Vatsalya" in 2022 for child protection scheme in India. Mission Vatsalya is a centrally sponsored scheme, wherein financial support is provided to the State Government/ UT Administration for delivering service as mandated under the JJ Act, 2015.

40. In India, the population of children below 18 years is 39 per cent and in Rajasthan, they constitute 43.6 per cent of the total State population. State of Rajasthan has formulated several policies to ensure comprehensive development of children and protection of their rights. The Rajasthan State Commission for Protection of Child Rights was also established on 23.02.2010 as

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an independent statutory mechanism for reviewing and implementing of laws and policies relating to children.

41. Vide notification dated 17th May, 2013, a separate and full-fledged Department, namely Department of Child Rights was established by the State to address child rights issues and Children Protection Programmes. As per the State Government, Rajasthan is the first State to have separate and independent department to address child rights issues. Inspite of having several Child Laws and Policies, the welfare State has failed to discharge its duties in letter and spirit of the legislation.

42. After hearing detailed arguments of the Government Counsel, for resolving the above two serious issues, this Court deems it just and proper to issue the following interim directions:

I. For Preliminary Assessment:

a) The State Government shall within six weeks constitute a panel of Clinical Psychologists, Psychiatrists and experts in Child Psychology in each District, who are trained as per NIMHANS guidelines.

b) No preliminary assessment report shall be accepted by any JJB in the State unless it is strictly in the format prescribed by the NIMHANS, Bengaluru. Copy of the NIMHANS Guidelines shall be circulated by the Rajasthan State Legal Services Authority to all JJBs.

c) The Director, Department of Medical & Health and Principal, SMS Medical College, Jaipur shall organize a mandatory sensitization training programme for all the empanelled Psychiatrists within 60 days.

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d) The preliminary assessment must include interaction with child for at least three sittings, interview of parents/guardians, school teacher and use of standardized psychological tools to assess mental age and maturity.

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II. For Aftercare of Children attaining 18 years:

a) The State Government is directed to file an affidavit indicating the existing Aftercare Homes under Section 46 of the JJ Act and Rule 25 of Model Rules, 2016 and the number of children rehabilitated in last 3 years.

b) The Department of Social Justice and Empowerment shall prepare a comprehensive Aftercare and Rehabilitation Policy providing stay, continuation of studies, vocational training, counselling and financial assistance for one year to every child leaving Child Care Institution after attaining 18 years of age, who has no family to support.

c) The State shall consider tying up with the Rajasthan Skill and Livelihoods Development Corporation (RSLDC) and open Industrial Training Institutes (ITIs) for such children.

III. Constitution of the State Juvenile Justice Council (SJJ Council).

The Government of Rajasthan shall within thirty days from the date of this order constitute the State Juvenile Justice Council for the entire State, with the following composition:

a) Chief Secretary, Govt. of Rajasthan or his nominee not below the rank of Additional Chief Secretary, Dept. of Child Rights – Chairman

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b) Principal Secretary, Dept. of Social Justice & Empowerment and Child Rights – Member

c) Principal Secretary, Medical & Health Department – Member

d) Member Secretary, Rajasthan State Legal Services Authority, Jaipur - Member Secretary & Convener

e) Director General of Police (CID - Civil Rights) – Member

f) Director, NIMHANS, Bengaluru or his nominee (Senior Psychiatrist) - Expert Member

g) Two Senior Clinical Psychologists / Psychiatrists (to be nominated by Principal, SMS Medical College, Jaipur) – Members

h) Two Members from reputed NGOs working in the field of child rights – Members

i) Director, United Nations International Children's Emergency Fund (UNICEF), Jaipur or his nominee.

Mandate of the SJJ Council shall be as follows:

a) To standardize the format and procedure of preliminary assessment under Section 15 in consonance with NIMHANS Bengaluru Guidelines, 2024 and ensure it is not a mere formality.

b) To prescribe qualification, training and empanelment of Psychologists/Psychiatrists for JJB.

c) To frame a State Aftercare Policy for Care Leavers (18-21 years) providing stay, education, skill development and financial assistance under Section 46 of JJ Act.

d) To conduct quarterly review of all Child Care Institutions, Place of Safety and Aftercare Homes.

e) To submit bi-annual report to this Court.

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IV. CONSTITUTION OF DIVISIONAL LEVEL JUVENILE JUSTICE COMMISSION (DLJJC)

There shall be established a Divisional Level Juvenile Justice Commission at every Revenue Division (Jaipur, Jodhpur, Udaipur, Ajmer, Bikaner, Bharatpur, Kota), with the following composition:

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i) Divisional Commissioner of the Division

ii) Senior Most District & Sessions Judge of Divisional Headquarter to be nominated by the Member Secretary, RSLSA, Japiur - Co-Chairman

iii) Inspector General of Police, Range – Member

iv) Secretary, District Legal Services Authority (Headquarter) - Convener

v) Joint Director, Social Justice & Empowerment – Member

vi) Principal, Govt. Medical College of the Division – Member

vii) Senior Clinical Psychologist / Psychiatrist of Division - Expert Member

viii) Two members from Child Welfare Committees of the Division – Members.

