



## JUVENILE JUSTICE ACT : APPLICATION TO PROCEEDINGS INITIATED UNDER CHILDREN ACTS

THE CARE, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and the adjudication of certain matters relating to delinquents have been provided for in the Juvenile Justice Act 1986. It is a more sensitive and comprehensive legislation than its predecessors, viz., the Children Act 1960 enacted for Union territories and similar Acts of many states.<sup>1</sup> These earlier laws on the subject stand repealed under its section 63 subject, of course, to certain exceptions which are as follows. The repeal would not affect the previous operation of any law so repealed or anything duly done or suffered under it; any right, privilege, obligation or liability acquired, accrued or incurred under it; any penalty, forfeiture or punishment incurred in regard to any offence committed against it; or any investigation, legal proceeding or remedy in regard to any such right, privilege, obligation, liability, penalty, forfeiture or punishment. Any such investigation, legal proceeding or remedy could be instituted, continued or enforced and any such penalty, forfeiture or punishment imposed as if the Act had not been enacted.

In a case relating to neglected juveniles the Supreme Court delivered a judgment under Children Acts, the operative laws at the time, under which juvenile courts were authorised to deal with such juveniles as well. With the enforcement of the 1986 Act, it is obvious that the provisions of the earlier laws were repealed as chapter III of the Act provides for neglected juveniles. The power to deal with relevant matters under this chapter is vested in juvenile welfare boards; juvenile courts have nothing to do with them. In a far-reaching order passed in *Laxmi Kant Pande v. Union of India*,<sup>2</sup> dated 12 July 1990, the court, represented by Justices Misra, Punchhi and Agrawal, gave due recognition to the new legislation by modifying the judgment to the effect that boards, instead of juvenile courts under the old Act, would henceforth deal with the cases of neglected juveniles. It said:

[The] reference made in the main judgment to the Children's Act in regard to production of neglected juveniles and the procedure adopted to be followed in regard to suitable custody now vest in the Board. The main judgment shall, therefore, be deemed to have been modified by operation of the law and reference made to Juvenile

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1. See, for some of these Acts, S.N. Jain (ed.), *Child and the Law* 41-63 (1979) (Indian Law Institute).

2. Cri. misc. petition no. 3357/1989, 783, 1712/1713 & 2045/90. In W.P. (Cri.) no. 1171 of 1982.



Courts for such purposes shall be taken to be the Board under Juvenile Justice Act, 1986. We would like to clarify the position that as a result of the change in the law the Juvenile Courts under the Children Act would no longer deal with these matters and the Board constituted under the Juvenile Justice Act...shall be appropriate authority for such purpose. This alteration shall be operative from 1st of September, 1990 so that adequate notice will be available of this change....

The details of the main judgment are not given in the order. We may, however, safely presume that nothing has been pronounced in it which may fall under one or more exceptions of section 63 of the new Act. The order is an act of judicial wisdom in that it has implemented the new philosophy on juvenile justice.

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