



A

REPORT ON

INSPECTION OF

CHILD CARE INSTITUTIONS OF ODISHA

BY

NATIONAL COMMISSION FOR PROTECTION OF

CHILD RIGHTS

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NEW DELHI-110001**

SUMMARY OF THE REPORT

National Commission for Protection of Child Rights (NCPCR) has been constituted by the Government of India, as a statutory body under section 3 of the Commissions for Protection of Child Rights (CPCR) Act, 2005 (No. 4 of 2006) for dealing with the protection of child rights and related matters. Under section 13(1) of the Commissions for Protection of Child Rights (CPCR) Act, 2005, has provided certain functions to ensure that the rights of children are protected especially those who are most vulnerable and marginalized. In addition, the Commission has also been mandated to monitor the implementation of the Juvenile Justice (Care & Protection of Children) Act, 2015 (Section 109, JJ Act, 2015).

In pursuance of the communication from the Minister of Women and Child Development to the Chief Minister of Odisha dated 07.12.2018 regarding pathetic state of affairs at the Good News India organization's Shelter Homes for children in various parts of the state, NCPCR conducted an inspection of the Child Care Institutions in Odisha covering 19 districts of the State. Accordingly, the first phase of the Inspection was carried out from 12.12.2018 to 18.12.2018.

A meeting was organized with the State Government under the Chairmanship of Shri Yashwant Jain, Member, NCPCR on 12th December, 2018 to discuss the issues related to child care institutions in view of the incidents of Good News India Dream Centre, Beltikra, Dhenkanal.

In the Inspection exercise two Members i.e. Shri Yashwant Jain & Dr.R.G.Anand; Registrar, NCPCR; Members of Odisha SCPCR and 9 officials from National Commission for Protection of Child Rights took part in the inspection was carried out with district authorities and officials like; Chairperson and Members of Child Welfare Committees, Officials of District Child Protection Units, officials from Department of Child Development. Members of Odisha SCPCR participated in conducting inspection in eleven Districts (Puri, Ganjam, Gajapati, Cuttack, Dhenkanal, Jharsuguda, Sundargarh, Deogarh, Anugul & Boudh).

The teams led by NCPCR officials conducted inspection in 50 Child Care Institutions run by the NGOs and Government.

Key Observations of the Inspection:

With passage of time, juvenile justice system has evolved in India to create an enabling environment to provide care and protection to the children keeping in view the best interest of a child. The best interest of the child is the cornerstone upon which the decision of sending a child to an institution is to be taken. The “best interest of child” means the basis for any decision taken regarding the child, to ensure fulfillment of his basic rights and needs, identity,

social well-being and physical, emotional and intellectual development. The Juvenile Justice (Care & Protection of Children) Act, 2015 has aptly states “Principle of institutionalization as a measure of last resort- A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry”. Therefore, children living in the Child Care Institutions may be seen through the lens of the principle of best interest of the child.

Through the inspection it has been observed that a portion of children are kept in the institutions who would have been with families provided the officials in the Juvenile system could have sensitized and individual care plan for each was prepared in the spirit of the Act. Adoption is also an important measure in providing children a family which must be explored diligently. There is an urgent need for the State machinery implementing Juvenile Justice Act, 2015 to look into the matter including if children are kept in the homes to show the number so that the NGOs can get the benefit of funding from the government or there is a genuine need.

Further, it was also observed that a phenomenon has emerged in a few districts that children belonging to a particular religion are kept in the home managed by the religious institution of the same faith. Since, children are sent to a Child Care Institution under the direction of Child Welfare Committees (CWCs) and how the children belonging to same faith are sent to home run by the management of same faith. The question arises if the CWCs are not sensitized and sending children to designated homes based on the religion of the children beyond the boundary of their district. It was felt by the Commission that the phenomenon is the against the spirit of secular principles and requires further investigation by the State Government.

Another observable fact came to the notice conducting inspection was that children irrespective of their religious background were taught religious text like Bible in some of the homes. Children who are in need of care and protection face multiple deprivations and are vulnerable to get influenced. The United Nations Conventions on the Rights of the Child (UNCRC) states that “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference”. Accordingly, it is recommend by the Commission to conduct further police inquiry on the matter.

