

## *‘Restoring the Youth’*

### *Pan-India Campaign for identifying juveniles in prisons and rendering legal assistance - 2024*

#### **Background**

1. The issue of potential juveniles in prisons has been highlighted time and again. Legal framework has developed significantly for care and protection of children including children in conflict with law. However, despite preventive provisions available in the applicable laws, this issue remains a challenge in ensuring access to justice for all.
2. The Delhi High Court in *Court on its Own Motion vs. State & Ors.* (Crl.Ref. 1/2020) vide order dated 21.01.2022 observed that as per the Delhi Government’s submission around 800 children in conflict with law were transferred to juvenile homes over last five years. The Delhi High Court in *Court on its Own Motion vs. Dept. of Women and Child Development & Ors.* (W.P. (C) No. 8889 of 2011) vide order dated 11.05.2012 inter-alia mandated that “*if prisoner, from appearance, appears to be juvenile and the police officer has belief that the prisoner is a juvenile, he shall be produced before the JJB instead of criminal court.*” The Court in this matter also observed as under:

*“lodging of juveniles in the prison clearly amounts to violation of their fundamental rights guaranteed under Article 21 of the Constitution of India; contrary to the provisions of The Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the JJ Act) apart from adverse psychological impact on these children. Obviously, such a position is because of the reason that at the time of arrest of such persons, there is no proper age verification and had that been so, juveniles would not have been subjected to hardship of Adult Criminal Justice System.”*

3. NALSA’s ‘*Standard Operating Procedures on Access to Legal Aid Services to Prisoners and Functioning of Prison Legal Aid Clinics, 2022*’ states that the Secretary, DLSA shall make monthly visits to prisons and Chairperson, DLSA to make visits once in three months to prisons. The 2022 SOP also mandates the PLVs appointed at the Prison Legal Aid Clinics shall inter-alia inform the Secretary, DLSA about any undertrial prisoner appearing to be a minor. It states –

*“Where an undertrial appears to be a minor. If the person appears to be a minor, the PLV shall enquire about the age proof of the person. In case, the person claims to be below 18 years of age, the PLV shall immediately inform the Prison Superintendent and the DLSA Secretary. An application shall be filed immediately to the concerned court on behalf of the person by the DLSA requesting:*

- i. to initiate the proceeding to determine the age of the person and;*
- ii. to immediately transfer the person to the Observation Home under S.9(4) of*

*the Juvenile Justice (Care and Protection of Children) Act, 2015, while the age of the person is being determined by the court.”*

## **Objectives**

- i. Identification of –
  - (a) all persons in prison who claim to be minor (undertrial or convict) on the date of occurrence of offence, whose applications for claim of juvenility are either pending or not filed;
  - (b) all persons (undertrial or convict) in prison who appear to be a minor or claim to be a minor, whose applications for claim of juvenility and consequential transfer to a Child Care Institution (CCI) are either pending or not filed;
  - (c) all persons (undertrial or convict) in prison who were aged between 18 to 22 years as per the prison record on the date of the admission, for screening to identify potential minors on the date of the occurrence of the offence.
- ii. Filing of necessary applications/petitions before appropriate Courts and consequential transfer to Child Care Institutions (CCI) in identified cases.
- iii. Follow-up on the identified cases for timely disposal.

## **Campaign Layout**

1. Chairperson, DLSA will lead the campaign in their respective districts.
2. Secretary, DLSA will conduct awareness programmes on the campaign for the prisoners in the prisons of their district and supervise the campaign through prison visits.
3. DLSA will prepare 'District Information Report' as per the prescribed format in this document.
4. The report will be submitted to the SLSAs which will then share the 'State Information Report' with NALSA as per the prescribed format in this document.
5. DLSAs will ensure that necessary applications/petitions are filed before the Courts concerned in the identified cases and conduct regular follow-up on the progress of the applications.
6. DLSAs will prepare and send 'District Action Taken Report' on the final status of the claim of juvenility applications to the SLSA as per the prescribed format.
7. SLSAs will then send the 'State Action Taken Report' to NALSA.

