SUPREME COURT OF INDIA

Abuzar Hossain @ Gulam Hossain

Vs.

State of W.B.

Crl.A.No.1193 of 2006

(R.M. Lodha, Anil R. Dave and T.S. Thakur JJ.)

10.10.2012

JUDGMENT

R.M. LODHA, J.

1. Delinquent juveniles need to be dealt with differently from adults. International covenants and domestic laws in various countries have prescribed minimum standards for delinquent juveniles and juveniles in conflict with law. These standards provide what orders may be passed regarding delinquent juveniles and the orders that may not be passed against them. This group of matters raises the question of when should a claim of juvenility be recognised and sent for determination when it is raised for the first time in appeal or before this Court or raised in trial and appeal but not pressed and then pressed for the first time before this Court or even raised for the first time after final disposal of the case.

2. It so happened that when criminal appeal preferred by Abuzar Hossain @ Gulam Hossain came up for consideration before a two-Judge Bench (Harjit Singh Bedi and J.M. Panchal, JJ) on 10.11.2009, on behalf of the appellant, a plea of juvenility on the date of incident was raised. In support of the contention that the appellant was juvenile on the date of incident and as such he could not have been tried in a normal criminal court, reliance was placed on a decision of this Court in Gopinath Ghosh v. State of West Bengal[1]. On the other hand, on behalf of the respondent, State of West Bengal, in opposition to that plea, reliance was placed on a later decision of this Court inAkbar Sheikh and others v. State of West Bengal[2]. The Bench found that there was substantial discordance in the approach of the matter on the question of juvenility in Gopinath Ghosh1 on the one hand and the two

decisions of this Court in Akbar Sheikh2 and Hari Ram v. State of Rajasthan and Another[3]. The Bench was of the opinion that as the issue would arise in a very large number of cases, it was required to be referred to a larger Bench as the judgment in Akbar Sheikh2 and Gopinath Ghosh1 had been rendered by co-ordinate Benches of this Court. This is how these matters have come up before us.

3. The Parliament felt it necessary that uniform juvenile justice system should be available throughout the country which should make adequate provision for dealing with all aspects in the changing social, cultural and economic situation in the country and there was also need for larger involvement of informal systems and community based welfare agencies in the care, protection, treatment, development and rehabilitation of such juveniles and with these objectives in mind, it enacted Juvenile Justice Act, 1986 (for short, '1986 Act').

4. 1986 Act was replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short, '2000 Act'). 2000 Act has been enacted to carry forward the constitutional philosophy engrafted in Articles 15(3), 39(e) and (f), 45 and 47 of the Constitution and also incorporate the standards prescribed in the Convention on the Rights of the Child, United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) and all other relevant international instruments. Clause (k) of Section 2 defines "juvenile" or "child" to mean a person who has not completed eighteenth year of age. Clause (l) of Section 2 defines "juvenile in conflict with law" to mean a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age on the date of commission of such offence.

5. Section 3 of 2000 Act provides for continuation of inquiry in respect of juvenile who has ceased to be a juvenile. It reads as under:

> "S.3 . Continuation of inquiry in respect of juvenile who has ceased to be a juvenile.—Where an inquiry has been initiated against a juvenile in conflict with law or a child in need of care and protection and during the course of such inquiry the juvenile or the child ceases to be such, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued and orders may be made in respect of such person as if such person had continued to be a juvenile or a child."

6. Chapter II of 2000 Act deals with juvenile in conflict with law. This Chapter comprises of Sections 4 to 28. Section 4 provides for constitution of juvenile justice board and its composition. Section 5 provides for procedure, etc. in relation to juvenile justice board. Section 6 deals with the powers of juvenile justice board. Section 6 reads as under :

> "S.6 . Powers of Juvenile Justice Board.—(1) Where a Board has been constituted for any district, such Board shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have power to deal exclusively with all proceedings under this Act relating to juvenile in conflict with law.
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> (2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Court of Session, when the proceeding comes before them in appeal, revision or otherwise."

7. By Act 33 of 2006, the Parliament brought in significant changes in 2000 Act. Inter alia, Section 7A came to be inserted. This Section is lynchpin around which the debate has centered around in these matters. Section 7A provides for procedure to be followed when claim of juvenility is raised before any court. It reads as follows:

> "S.7A. Procedure to be followed when claim of juvenility is raised before any court.—(1) Whenever a claim of juvenility is raised before any court or a court is of the opinion that an accused person was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) so as to determine the age of such person, and shall record a finding whether the person is a juvenile or a child or not, stating his age as nearly as may be:
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> Provided that a claim of juvenility may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such claim shall be determined in terms of the provisions contained in this Act and the rules made thereunder, even if the juvenile has ceased to be so on or before the date of commencement of this Act.
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> (2) If the court finds a person to be a juvenile on the date of commission of the offence under sub-section (1), it shall forward the juvenile to the Board

for passing appropriate orders and the sentence, if any, passed by a court shall be deemed to have no effect."

8. Section 49 of 2000 Act deals with presumption and determination of age. This Section reads as under:

> "49 . Presumption and determination of age.—(1) Where it appears to a competent authority that person brought before it under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile or the child, the competent authority shall make due inquiry so as to the age of that person and for that purpose shall take such evidence as may be necessary (but not an affidavit)and shall record a finding whether the person is a juvenile or the child or not, stating his age as nearly as may be.
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> (2) No order of a competent authority shall be deemed to have become invalid merely by any subsequent proof that the person in respect of whom the order has been made is not a juvenile or the child, and the age recorded by the competent authority 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."

9. Sections 52 and 53 deal with appeals and revision. Section 54 provides for procedure in inquiries, appeals and revision proceedings, which reads as follows:

> "S.54 . Procedure in inquiries, appeals and revision proceedings.—(1)Save as otherwise expressly provided by this Act, a competent authority while holding any inquiry under any of the provisions of this Act, shall follow such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1973 (2 of 1974) for trials in summons cases.
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> (2) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1973(2 of 1974)."

