

ITEM NO.3 Court 8 (Video Conferencing)

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 8633/2017

(Arising out of impugned final judgment and order dated 16-11-1985 in ST No. 100/1984 21-07-2017 in CRLA No. 3094/1985 passed by the High Court of Judicature at Allahabad)

RAM CHANDRA & ORS.

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

WITH

SLP(Cr1) No. 8917/2017 (II)

(FOR ADMISSION and I.R. and IA No.102805/2017-EXEMPTION FROM FILING O.T.)

Date : 15-09-2021 These petitions were called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Parties

Mr. Sarvam Ritam Khare, AOR

Mr. Anupam Mishra, AOR

Mr. Jenis V. Francis, Adv.

Mr. S.R. Singh, Sr. Adv.

Mr. Ankur Prakash, AOR

Mr. T.S. Sabarish, Adv.

Mr. C.B. Tiwari, Adv.

Mr. Vishnu Unnikrishnan, Adv.

Mr. K. Paari Vendhan, AOR

UPON hearing the counsel the Court made the following
O R D E R

By on order dated 19.03.2021 this Court directed the District and Sessions Judge, Sidharthnagar, Uttar Pradesh to conduct an inquiry into the juvenility of the applicants Isha Charan and Vijay Bahadur. The plea of juvenility was taken by the said applicants

in this Court for the first time, on the basis of Transfer Certificates issued by the Headmaster of the Junior High School, Panni, district Siddharth Nagar in 2019.

The learned District and Sessions, Sidharth Nagar, Uttar Pradesh looked into the school records produced before him and found that the purported Transfer Certificates could not be relied upon. The learned District and Sessions Judge opined that it could not be said that they were juveniles on the date of the offence. Neither of the applicants have any birth certificate or any matriculation or other certificate of an examination Board. The District and Sessions Judge did not get the applicants medically examined by Ossification test or any other age determination test.

Rule 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads as follows :

"94.(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."

The District and Sessions Judge shall refer the applicants Isha Charan and Vijay Bahadur to a Government hospital equipped to carry out Ossification Test/Age Determination Test. A Medical Board shall constituted comprising of specialists to determine the age of the applicants by conducting an Ossification test or any other age determination test and a report shall be submitted by the concerned District and Sessions Judge within three weeks from today.

Let a copy of this order be sent to the concerned District and Sessions Judge.

List after three weeks.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(MATHEW ABRAHAM)
COURT MASTER (NSH)