Further it was found that apart from Child Care Institutions under Juvenile Justice Act; there are various institutions keeping children in their facilities like; hostels of educational institutions, hostels under various government Departments including SC/STs and minorities, Paying Guest kind hostel facilities etc. Through the inspection and interactions, it was also observed that some of the Homes that were running as Child Care Institutions have self declared as hostels and running without any regulation. Thus, there is an issue of a large number of hostels and

other facilities housing children are being run without regulation. Therefore, there is an urgent need of mapping of these hostels and facilities in the country to ensure protection of the rights of the child conferred in Indian Constitution and United Nations Conventions on the Rights of the Child (UNCRC).

Since the inspections of the child care institutions in Odisha have been carried out in view of the news regarding alleged sexual abuses and practice of religious conversion in the Good News India's shelter homes in Odisha; there is a need of inspection of homes run by this organization in other States.

Key findings & recommendations include the following:

In the inspection it was observed that in two homes the infrastructure was poor, even the basic facilities are lacking, therefore, children of these homes may be shifted from these homes.

5 Homes may be closed due to multiple reasons ranging like; home is running without valid registration, a large number of children kept without the order of CWC, children are being influenced for religious conversion, lack of basic facilities, no female staff in the home despite girls are staying the home, no care plan for children etc.

In 13 homes, FIR may be registered or police enquiry may be carried out for various reasons indicated in the report. Further enquiry is required in 6 homes for detailed information and facts. Children from 9 homes may be produced to the respective child welfare committees for their individual cases. In 8 homes need immediate necessary action.

DETAILED FINDINGS OF THE INSPECTION (OUT OF 50 HOMES INSPECTED)

SAFETY & SECURITY OF CHILDREN

- In-adequate Security provision: *In 21 homes, security arrangements were in-adequate.* There is no sufficient number of security cameras installed in the homes. Though homes have cameras, the cameras are not installed at a strategic location. Not sufficient number of security guards engaged for protection of the homes.
- Violation of the provision under section 26 of the Juvenile Justice Care & protection of Children, Model Rules 2016 (Police Verification of the Staff): Police verification of the staff working in the child *care institutions have been not carried out in 14 homes.* It is required that the antecedent of the staff to be checked for if a staff was involved in

any criminal activity or abuse to any child. It may be mentioned under subsection 5 of section 26, JJ Rules, 2016 – Any person associated with a Child Care Institution should not have been convicted of an offence or have been involved in any immoral act or in act of child abuse or employment of child labour or in an offence involving moral turpitude or hold any office in any political party during his tenure. Keeping in view the importance of the provision, NCPCR has already issued advisory to the States in this regard.

STANDARD OF CARE & PROCEDURES

- **Child Care Institutions lacking minimum standard of Care: It was observed that 28 homes lack minimum standard of care and facilities.** There were no basic facility like; proper bathrooms, toilets, safe drinking water, air cooler during summer, gas stove for cooking etc. The Juvenile Justice Act provides for minimum standard of care for the children. However, in many homes the children are kept in unhygienic condition without providing them minimum standard of care.
- **Violation of Section 26 of the JJ Rules, 2016: Counselor/Psychologists/mental health expert at Child Care Institutions:** Children in need of care and protection need emotional care and their psycho-social issues to be dealt by a trained counselor. However, *this basic requirement was lacking in as many as in 27 Child Care Institutions.*
- **Section 40 (1), JJ Rules, 2016: Formation of Children’s Committees:** The JJ Rules provide that Person-in-charge of every institution for children shall facilitate the setting up of children’s committees for different age groups of children, that is in the age group of 6 to 10 years, 11 to 15 years and 16 to 18 years and these committees shall be constituted solely by the children. The provision has been provided to be implemented by the Child Care Institutions, however, it was found that *children’s committees were not constituted in 10 homes.*
- **Section 39 (1), JJ Rules, 2016: Formation of Management Committee:** It is provided that every Child Care Institution shall have a Management Committee for the management of the institution and for monitoring the progress of every child. It is the responsibility of the Child Care Institution to constitute the Committee .However, in the inspection it was *found that in 13 homes the Committee was not formed.*
- **Children are Not Produced to Child Welfare Committees:** As per section 31 of the Juvenile Justice Act, 2015, any child in need of care and protection may be produced