10. In exercise of powers conferred by the proviso to sub-section (1) of Section 68 of the 2000 Act, the Central Government has framed the rules entitled "The Juvenile Justice (Care and Protection of Children) Rules, 2007" (for short, "2007 Rules"). The relevant rule for the purposes of consideration of the issue before us

is Rule 12 which provides for procedure to be followed in determination of age. Since this Rule has a direct bearing for consideration of the matter, it is quoted as it is. It reads as under:

> "R. 12. Procedure to be followed in determination of Age.—
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> (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.
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> (2) The Court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.
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> (3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining—
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> (a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;
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> (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;
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> (iii) the birth certificate given by a corporation or a municipal authority or a panchayat;
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> (b) and only in the absence of either (i),(ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i),(ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusion proof specified in sub-rule (3), the Court or the Board or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7A, section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed of cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub-rule (3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law."

11. It is not necessary to refer to facts of criminal appeal preferred by Abuzar Hossain @ Gulam Hossain or the other referred matters. Suffice it to say that in criminal appeal of Abuzar Hossain @ Gulam Hossain, in support of the argument that he was juvenile on the date of incident and as such he could not have been tried in the normal criminal court, his statement recorded under Section 313 of the Code of Criminal Procedure, 1973 (for short, 'the Code') was pressed into service. It was, however, found from the evidence as well as the judgments of the trial court and the High Court that the issue of juvenility was not pressed at any stage and no evidence whatsoever was led by him to prove the age. It was in the backdrop of these facts that Gopinath Ghosh1 was relied upon in support of the proposition that notwithstanding the fact that the plea of juvenility had not been pressed, it was obligatory on the court to go into the question of juvenility and determine his age.

12. Gopinath Ghosh1 was a case where he was convicted along with two others for an offence under Section 302 read with Section 34 of IPC and sentenced to suffer imprisonment for life by the trial court. He and two co- accused preferred criminal appeal before Calcutta High Court. In the appeal, two accused were acquitted while the conviction and sentence of Gopinath Ghosh was maintained. Gopinath Ghosh filed appeal by special leave before this Court. On his behalf, the argument was raised that on the date of offence, i.e. on 19.8.1974 he was aged below 18 years and he is therefore a "child" within the meaning of the expression in the West Bengal Children Act, 1959 and, therefore, the court had no jurisdiction to sentence him to suffer imprisonment after holding a trial. Having regard to the contention raised on behalf of the appellant, this Court framed an issue for determination; what was the age of the accused Gopinath Ghosh (appellant) on the date of offence for which he was tried and convicted? The issue was remitted to the Sessions Judge, Nadia to ascertain his age and submit the finding. The Additional Sessions Judge, First Court, Nadia, accordingly, held an inquiry and after recording the evidence and calling for medical report and after hearing parties certified that Gopinath Ghosh was aged between 16 and 17 years on the date of the offence. The finding sent by the Additional Sessions Judge was not questioned before this Court. The Court examined the scheme of West Bengal Children Act, 1959 and also noted Section 24 thereof which had an overriding effect taking away the power of the court to impose the sentence of imprisonment unless the case was covered by the proviso thereto. Then in paragraph 10 (pg. 231) of the Report, this Court held as under:

> "10. Unfortunately, in this case, appellant Gopinath Ghosh never questioned the jurisdiction of the Sessions Court which tried him for the offence of murder. Even the appellant had given his age as 20 years when questioned by the learned Additional Sessions Judge. Neither the appellant nor his learned counsel appearing before the learned Additional Sessions Judge as well as at the hearing of his appeal in the High Court ever questioned the jurisdiction of the trial court to hold the trial of the appellant, nor was it ever contended that he was a juvenile delinquent within the meaning of the Act and therefore, the Court had no jurisdiction to try him, as well as the Court had no jurisdiction to sentence him to suffer imprisonment for life. It was for the first time that this contention was raised before this Court. However, in view of the underlying intendment and beneficial provisions of the Act read with clause (f) of Article 39 of the Constitution which provides that the State shall direct its policy towards securing that children are given opportunities

and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment, we consider it proper not to allow a technical contention that this contention is being raised in this Court for the first time to thwart the benefit of the provisions being extended to the appellant, if he was otherwise entitled to it."

13. In paragraph 13 (pgs. 232-233) of the Report, the Court observed as under:

> "13. Before we part with this judgment, we must take notice of a developing situation in recent months in this Court that the contention about age of a convict and claiming the benefit of the relevant provisions of the Act dealing with juvenile delinquents prevalent in various States is raised for the first time in this Court and this Court is required to start the inquiry afresh. Ordinarily this Court would be reluctant to entertain a contention based on factual averments raised for the first time before it. However, the Court is equally reluctant to ignore, overlook or nullify the beneficial provisions of a very socially progressive statute by taking shield behind the technicality of the contention being raised for the first time in this Court. A way has therefore, to be found from this situation not conducive to speedy disposal of cases and yet giving effect to the letter and the spirit of such socially beneficial legislation. We are of the opinion that whenever a case is brought before the Magistrate and the accused appears to be aged 21 years or below, before proceeding with the trial or undertaking an inquiry, an inquiry must be made about the age of the accused on the date of the occurrence. This ought to be more so where special Acts dealing with juvenile delinquent are in force. If necessary, the Magistrate may refer the accused to the Medical Board or the Civil Surgeon, as the case may be, for obtaining creditworthy evidence about age. The Magistrate may as well call upon accused also to lead evidence about his age. Thereafter, the learned Magistrate may proceed in accordance with law. This procedure, if properly followed, would avoid a journey upto the Apex Court and the return journey to the grass- root court. If necessary and found expedient, the High Court may on its administrative side issue necessary instructions to cope with the situation herein indicated."