Mandate of the DLJJC shall be as follows:

a) To look into the individual grievances and problems faced by the juveniles in CCIs and Care Leavers, who have attained 18 years of age and have no family support.

b) To ensure immediate provision for shelter in Aftercare Home, continuation of studies in Govt. Schools/Colleges/ITIs, and skill linkage with RSLDC.

c) To conduct monthly inspection of all CCIs, Place of Safety and Aftercare Homes and submit report to SJJ Council.

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d) To act as a bridge between Child, his family and State for rehabilitation.

e) To ensure no Care Leaver is thrown out of Institution without a proper rehabilitation plan, as mandated under Rule 25 of the Model Rules, 2016.

43. **ADDITIONAL DIRECTIONS**

A. Establishment of Care Leavers Secretariat:

(i) The Union of India and State Government shall establish a dedicated "Care Leavers Secretariat" within a period of eight weeks from today, both at Central level under the Ministry of Women & Child Development and at State level under he Department of Social Justice & Empowerment in each District.

(ii) The Secretariat shall function as a Nodal Agency and Single Window Grievance Redressal Mechanism for all Care Leavers. It shall maintain a centralized digital database of every child leaving Child Care Institution on attaining 18 years.

(iii) The above Secretariat shall be headed by a Nodal Officer not below the rank of Joint Secretary at Centre and District Child Protection Officer assisted by a dedicated Aftercare Officer at District level, with representation from NGOs working in the field of child rights.

B. Identity and Documentation:

(iv) It is directed that immediately upon a child attaining 17.5 years of age, the Child Care Institution shall initiate the process and ensure that before the said child leaves the Home on attaining 18 years, he/she is provided with all identity documents like Aadhaar Card, PAN Card, Voter ID, Ayushman Bharat Card, Bank

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Account, Domicile, Caste Certificate (wherever applicable), etc. under the coordination of the Secretariat. No child shall leave the Institution without an Aftercare Identity Card issued by the Secretariat.

C. Education, Scholarship and Skill Training:

(v) Every Care Leaver shall be entitled to free education upto Graduation level in any Government Institution including technical/professional education. The State shall create a dedicated "Care Leaver Education and Scholarship Fund" and provide monthly scholarship of not less than Rs.4,000/- for higher studies and Rs.6,000/- for professional courses, alongwith hostel facility.

(vi) The Secretariat, in collaboration with Rajasthan Skill & Livelihood Development Corporation and National Skill Development Corporation, shall prepare an Individual Aftercare Plan for each Care Leaver within three months of his/her attaining the age of 18 years, for imparting market-linked skill training, apprenticeship and entrepreneurship development. Stipend during training shall be borne by the State.

D. Policy for 1% Reservation:

(vii) The Central and State Governments are directed to frame and notify a comprehensive policy within twelve weeks providing 1% horizontal reservation for Care Leavers in:

a) Admission to all Government and Government-aided Educational Institutions, including Schools, Colleges, Universities, ITIs and Polytechnics, for pursuing higher studies; and

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b) All categories of Government Services, public employment and outsourced contractual engagements.

(viii) Till such policy is framed, the State shall provide age relaxation of 5 years and exemption from payment of application/examination fees to Care Leavers in all Government selection process.

(ix) The Governments shall also provide financial assistance / interest-free loan up to Rs. 5 Lakhs for self-employment, start-up and housing under Aftercare Support.

44. The State Government shall provide necessary secretarial assistance, budget and infrastructure for functioning of the Council and Commissions.

45. The Member Secretary, RSLSA shall circulate this order to all the Divisional Commissioners and the District Judges for immediate compliance.

46. The Chief Secretary, Secretaries of all the above departments and all the above stakeholders are directed to file compliance affidavit within eight weeks, along with details of the establishment, constitution of Secretariat for Care Leavers, SJJ Council, DLJJC.

47. Instead of closing this matter, the instant petition is marked as "Part Heard" for the purpose of issuing further directions. List this matter again before this Court on **22.11.2026** along with compliance report supported by affidavit, details of Secretariat established, number of Care Leavers identified and benefited, and copy of Policy framed for 1% reservation. Further directions would be issued after perusing the compliance reports.

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48. Let a copy of this order be sent to the Secretary, Ministry of Home Affairs, New Delhi; Member Secretary of Child Development & Welfare Department, New Delhi; Chief Secretary, Government of Rajasthan; Additional Chief Secretary, Department of Home; Additional Chief Secretary, Department of Medical and Health; Secretary, Department of Women and Child Rights; Secretary, Department of Social Justice, Jaipur; Member Secretary, Rajasthan State Legal Service Authority, Jaipur; Principal of SMS Medical College and Hospital Jaipur; Director UNICEF, Jaipur and all the Principal Magistrates posted in Juvenile Justice Boards of the State of Rajasthan for compliance.

(ANOOP KUMAR DHAND),J

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