## **Campaign Timeline**

**Campaign to be launched by Hon'ble Mr. Justice Sanjiv Khanna, Judge, Supreme Court of India & Executive Chairman, NALSA on 25.01.2024 at 05:00 PM (proposed).**

<b>Step</b>	<b>Date</b>	<b>Activity</b>
1.	24.01.2024	Introductory virtual meeting on the campaign chaired by Member Secretary, NALSA with the Member Secretary, SLSAs; Chairperson and Secretary, DLSAs.
2.	25.01.2024	Virtual Launch of the Campaign by Hon'ble Mr. Justice Sanjiv Khanna, Judge, Supreme Court of India & Executive Chairman, NALSA on 25.01.2024 at 05:00 PM (proposed).
3.	26.01.2024	Secretary, DLSA to conduct orientation programmes on the Campaign for the Jail Visiting Lawyers and Para-Legal Volunteers deputed at the Prison Legal Aid Clinics.
4.	27.01.2024 - 28.01.2024	Secretary, DLSA to organize awareness programmes on the Juvenile Justice law for prisoners in the jails of their district.
5.	28.01.2024 - 10.02.2024	Jail Visiting Lawyers and Para-Legal Volunteers to identify persons and record information as per the 'Information Register' as prescribed on pg. 4, coordinate with concerned agencies to collect the supporting documents, and file applications for claim of juvenility before the concerned Court.
6.	03.02.2024 - 04.02.2024	Secretary, DLSAs to visit prisons to supervise the progress of the campaign.
7.	14.02.2024	Secretary, DLSA to prepare and send the 'District Information Report' in the prescribed format to the SLSA.
8.	16.02.2024	SLSAs to send the 'State Information Report' in the prescribed format to NALSA.
9.	24.02.2024	DLSAs to send the 'District Action Taken Report' in the prescribed format to SLSA.
10.	25.02.2024	SLSAs to send the 'State Action Taken Report' in the prescribed format to NALSA.
11.	27.02.2024	Valedictory meeting chaired by the Member Secretary, NALSA with the Member Secretary, SLSAs; Chairperson and Secretary, DLSAs.

## **Information Register**

1. The Jail Visiting Lawyers and Para-Legal Volunteers will record the information of following two categories of prison inmates in a separate register titled ‘Information Register (*Prison Name*) – Restoring the Youth Campaign 2024’:
  - a. all persons in prison who claim to be minor (undertrial or convict) on the date occurrence of offence, whose applications for claim of juvenility are either pending or not filed;
  - b. all persons (undertrial or convict) in prison who appear to be a minor or claim to be a minor, whose applications for claim of juvenility and consequential transfer to a Child Care Institution (CCI) are either pending or not filed;
  - c. all persons (undertrial or convict) in prison who were aged between 18 to 22 years as per the prison record on the date of the admission, for screening to identify potential minors on the date of the occurrence of the offence.
2. The information is to be filled in the following format:

### **Information Register Format**

<b>Prison:</b> <b>District:</b> <b>DLSA Stamp with date:</b>						
<b>Sl. No.</b>	<b>Name</b>	<b>Case particulars</b>	<b>Age claimed by the accused / convict at the time of offence</b>	<b>Age at the time of offence as per prison / case / police record</b>	<b>Time spent in prison (in years and months)</b>	<b>Documents in support of the age, if any</b>
1						
2						
3						

## **Action**

1. The JVLs and PLVs to periodically submit the details of the persons identified to the concerned DLSA.
2. The Secretary, DLSA to assign the identified cases to the Legal Aid Defense Counsels or Panel Lawyer to for filing of appropriate applications.
3. Applications of persons appearing to be minors to be filed on urgent basis.
4. In cases where the accused/ convict has a private advocate, the assigned Panel Lawyer or LADC will coordinate with the concerned private lawyer for filing of the appropriate application and to submit reasons in writing where such an application could not be filed despite efforts.