14. In Bhoop Ram v. State of U.P.[4], a two-Judge Bench of this Court was concerned with the question as to whether the appellant Bhoop Ram should have been treated as a "child" within the meaning of Section 2(4) of the U.P. Children Act, 1951 and sent to an approved school for detention therein till he attained the

age of 18 years instead of being sentenced to undergo imprisonment in jail. In Bhoop Ram4, the Chief Medical Officer, Bareilly gave a certificate that as per the radiology examination and physical features, he appeared to be 30 years of age as on 30.4.1987. Bhoop Ram did not place any other material before the Sessions Judge except the school certificate to prove that he had not completed 16 years on the date of commission of the offences. The Sessions judge rejected the school certificate produced by him on the ground that "it is not unusual that in schools ages are understated by one or two years for future benefits". As regards medical certificate the Sessions Judge observed that as he happened to be about 28-29 years of age on 1.6.1987, he would have completed 16 years on the date of occurrence. Before the Court, on behalf of the appellant, Bhoop Ram, it was contended that school certificate produced by him contained definite information regarding date of birth and that should have prevailed over the certificate of the doctor and the Sessions Judge committed wrong in doubting the correctness of the school certificate. This Court on consideration of the matter held that appellant Bhoop Ram could not have completed 16 years of age on 3.10.1975 when the occurrence took place and as such he ought to have been treated as "child" within the meaning of Section 2(4) of the U.P. Children Act, 1951 and dealt with under Section 29 of the Act. The Court gave the following reasons for holding appellant, Bhoop Ram, a "child" on the date of occurrence of the incident:

> "7. …….The first is that the appellant has produced a school certificate which carries the date 24-6-1960 against the column "date of birth". There is no material before us to hold that the school certificate does not relate to the appellant or that the entries therein are not correct in their particulars. The Sessions Judge has failed to notice this aspect of the matter and appears to have been carried away by the opinion of the Chief Medical Officer that the appellant appeared to be about 30 years of age as on 30-4-1987. Even in the absence of any material to throw doubts about the entries in the school certificate, the Sessions Judge has brushed it aside merely on the surmise that it is not unusual for parents to understate the age of their children by one or two years at the time of their admission in schools for securing benefits to the children in their future years. The second factor is that the Sessions Judge has failed to bear in mind that even the trial Judge had thought it fit to award the lesser sentence of imprisonment for life to the appellant instead of capital punishment when he delivered judgment on 12-9-1977 on the ground the appellant was a boy of 17 years of age. The observation of the trial Judge would lend credence to the appellant's case that he was less than 10 (sic 16) years of age on 3-10-1975 when the offences were committed. The third

factor is that though the doctor has certified that the appellant appeared to be 30 years of age as on 30-4-1987, his opinion is based only on an estimate and the possibility of an error of estimate creeping into the opinion cannot be ruled out. As regards the opinion of the Sessions Judge, it is mainly based upon the report of the Chief Medical Officer and not on any independent material. On account of all these factors, we are of the view that the appellant would not have completed 16 years of age on the date the offences were committed……..”

15. A three-Judge Bench of this Court in Pradeep Kumar v. State of U.P.[5] was concerned with the question whether each of the appellants was a “child” within the meaning of Section 2(4) of the U.P. Children Act, 1951 and as such on conviction under Section 302/34 IPC, they should have been sent to approved school for detention till the age of 18 years. The Court dealt with the matter in its brief order thus:

> “2. At the time of granting special leave, Jagdish appellant produced High School Certificate, according to which he was about 15 years of age at the time of occurrence. Appellant Krishan Kant produced horoscope which showed that he was 13 years of age at the time of occurrence. So far as appellant Pradeep is concerned a medical report was called for by this Court which disclosed that his date of birth as January 7, 1959 was acceptable on the basis of various tests conducted by the medical authorities.
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> 3. It is thus proved to the satisfaction of this Court that on the date of occurrence, the appellants had not completed 16 years of age and as such they should have been dealt with under the U.P. Children Act instead of being sentenced to imprisonment on conviction under Section 302/34 of the Act.”

16. The above three decisions came up for consideration before this Court in Bhola Bhagat v. State of Bihar[6]. The plea raised on behalf of the appellants that they were ‘children’ as defined in the Bihar Children Act, 1970 on the date of occurrence and their trial along with adult accused by the criminal court was not in accordance with law was rejected by the High Court observing that except for the age given by the appellants and the estimate of the court at the time of their examination under Section 313 of the Code, there was no other material in support of the appellants’ claim that they were below 18 years of age. This Court flawed the approach of the High Court and observed as follows:

> "8. To us it appears that the approach of the High Court in dealing with the question of age of the appellants and the denial of benefit to them of the provisions of both the Acts was not proper. Technicalities were allowed to defeat the benefits of a socially-oriented legislation like the Bihar Children Act, 1982 and the Juvenile Justice Act, 1986. If the High Court had doubts about the correctness of their age as given by the appellants and also as estimated by the trial court, it ought to have ordered an enquiry to determine their ages. It should not have brushed aside their plea without such an enquiry."

17. Gopinath Ghosh1, Bhoop Ram4 and Pradeep Kumar5 were elaborately considered in paragraphs 10, 11 and 12 of the Report. The Court also considered a decision of this Court in State of Haryana v. Balwant Singh[7] and held that the said decision was not a good law. In paragraph 15 of the Report, the Court followed the course adopted in Gopinath Ghosh1 , Bhoop Ram4 and Pradeep Kumar5 and held as under :

> "15. The correctness of the estimate of age as given by the trial court was neither doubted nor questioned by the State either in the High Court or in this Court. The parties have, therefore, accepted the correctness of the estimate of age of the three appellants as given by the trial court. Therefore, these three appellants should not be denied the benefit of the provisions of a socially progressive statute. In our considered opinion, since the plea had been raised in the High Court and because the correctness of the estimate of their age has not been assailed, it would be fair to assume that on the date of the offence, each one of the appellants squarely fell within the definition of the expression "child". We are under these circumstances reluctant to ignore and overlook the beneficial provisions of the Acts on the technical ground that there is no other supporting material to support the estimate of ages of the appellants as given by the trial court, though the correctness of that estimate has not been put in issue before any forum…..".

