

# Powers and Functions of the Child Welfare Committee (CWC)

(Constituted by the State Government under section 27 of the Juvenile Justice Act, 2015).

This document explains the powers and functions of the Child Welfare Committee (CWC) constituted under section 27 of the Juvenile Justice Act 2015.

## Powers of the CWC

### The CWC has the following powers:

- The same powers as a Metropolitan / Judicial Magistrate of the first class. (as under the Cr.P.C. 1973). (Section 27(9)) first class. (as under the Cr.P.C. 1973). (Section 27(9))
- CWC has the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection. (Section 29(1))
- Power to deal with all cases relating to children in need of care and protection under the Juvenile Justice (Care and Protection of Children) Act, 2015. (Section 29(2))

### Taking Cognisance (Section 30):

- The primary function of the CWC is to take cognisance of and receive child produced before it.

### Production (Section 31):

- The CWC can act in the interest of any child on its own or on a report from the following:
  - Any police officer / SJPU / Child Welfare Police Officer / DCPU
  - Any public servant
  - Childline Services or any voluntary or non-governmental organisation, or agency recognised by the government
  - Child Welfare Officer or probation officer
  - Any social worker or a public spirited citizen
  - By the child himself, or
  - Any nurse, doctor or management of a nursing home, hospital or maternity home.

### Restoration (Section 40):

The CWC has the power to give directions regarding the child's welfare. Any child in need of care and protection may be placed with :

- Parents
- Adoptive Parents
- Fit person
- Guardian
- Foster parents

### Dispensing with attendance of child (Section 91):

- If the CWC/JJB deems his/her presence not essential.

### Attendance of parent or guardian of child (Section 90)

- The CWC / JJB may require any parent or guardian to be present at any proceeding in respect of their child.

### Transfer of a child to place of residence (Section 95)

- During an inquiry, if it is found that a child hails from a place outside the jurisdiction, and the CWC / JJB is satisfied that it is in the best interest of the child, the CWC may order the transfer of the child as soon as possible to his home jurisdiction.
- In case of inter-state transfer, the child shall be handed over to the CWC / JJB of the home district of the child, or to the CWC in the capital city of the home state.
- The CWC / JJB is empowered to give an escort order to the SJPU or the institution where the child is temporarily staying or DCPU to provide an escort to accompany the child during travel.
- The order of transfer shall be made keeping in mind the best interest of the child.

### Transfer of child between children's homes or special homes or fit facility or fit person in different parts of India (Section 96):

- A child may be transferred from one home to another within the state with prior intimation.
- The best interest of the child should be considered when making this decision.
- Transferring the child should not increase their total period of stay as originally decided by the CWC / JJB.
- The order so passed shall be operative for the CWC / JJB of the area to which the child is sent.

### Amending orders (Section 104):

On receipt of an application, the CWC / JJB can amend an order regarding:

- The institution to which the child was sent.
- The person under whose care the child has been placed under the Act.

### Release of a child from an institution (Section 97):

- A child residing in a children's home, on release, may be permitted by the CWC / JJB to live with a willing parent or guardian or under supervision of any authorised person named in the order.
- The child will be taken charge of and be placed back in the concerned home if there is failure on fulfillment of conditions upon which the child was released.
- When the child is released temporarily, time spent away from concerned home will be counted as a part of time the child was liable to be at home.

### Leave of absence to a child placed in an institution (Section 98) :

- A child residing in a children's home may be permitted leave of absence for special occasions like examinations, weddings of relatives, death of kin etc.
- Leave will be supervised and be for a maximum period of seven days at a time, excluding the time taken to travel.
- If the permission is revoked and the child fails to return to the home, the CWC / JJB may cause him to be taken charge of and be taken back to the concerned home.
- When the child is released temporarily, time spent away from concerned home will be counted as a part of time the child was liable to be at home.

### Treatment of children suffering from disease requiring prolonged medical treatment or physical or mental complaint (Section 92):

- The CWC / JJB may send a child to any place recognised as a fit facility for such period as it may think necessary for the required treatment.

## CWC functions as per JJ Act, 2015

### Inquiry:

- The CWC shall conduct an inquiry on production of the child on all issues relating to and affecting the safety and wellbeing of the child. (Section 30(ii) & 36 (1))
- Direct CWO / probation officer / DCPU / NGO to conduct social investigation report within 15 days from the date of production of the child. (Section 30(iii) & 36(2))
- Conduct an inquiry for declaring fit person for care of children in need of care and protection. (Section 30(iv))
- In case of doubt regarding age, the CWC shall verify the date of birth certificate from school, birth certificate from corporation / municipal authority / panchayat, or ossification test. (Section 94)
- The CWC shall conduct inquiry in case of a complaint of a child in any child care institution. (Section 30(xvi))
- The CWC shall conduct an inquiry into cases referred by the JJB. (Section 30(xiv))

### Rehabilitation:

- Direct placement / rehabilitation of child based on Social Investigation Report, child's wishes and the best interest of the child. (Section 37)
- Determine registered fit institution / fit person for placement of child, and ensure appropriate care / fit facility is provided to the child. (Section 37(1) (c))
- Shall declare orphan, abandoned and surrendered child as legally free for adoption after due inquiry. (Section 38(1))
- Shall take action for rehabilitation of sexually abused children under the POCSO Act, 2012. (Section 30(xiii))
- Provide time to parents to reconsider surrender deed before certifying and executing the deed. (Section 30(ix))

### Inspection:

- Shall conduct at least two inspection visits in the residential facilities for child in need of care and protection. (Section 30(viii))
- Shall recommend improvement in quality of such institution to DCPU and State Government. (Section 30(viii))

### Reports relating to child (Section 99):

- The CWC / JJB shall treat all reports related to the child as confidential keeping in mind the best interest of the child. (Section 99(1))
- A victim shall not be denied access to their case record, order and relevant papers. (Section 99(2))

### Quarterly report to District Magistrate (Section 36):

- The CWC shall submit a quarterly report on the nature of disposed of cases and pending cases to the District Magistrate. (Section 36(4))

### Appeal (Section 101):

- Any person aggrieved by an order of the CWC / JJB may prefer an appeal to the Children's Court within 30 days from the date of such order (except for an order related to foster care and sponsorship aftercare, which shall lie with District Magistrate). (Section 101(1))
- No appeal shall lie from an order made by the CWC / JJB in respect of finding that a person is not a child in need of care and protection. (Section 101(4))
- Any person aggrieved by the order of children's court may appeal to HC in accordance to Cr.PC. (Section 101(5))

### Revision (Section 102):

The High Court may:

- Call for record of any proceeding in which the CWC / JJB has passed an order. (Section 102(1))
- May pass order as it thinks fit but shall not pass order prejudicial to any person without giving him a reasonable opportunity to be heard. (Section 102(2))