before the Child Welfare Committee (CWC) for further decision and order as per the need of the child. However, in the inspection exercise, it was found that there are two types of violation of this provision i.e. (a) there are children staying in Child Care Institutions without the knowledge of the Child Welfare Committee. (b) Children are not produced before the child welfare committee for months and years. It may be noted that as per Principle of repatriation and restoration (Sub-section Xiii of Section-3, JJ Act, 2015) - every child in the Juvenile Justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest. This provision has not been exercised in these homes. ***In 4 Homes children were not produced to CWC.***

INFRASTRUCTURE

- **Violation of Rule 29 of JJ Rules, 2016: (Physical Infrastructure -Segregation of children as per age and sex):** As per the Juvenile Justice Rules 2016, provision provided for separate children's homes for boys and girls in the age group of 7-11 years and 12-18 years (sub-section iv (b) of section 29) and separate facilities for children up to the age of six years with appropriate facilities for infants (sub-section iv (b) of section 29). However, this segregation is not maintained in 12 of the homes. Lack of age wise segregation can lead to abuse of the children especially the younger children can be harassed by the older children. Similarly, there has to be separate arrangement for boys and girls and should have distance in the living areas for boys and girls. **The situation demands for immediate action in 12 homes.**
- **Violation of Section 39 (11) of JJ Rules 2016: Children's Suggestion Book/box:** It is provided that a children's suggestion book shall be maintained in every institution where the complaints and action taken by the Management Committee are duly recorded and such action and follow up shall be communicated to the Children's Committees after every monthly meeting of the Management Committee. This is a crucial provision of grievance redressal to address the issues being faced by the children. However, ***in 22 homes, no suggestion book/box was found functional during the inspection.***
- **Violation of Section 61 (xix) of JJ Rules, 2016: Electricity back-up in the Home:** The Rules provide for making stand by arrangements for water storage, power back-up, inverter, generators. This is an important aspect to have power back up plan in case of electricity failure. ***It was found that 11 homes had no electricity back-up.***

- **Section 29 (6) Physical Infrastructure – Sickroom/First-aid Room:** Provision of Sickroom/First-aid room is provided in the Rules to take care of the sick children. However, *the provision was violated in 20 Homes.*
- **Section 29 (6) Physical Infrastructure – Counseling and Guidance Room:** Provision of Counselling Room is provided in the Rules for to provide or arrange for counseling of every child and ensure specific mental health interventions for those in need of such services, including separate rooms for counseling sessions within the premises of the institution and referral to specialized mental health centres, where necessary (section 34 (2) (xi) of JJ Rules, 2016). Therefore, counseling room *is one of the important infrastructural requirements lacking in 24 homes inspected by the team.*
- **Section 33 (iii) of the JJ Rules, 2016 : Provision of LP gas for cooking purpose:** Provision for cooking gas is provided in the Rules and it is to be kept safely in a separate area from away from living area of children in the kitchen. Cooking gas is a basic *requirement in the home, however, the facility was lacking in 17 homes during the inspection.*
- **Age appropriate games for children in the home:** Sports and games are important for development of children. Accordingly, provision has been provided under the JJ Rules, 2016. However, during the inspection *it was found that in 10 homes, there was no provision for age appropriate games.*
- **Coolers and Heaters: Facilities for coolers and heaters available for children:** Coolers and Heaters are also the infrastructural requirements for the children in the homes. Cooler needed especially a need given the hot climate of the State. However, it was found that, *in 32 homes no cooler was available for children.*
- **Display of 1098 – child help line:** 1098 is the universal number to address the issues of children in distress. Accordingly, Juvenile Justice Rules provides that this service and the number to be displayed near the telephone. However, it was found *that in 14 homes, the 1098 – child helpline was not displayed.*
- **Implementation of the track the missing child:** It is provided that, track the missing child programme is to be implemented by the child care institutions to upload the information about the missing/orphan/abandoned children on the portal. It was found that *in 20 homes, the programme was not implemented.*