18. Mr. Pradip Kr. Ghosh, learned senior counsel for the appellant Abuzar Hossain @ Gulam Hossain, relying heavily upon the above cases, submitted that what was earlier established by judicial interpretation in Gopinath Ghosh1, Bhoop Ram4 and Pradeep Kumar5 became the statutory law with the enactment of Section 7A of 2000 Act and Rule 12 of the 2007 Rules and in view thereof a different approach is required with regard to the delinquent juveniles as and when plea of juvenility is

raised before the court. Learned senior counsel would submit that the courts have to ensure that the beneficial provisions contained in Section 7A and Rule 12 are not frustrated by procedural rigidity. It was submitted that while enacting Section 7A, the Legislature has taken note of socio-economic ground realities of the country and had kept in view juveniles who come from amongst the poorest of the poor, slum dwellers, street dwellers and some of those having no shelter, no means of sustenance and for whom it would be a far cry to have any documents as they would have neither any schooling nor any birth registration. The law has to be applied in the manner so that its benefits are made available to all those who are entitled to it. He contended that the very fact that Rule 12 provided for every possible opportunity to establish the juvenility and when everything fails there is the mandate of holding the medical examination of the delinquent, shows the legislative intent.

19. Mr. Pradip Kr. Ghosh, learned senior counsel also submitted that the law with regard to juvenile delinquents by insertion of Section 7A has been given retrospective effect and made applicable even after disposal of the case and, therefore, in all such cases, those who had no occasion to claim the benefit of juvenility in the past deserve fresh opportunity to be given and they should be allowed to produce such materials afresh as may be available in support of the claim. He submitted that a purposive interpretation to Section 7A and Rule 12 must be given to bring within their fold not only documents which are contemplated in terms of sub-rule (3) of Rule 12 but also cases in which no such document is available but if the accused is referred to a medical board, his age would eventually be found to be such as would make him a juvenile.

20. Mr. Pradip Kr. Ghosh, learned senior counsel did not dispute that for the purpose of making a claim with regard to juvenility, the delinquent has to produce some material in support of his claim and in the absence of any documentary evidence, file at least a supporting affidavit affirmed by one of his parents or an elder sibling or other relation who is competent to depose as to his age so as to make the court to initiate an inquiry under Rule 12(3). He did concede that a totally frivolous claim of juvenility which on the face of it is patently absurd and inherently improper may not be entertained by the court but at the same time the court must not be hyper-technical and must ensure that beneficial provision is not defeated by undue technicalities.

21. Learned senior counsel submitted that the statement under Section 313 of the Code or the voters' list may not be decisive but the documents of such nature may

be adequate for the court to initiate an inquiry in terms of Rule 12(3). According to him, what is decisive is the result of the inquiry under Rule 12(3). However, semblance of material must justify an order to cause an inquiry to be made to determine the claim of juvenility.

22. Mr. Abhijit Sengupta, learned counsel for the State of West Bengal, submitted that although the provisions of 2000 Act as amended in 2006, and the Rules must be given full effect as these are beneficial provisions for the benefit of juveniles, but at the same time this Court must ensure that the provisions are not abused and a floodgate of cases does not start. He submitted that in Pawan v. State of Uttaranchal[8], a 3- Judge Bench of this Court had emphasized on the need for satisfactory, adequate and prima facie material before an inquiry under Rule 12 could be commenced and the law laid down in Pawan8 must be followed as and when claim of juvenility is raised before this Court. He submitted that claim of juvenility must be credible before ordering an inquiry under Rule 12.

23. Mr. Nagendra Rai, learned senior counsel for the petitioner in the connected Special Leave Petition being SLP (Criminal) No. 616 of 2012, Ram Sahay Rai v. State of Bihar submitted that by amendment brought in 2006, 2000 Act has been drastically amended. The Legislature by bringing in Section 7A has clearly provided that the claim of juvenility may be raised before any court and it shall be recognised at any stage, even after the final disposal of the case and such claim shall be determined in terms of the provisions contained in 2000 Act and the Rules made thereunder, even if the juvenile has ceased to be so on or before the commencement of the Act. He would submit that even if the question of juvenility had not been raised by the juvenile even upto this Court and there is some material to show that a person is a juvenile on the date of commission of crime, it can be recognised at any stage even at the stage of undergoing sentence. He agreed that inquiry cannot be initiated on the basis of mere assertion of the claim. There must be prima facie material to initiate the inquiry and once the prima facie test is satisfied, the determination may be made in terms of Rule 12. With reference to Rule 12, learned senior counsel would submit that appearance, documents and medical evidence are the only materials which are relevant for determining the age and as such only such materials should form the basis for forming an opinion about the prima facie case. The oral evidence should rarely form the basis for initiation of proceeding as in view of Rule 12, the said material can never be used in inquiry and thus forming an opinion on that oral evidence will not serve the purposes of the Act.

24. Learned counsel for the State of Bihar on the other hand submitted that Legislature never intended to make Section 7A applicable to this Court after the final disposal of the case. He submitted that there was no provision in the Supreme Court Rules to re-open the concluded appeals or SLPs. Moreover, when SLP is filed, it is mandatory that no new ground or document shall be relied upon which has not been the part of record before the High Court and, therefore, if plea of juvenility has not been raised before the High Court, it cannot be raised before this Court. According to him, the power under the 2000 Act can be exercised only by the Juvenile Board, Sessions Court or High Court after final disposal of the case but not this Court. He, however, submitted that the Supreme Court in exercise of its power under Article 142 may remand the matter to such forums, if it appears expedient in the interest of justice.

