

Juvenile Justice Boards (JJBs)

July 18, 2022

In news– Recently, Gurgaon school murder case, Supreme court of India has asked national and state child rights bodies to issue guidelines to facilitate JJBs in making the preliminary assessment.

Juvenile Justice Board (JJB)-

- **JJB is the concerned authority to deal with Children in Conflict with Law (JCL).** JCL means a child who is alleged to have committed an offence.
- **The State Government may, by notification in the Official Gazette, constitute for a district or a group of districts specified in the notification, one or more JJBs** for exercising the powers and discharging the duties conferred or imposed on such boards in relation to Juvenile in conflict with law under this act.
- **A Board shall consist of a metropolitan magistrate or a judicial magistrate of the first class,** as the case may be, and to **social workers** of whom at least one shall be a women, forming a Bench.c
- **Any child in and with conflict law is produced before JJB within 24 hours of custody.** JJB further does enquiry of the case and takes the decision in best interest of the Child.
- **Children in conflict with law who enter the juvenile justice system through JJB,** require residential care and protection during pendency of any inquiry are facilitated in Observation Homes.
- And the children in conflict with law committed by JJBs who require long term rehabilitation and protection are sent to Special Homes.

What was the case before the Supreme Court?

- In September 2017, a Class 2 student of a prominent school in Gurgaon was found murdered inside the school washroom.
- Haryana Police arrested a conductor of a school bus for the murder and claimed that he had confessed to the crime. However, the CBI, which took over the investigation, arrested a student of Class 11 at the school for the murder.
- The Supreme Court said on July 13, 2022 that while considering a child as an adult, one should look at his or her physical maturity, cognitive abilities, and social and emotional competencies.
- It rejected the view that if the child has the mental capacity to commit the offence, then he automatically has the capacity to understand the consequences of the offence as well.
- **It said that the “consequences” mentioned in Section 15 of the Act would not just be confined to the immediate consequence,** but it would also take within its ambit the consequences which may fall upon not only the victim as a result of the assault, but also on the family of the victim, on the child, his family, and that too not only immediate consequences but also the far reaching consequences in future.
- **The court also said that children may be geared towards instant gratification,** and may not be able to understand the long-term consequences of their actions.

Provisions of the law on trying a juvenile as an adult-

- **According to Section 15 of The Juvenile Justice (Care and Protection of Children) Act (JJ Act),** where a **child of 16 years of age or above has committed a heinous offence** – a crime for which the **minimum punishment is seven years imprisonment** – the JJB is required to “conduct a **preliminary assessment** with regard to his

mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence” before taking a decision whether the child needs to be tried as an adult.

- **The assessment is required to be done within three months** from the date of first production of the child before the JJB.
- **The apex court also said that when the JJB does not comprise a practising professional** with a degree in child psychology or child psychiatry, it would have to mandatorily seek the assistance of experts.
- **Prior to the 2015 amendment in the original JJ Act, all children below the age of 18 years were treated as juveniles.** The JJB is composed of a judicial officer and two social workers.

What happens when a juvenile is ordered to be treated as an adult?

- **The case is transferred before the children’s court.** As per Section 19 of the amended Act, **the court can pass a decision on whether there is a need for trial of the child as an adult**, or otherwise.
- A children’s court has to ensure that the child in conflict with the law is sent to a **“place of safety”** until he reaches the age of 21 years, and is only then transferred to jail.
- **The court can also order the conditional release of the child** after he attains the age of 21 years. Two important protections – protection from disqualification, and erasure of conviction record after a reasonable period – do not extend to a child who has been tried as an adult.
- **If the child is tried as an adult, the sentence can go up to life imprisonment**, but **if the child is tried by the board as a juvenile, the maximum sentence can only**

be three years in a special home.

Further

reading:

<https://journalsofindia.com/amendments-to-juvenile-justice-act/>