25. The amendment in 2000 Act by the Amendment Act, 2006, particularly, introduction of Section 7A and subsequent introduction of Rule 12 in the 2007 Rules, was sequel to the Constitution Bench decision of this Court in Pratap Singh v. State of Jharkhand and Another[9] . In Hari Ram3, a two-Judge Bench of this Court extensively considered the scheme of 2000 Act, as amended by 2006 Amendment Act. With regard to sub-rules (4) and (5) of Rule 12, this Court observed as follows : "27. Sub-rules (4) and (5) of Rule 12 are of special significance in that they provide that once the age of a juvenile or child in conflict with law is found to be less than 18 years on the date of offence on the basis of any proof specified in sub-rule (3) the court or the Board or as the case may be the Child Welfare Committee appointed under Chapter IV of the Act, has to pass a written order stating the age of the juvenile or stating the status of the juvenile, and no further inquiry is to be conducted by the court or Board after examining and obtaining any other documentary proof referred to in sub- rule (3) of Rule 12. Rule 12, therefore, indicates the procedure to be followed to give effect to the provisions of Section 7-A when a claim of juvenility is raised."

26. This Court observed that the scheme of the 2000 Act was to give children, who have, for some reason or the other, gone astray, to realize their mistakes, rehabilitate themselves and rebuild their lives and become useful citizens of the society, instead of degenerating into hardened criminals. In paragraph 59 of the Report, the Court held as under : "59. The law as now crystallised on a conjoint reading of Sections 2(k), 2(l), 7-A, 20 and 49 read with Rules 12 and 98, places beyond all doubt that all persons who were below the age of 18 years on the date of commission of the offence even prior to 1-4-2001, would be treated as juveniles, even if the claim of juvenility was raised after they had attained the age of 18 years

on or before the date of commencement of the Act and were undergoing sentence upon being convicted."

27. The Court observed in Hari Ram3 that often parents of children, who come from rural backgrounds, are not aware of the actual date of birth of a child, but relate the same to some event which might have taken place simultaneously. In such a situation, the Board and the Courts will have to take recourse to the procedure laid down in Rule 12.

28. The judgment in the case of Hari Ram3 was delivered by this Court on 5.5.2009. On that very day, judgment in Akbar Sheikh2 was delivered by a two-Judge Bench of which one of us (R.M. Lodha, J.) was a member. In Akbar Sheikh2 on behalf of one of the appellants, Kabir, a submission was made that he was juvenile on the date of occurrence. While dealing with the said argument, this Court observed that no such question had ever been raised. Even where a similar question was raised by five other accused, no such plea was raised even before the High Court. On behalf of the appellant, Kabir, in support of the juvenility, two documents were relied upon, namely, (i) statement recorded under Section 313 of the Code and (ii) voters' list. As regards the statement recorded under Section 313, this Court was of the opinion that the said document was not decisive. In respect of voters' list, this Court observed that the same had been prepared long after the incident occurred and it was again not decisive. In view of these findings, this Court did not find any merit in the claim of Kabir, one of the appellants, that he was juvenile and the submission was rejected. From a careful reading of the judgment in the matter of Akbar Sheikh2, it is clear that the two documents on which reliance was placed in support of claim of juvenility were not found decisive and, consequently, no inquiry for determination of age was ordered. From the consideration of the matter by this Court in Akbar Sheikh2, it is clear that the case turned on its own facts.

29. As a matter of fact, prior to the decisions of this Court in Hari Ram3 and Akbar Sheikh2, a three-Judge Bench of this Court speaking through one of us (R.M. Lodha, J.) in Pawan8 had considered the question relating to admissibility of claim of juvenility for the first time in this Court with reference to Section 7A. The contention of juvenility was raised for the first time before this Court on behalf of the two appellants, namely, A-1 and A-2. The argument on their behalf before this Court was that they were juvenile within the meaning of 2000 Act on the date of incident and the trial held against them under the Code was illegal. With regard to A-1, his school leaving certificate was relied on while as regards A-2, reliance was

placed on his statement recorded under Section 313 and the school leaving certificate. Dealing with the contention of juvenility, this Court stated that the claim of juvenility could be raised at any stage, even after final disposal of the case. The Court then framed the question in paragraph 41 of the Report as to whether an inquiry should be made or report be called for from the trial court invariably where juvenility is claimed for the first time before this Court. It was held that where the materials placed before this Court by the accused, prima facie, suggested that he was 'juvenile' as defined in 2000 Act on the date of incident, it was necessary to call for the report or an inquiry to be made for determination of the age on the date of incident. However, where a plea of juvenility is found unscrupulous or the materials lack credibility or do not inspire confidence and even prima facie satisfaction of the court is not made out, further exercise in this regard may not be required. It was also stated that if the plea of juvenility was not raised before the trial court or the High Court and is raised for the first time before this Court, the judicial conscience of the court must be satisfied by placing adequate material that the accused had not attained the age of 18 years on the date of commission of offence. In absence of adequate material, any further inquiry into juvenility would not be required.

30. Having regard to the general guidelines highlighted in paragraph 41 with regard to the approach of this Court where juvenility is claimed for the first time, the court then considered the documents relied upon by A-1 and A-2 in support of the claim of juvenility on the date of incident. In respect of the two documents relied upon by A-2, namely, statement under Section 313 of the Code and the school leaving certificate, this Court observed that the statement recorded under Section 313 was a tentative observation based on physical appearance which was hardly determinative of age and insofar as school leaving certificate was concerned, it did not inspire any confidence as it was issued after A-2 had already been convicted and the primary evidence like entry from the birth register had not been produced. As regards school leaving certificate relied upon by A-1, this Court found that the same had been procured after his conviction and no entry from the birth register had been produced. The Court was, thus, not prima facie impressed or satisfied by the material placed on behalf of A-1 and A-2. Those documents were not found satisfactory and adequate to call for any report from the Board or trial court about the age of A-1 and A-2.

31. In Jitendra Singh alias Babboo Singh and another v. State of Uttar Pradesh[10], on behalf of the appellant, a plea was raised that he was minor within the meaning of Section 2(k) of 2000 Act on the date of commission of the offence. The

appellant had been convicted for the offences punishable under Sections 304-B and 498A IPC and sentenced to suffer seven years' imprisonment under the former and two years under the latter. The appellant had got the bail from the High Court on the ground of his age which was on medical examination certified to be around seventeen years on the date of commission of the offence. One of us (T.S. Thakur, J.) who authored the judgment for the Bench held that in the facts and circumstances of the case, an enquiry for determining the age of the appellant was necessary. This Court referred to the earlier decisions in Gopinath Ghosh1, Bhoop Ram4 , Bhola Bhagat6 , Hari Ram3 and Pawan8 and then held that the burden of making out the prima facie case had been discharged. In paragraphs 9, 10 and 11 of the Report, it was held as under:

> "9. The burden of making out a prima facie case for directing an enquiry has been in our opinion discharged in the instant case inasmuch as the appellant has filed along with the application a copy of the school leaving certificate and the marksheet which mentions the date of birth of the appellant to be 24-5-1988. The medical examination to which the High Court has referred in its order granting bail to the appellant also suggests the age of the appellant being 17 years on the date of the examination. These documents are sufficient at this stage for directing an enquiry and verification of the facts.
>
> 10. We may all the same hasten to add that the material referred to above is yet to be verified and its genuineness and credibility determined. There are no doubt certain telltale circumstances that may raise a suspicion about the genuineness of the documents relied upon by the appellant. For instance, the deceased Asha Devi who was married to the appellant was according to Dr. Ashok Kumar Shukla, Pathologist, District Hospital, Rae Bareilly aged 19 years at the time of her death. This would mean as though the appellant husband was much younger to his wife which is not the usual practice in the Indian context and may happen but infrequently. So also the fact that the appellant obtained the school leaving certificate as late as on 17-11-2009 i.e. after the conclusion of the trial and disposal of the first appeal by the High Court, may call for a close scrutiny and examination of the relevant school record to determine whether the same is free from any suspicion, fabrication or manipulation. It is also alleged that the electoral rolls showed the age of the accused to be around 20 years while the extract from the panchayat register showed him to be 19 years old.

> 11. All these aspects would call for close and careful scrutiny by the court below while determining the age of the appellant. The date of birth of appellant Jitendra Singh's siblings and his parents may also throw considerable light upon these aspects and may have to be looked into for a proper determination of the question. Suffice it to say while for the present we consider it to be a case fit for directing an enquiry, that direction should not be taken as an expression of any final opinion as regards the true and correct age of the appellant which matter shall have to be independently examined on the basis of the relevant material."

32. In Daya Nand v. State of Haryana[11], this Court found that on the date of occurrence the age of the appellant was sixteen years five months and nineteen days and, accordingly, it was held that he could not have been kept in prison to undergo the sentence imposed by the Additional Sessions Judge and affirmed by the High Court. This Court set aside the sentence imposed against the appellant and he was directed to be released from prison.

33. In Lakhan Lal v. State of Bihar[12], the question was about the applicability of 2000 Act where the appellants were not juveniles within the meaning of 1986 Act as they were above 16 years of age but had not completed 18 years of age when offences were committed and even when claim of juvenility was raised after they had attained 18 years of age. This Court gave benefit of 2000 Act to the appellants and they were directed to be released forthwith.

34. In Shah Nawaz v. State of Uttar Pradesh and another[13], the matter reached this Court from the judgment and order of the Allahabad High Court. An F.I.R. was lodged against the appellant, Shah Nawaz, and three others for the offences punishable under Sections 302 and 307 of IPC. The mother of the appellant submitted an application before the Board stating that Shah Nawaz was minor at the time of alleged occurrence. The Board after holding an enquiry declared Shah Nawaz a juvenile under the 2000 Act. The wife of the deceased filed criminal appeal against the judgment of the Board before the Additional Sessions Judge, Muzaffarnagar. That appeal was allowed and the order of the Board was set aside. Shah Nawaz preferred criminal revision before the High Court against the order of the Additional Sessions Judge which was dismissed giving rise to appeal by special leave before this Court. This Court considered Rule 12 of 2007 Rules and also noted, amongst others, the decision in Hari Ram3 and then on consideration of the documents, particularly entry relating to the date of birth entered in the marksheet

held that Shah Nawaz was juvenile on the date of occurrence of the incident. This Court in paragraphs 23 and 24 of the Report held as under:

> "23. The documents furnished above clearly show that the date of birth of the appellant had been noted as 18-6-1989. Rule 12 of the Rules categorically envisages that the medical opinion from the Medical Board should be sought only when the matriculation certificate or school certificate or any birth certificate issued by a corporation or by any panchayat or municipality is not available. We are of the view that though the Board has correctly accepted the entry relating to the date of birth in the marksheet and school certificate, the Additional Sessions Judge and the High Court committed a grave error in determining the age of the appellant ignoring the date of birth mentioned in those documents which is illegal, erroneous and contrary to the Rules.
>
> 24. We are satisfied that the entry relating to date of birth entered in the marksheet is one of the valid proofs of evidence for determination of age of an accused person. The school leaving certificate is also a valid proof in determining the age of the accused person. Further, the date of birth mentioned in the High School marksheet produced by the appellant has duly been corroborated by the school leaving certificate of the appellant of Class X and has also been proved by the statement of the clerk of Nehru High School, Dadheru, Khurd-o-Kalan and recorded by the Board. The date of birth of the appellant has also been recorded as 18-6-1989 in the school leaving certificate issued by the Principal of Nehru Preparatory School, Dadheru, Khurd-o-Kalan, Muzaffarnagar as well as the said date of birth mentioned in the school register of the said School at Sl. No. 1382 which have been proved by the statement of the Principal of that School recorded before the Board."

In paragraph 26 of the Report, this Court observed that Rule 12 has described four categories of evidence which gave preference to school certificate over the medical report.

35. In Pawan8, , a 3-Judge Bench has laid down the standards for evaluating claim of juvenility raised for the first time before this Court. If Pawan8 had been cited before the Bench when criminal appeal of Abuzar Hossain @ Gulam Hossain came up for hearing, perhaps reference would not have been made. Be that as it may, in light of the discussion made above, we intend to summarise the legal position with

regard to Section 7A of 2000 Act and Rule 12 of the 2007 Rules. But before we do that, we say a word about the argument raised on behalf of the State of Bihar that claim of juvenility cannot be raised before this Court after disposal of the case. The argument is so hopeless that it deserves no discussion. The expression, 'any court' in Section 7A is too wide and comprehensive; it includes this Court. Supreme Court Rules surely do not limit the operation of Section 7A to the courts other than this Court where the plea of juvenility is raised for the first time after disposal of the case.

36. Now, we summarise the position which is as under:

(i) A claim of juvenility may be raised at any stage even after final disposal of the case. It may be raised for the first time before this Court as well after final disposal of the case. The delay in raising the claim of juvenility cannot be a ground for rejection of such claim. The claim of juvenility can be raised in appeal even if not pressed before the trial court and can be raised for the first time before this Court though not pressed before the trial court and in appeal court.

(ii) For making a claim with regard to juvenility after conviction, the claimant must produce some material which may prima facie satisfy the court that an inquiry into the claim of juvenility is necessary. Initial burden has to be discharged by the person who claims juvenility.

(iii) As to what materials would prima facie satisfy the court and/or are sufficient for discharging the initial burden cannot be catalogued nor can it be laid down as to what weight should be given to a specific piece of evidence which may be sufficient to raise presumption of juvenility but the documents referred to in Rule 12(3)(a)(i) to (iii) shall definitely be sufficient for prima facie satisfaction of the court about the age of the delinquent necessitating further enquiry under Rule 12. The statement recorded under Section 313 of the Code is too tentative and may not by itself be sufficient ordinarily to justify or reject the claim of juvenility. The credibility and/or acceptability of the documents like the school leaving certificate or the voters' list, etc. obtained after conviction would depend on the facts and circumstances of each case and no hard and fast rule can be prescribed that they must be prima facie accepted or rejected. In Akbar Sheikh2 and Pawan8 these documents were not found prima facie credible while in Jitendra Singh10 the documents viz., school leaving certificate, marksheet and the medical report were treated sufficient for directing an inquiry and verification of the appellant's age. If such documents prima facie inspire confidence of the court, the court may act upon

such documents for the purposes of Section 7A and order an enquiry for determination of the age of the delinquent.

(iv) An affidavit of the claimant or any of the parents or a sibling or a relative in support of the claim of juvenility raised for the first time in appeal or revision or before this Court during the pendency of the matter or after disposal of the case shall not be sufficient justifying an enquiry to determine the age of such person unless the circumstances of the case are so glaring that satisfy the judicial conscience of the court to order an enquiry into determination of age of the delinquent.

(v) The court where the plea of juvenility is raised for the first time should always be guided by the objectives of the 2000 Act and be alive to the position that the beneficent and salutary provisions contained in 2000 Act are not defeated by hyper-technical approach and the persons who are entitled to get benefits of 2000 Act get such benefits. The courts should not be unnecessarily influenced by any general impression that in schools the parents/guardians understate the age of their wards by one or two years for future benefits or that age determination by medical examination is not very precise. The matter should be considered prima facie on the touchstone of preponderance of probability. (vi) Claim of juvenility lacking in credibility or frivolous claim of juvenility or patently absurd or inherently improbable claim of juvenility must be rejected by the court at threshold whenever raised.

37. The reference is answered in terms of the position highlighted in paragraph 36 (i) to (vi). The matters shall now be listed before the concerned Bench(es) for disposal.

JUDGMENT

T.S. THAKUR, J.

I have had the advantage of going through the order proposed by my esteemed brother R.M. Lodha J., which summarises the legal position with remarkable lucidity. While I entirely agree with whatever is enunciated in the judgment proposed by my erudite colleague, I wish to add a few lines of my own confined to the proposition stated in Para 36 (IV) of the judgment. In that paragraph of the order fall cases in which the accused setting up the plea of juvenility is unable to produce any one of the documents referred to in Rule 12(3)(a) (i) to (iii) of the

Rules, under the Act, not necessarily because, he is deliberately withholding such documents from the court, but because, he did not have the good fortune of ever going to a school from where he could produce a certificate regarding his date of birth. Para 36 (IV) sounds a note of caution that an affidavit of a parent or a sibling or other relative would not ordinarily suffice, to trigger an enquiry into the question of juvenility of the accused, unless the circumstances of the case are so glaring that the court is left with no option except to record a prima facie satisfaction that a case for directing an enquiry is made out. What would constitute a 'glaring case' in which an affidavit may itself be sufficient to direct an inquiry, is a question that cannot be easily answered leave alone answered by enumerating exhaustively the situations where an enquiry may be justified even in the absence of documentary support for the claim of juvenility. Two dimensions of that question may all the same be mentioned without in the least confining the sweep of the expression 'glaring case' to a strait-jacket formulation. The first of these factors is the most mundane of the inputs that go into consideration while answering a claim of juvenility like "Physical Appearance" of the accused made relevant by Rule 12(2) of the Rules framed under the Act. The Rule reads:

> "12. Procedure to be followed in determination of Age. –
>
> (1) xxxx
>
> (2) The Court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail."
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> Physical appearance of the accused is, therefore, a consideration that ought to permeate every determination under the Rule aforementioned no matter appearances are at times deceptive, and depend so much on the race or the region to which the person concerned belongs. Physical appearance can and ought to give an idea to the Court at the stage of the trial and even in appeal before the High Court, whether the claim made by the accused is so absurd or improbable that nothing short of documents referred to in this Rule 12 can satisfy the court about the need for an enquiry. The advantage of "physical appearance" of the accused may, however, be substantially lost, with passage of time, as longer the interval between the incident and the court's decision on the question of juvenility, the lesser the chances of the court

making a correct assessment of the age of the accused. In cases where the claim is made in this Court for the first time, the advantage is further reduced as there is considerable time lapse between the incident and the hearing of the matter by this Court. The second factor which must ever remain present in the mind of the Court is that the claim of juvenility may at times be made even in cases where the accused does not have any evidence, showing his date of birth, by reference to any public document like the register of births maintained by Municipal Authorities, Panchayats or hospitals nor any certificate from any school, as the accused was never admitted to any school. Even if admitted to a school no record regarding such admission may at times be available for production in the Court. Again there may be cases in which the accused may not be in a position to provide a birth certificate from the Corporation, the municipality or the Panchayat, for we know that registration of births and deaths may not be maintained and if maintained may not be regular and accurate, and at times truthful. Rule 12(3) of the Rules makes only three certificates relevant. These are enumerated in Sub- Rule 3(a)(i) to (iii) of the Rule which reads as under: "(3)a (i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

Non-production of the above certificates or any one of them is not, however, fatal to the claim of juvenility, for Sub-Rule 3(b) to Rule 12 makes a provision for determination of the question on the basis of the medical examination of the accused in the 'absence' of the certificates. Rule 12(3)(b) runs as under:

"12(3) (b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court, or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year."

> The expression 'absence' appearing in the above provision is not defined under the Act or the Rules. The word shall, therefore, be given its literal dictionary meaning which is provided by Concise Oxford dictionary as under: "Being away from a place or person; time of being away; non-existence or lack of; inattenation due to thought of other things."
>
> Black's Law Dictionary also explains the meaning of 'absence' as under: "1. The state of being away from one's usual place of residence. 2. A failure to appear, or to be available and reachable, when expected. 3. Louisiana Law. The State of being an absent person – Also termed (in sense 3) absentia."

It is axiomatic that the use of the expression and the context in which the same has been used strongly suggests that 'absence' of the documents mentioned in Rule 12(3) (a)(i) to (iii) may be either because the same do not exist or the same cannot be produced by the person relying upon them. Mere non-production may not, therefore, disentitle the accused of the benefit of the Act nor can it tantamount to deliberate non-production, giving rise to an adverse inference unless the Court is in the peculiar facts and circumstances of a case of the opinion that the non-production is deliberate or intended to either mislead the Court or suppress the truth.

It is in this class of cases that the court may have to exercise its powers and discretion with a certain amount of insight into the realities of life. One of such realities is that illiteracy and crime have a close nexus though one may not be directly proportional to the other. Juvenile delinquency in this country as elsewhere in the world, springs from poverty and unemployment, more than it does out of other causes. A large number of those engaged in criminal activities, may never have had the opportunity to go to school. Studies conducted by National Crime Records Bureau (NCRB), Ministry of Home Affairs, reveal that poor education and poor economic set up are generally the main attributes of juvenile delinquents. Result of the 2011 study further show that out of 33,887 juveniles arrested in 2011, 55.8% were either illiterate (6,122) or educated only till the primary level (12,803). Further, 56.7% of the total juveniles arrested fell into the lowest income category. A similar study is conducted and published by B.N. Mishra in his Book 'Juvenile Delinquency and Justice System', in which the author states as follows:

"One of the prominent features of a delinquent is poor educational attainment. More than 63 per cent of delinquents are illiterate. Poverty is the main cause of

their illiteracy. Due to poor economic condition they were compelled to enter into the labour market to supplement their family income. It is also felt that poor educational attainment is not due to the lack of intelligence but may be due to lack of opportunity. Although free education is provided to Scheduled Castes and Scheduled Tribes, even then, the delinquents had a very low level of expectations and aspirations regarding their future which in turn is due to lack of encouragement and unawareness of their parents that they play truant."

What should then be the approach in such cases, is the question. Can the advantage of a beneficial legislation be denied to such unfortunate and wayward delinquents? Can the misfortune of the accused never going to a school be followed or compounded by denial of the benefit that the legislation provides in such emphatic terms, as to permit an enquiry even after the last Court has disposed of the appeal and upheld his conviction? The answer has to be in the negative. If one were to adopt a wooden approach, one could say nothing short of a certificate, whether from the school or a municipal authority would satisfy the court's conscience, before directing an enquiry. But, then directing an enquiry is not the same thing as declaring the accused to be a juvenile. The standard of proof required is different for both. In the former, the court simply records a prima facie conclusion. In the latter the court makes a declaration on evidence, that it scrutinises and accepts only if it is worthy of such acceptance. The approach at the stage of directing the enquiry has of necessity to be more liberal, lest, there is avoidable miscarriage of justice. Suffice it to say that while affidavits may not be generally accepted as a good enough basis for directing an enquiry, that they are not so accepted is not a rule of law but a rule of prudence. The Court would, therefore, in each case weigh the relevant factors, insist upon filing of better affidavits if the need so arises, and even direct, any additional information considered relevant including information regarding the age of the parents, the age of siblings and the like, to be furnished before it decides on a case to case basis whether or not an enquiry under Section 7A ought to be conducted. It will eventually depend on how the court evaluates such material for a prima facie conclusion that the Court may or may not direct an enquiry. With these additions, I respectfully concur with the judgment proposed by my esteemed Brother Lodha J.

(T.S. Thakur)
10.10.2012

[1] 1984 (Supp) SCC 228
[2] (2009) 7 SCC 415

[3] (2009) 13 SCC 211
[4] (1989) 3 SCC 1
[5] 1995 Supp (4) SCC 419
[6] (1997) 8 SCC 720
[7] 1993 (Supp) 1 SCC 409
[8] (2009) 15 SCC 259
[9] (2005) 3 SCC 551
[10] (2010) 13 SCC 523
[11] (2011) 2 SCC 224
[12] (2011) 2 SCC 251
[13] (2011) 13 SCC 751