

No. 24013/62/2012 – SC/ST–W
Government of India
Ministry of Home Affairs
Centre State Division

5th Floor, NDCC-II Building
Jai Singh road, New Delhi
Dated the 25th June, 2013

To

The Additional Chief Secretary/ Principal Secretary (Home)

**Sub : Advisory on Hon'ble Supreme Court's direction to file FIR in
case of Missing Children**

Sir/Ma'am,

Hon'ble Supreme Court while hearing a Writ Petition (Civil) no. 75 of 2012, on 10.05.2013, Bachpan Bachao Andolan vs Union of India has directed the following :

- (i)** In case of complaint with regard to any missing children; made in a police station, the same should be reduced into a First Information Report and appropriate steps should be taken to see that follow up investigation is taken up immediately thereafter.
- (ii)** In case of every missing child reported; there will be an initial presumption of either abduction or trafficking, unless, in the investigation, the same is proved otherwise.
- (iii)** Whenever any complaint is filed before the police authorities regarding a missing child, the same must be entertained under Section 154 Cr.P.C. However, even in respect of complaints made otherwise with regard to a child, which may come within the scope of Section 155 Cr.P.C., upon making an entry in the Book to be maintained for the purposes of Section 155 Cr.P.C., and after referring the information to the Magistrate concerned, continue with the inquiry into the complaint.
- (iv)** The Magistrate, upon receipt of the information recorded under Section 155 Cr.P.C., shall proceed, in the meantime, to take appropriate action under sub-

section (2), especially, if the complaint relates to a child and, in particular, a girl child.

- (v) Each police station should have, at least, one Police Officer, especially instructed and trained and designated as a Juvenile Welfare Officer in terms of Section 63 of the Juvenile Act. Special Juvenile Officer on duty in the police station should be present in shifts.
- (vi) Para-legal volunteers, who have been recruited by the Legal Services Authorities, should be utilized, so that there is, at least, one paralegal volunteer, in shifts, in the police station to keep a watch over the manner in which the complaints regarding missing children and other offences against children are dealt with.
- (vii) The State Legal Services Authorities should also work out a network of NGOs, whose services could also be availed of at all levels for the purpose of tracing and reintegrating missing children with their families which, in fact, should be the prime object, when a missing child is recovered
- (viii) Every found/recovered child must be immediately photographed by the police for purposes of advertisement and to make his relatives / guardians aware of the child having been recovered / found
- (ix) Photographs of the recovered child should be published on the website and through the newspapers and even on the T.V. so that the parents of the missing child could locate their missing child and recover him or her from the custody of the police.
- (x) Standard Operating Procedure must be laid down to handle the cases of missing children and to invoke appropriate provisions of law where trafficking, child labour, abduction, exploitation and similar issues are disclosed during investigation or after the recovery of the child, when the information suggests the commission of such offences.
- (xi) A protocol should be established by the local police with the High Courts and also with the State Legal Services Authorities for monitoring the case of a missing child.
- (xii) **Definition of Missing Children :** Missing child has been defined as a person below eighteen years of age, whose whereabouts are not known to the parents, legal guardians and any other person who may be legally entrusted with the custody of the child, whatever may be the circumstances/causes of disappearance. The child will be considered missing and in need of care and protection within the meaning of the later part of the Juvenile Act, until located and/or his/her safety/well being is established.

- (xiii)** In case a missing child is not recovered within four months from the date of filing of the First Information Report, the matter may be forwarded to the Anti-Human Trafficking Unit in each State in order to enable the said Unit to take up more intensive investigation regarding the missing child.
- (xiv)** The Anti-Human Trafficking Unit shall file periodical status reports after every three months to keep the Legal Services Authorities updated.
- (xv)** In cases where First Information Reports have not been lodged at all and the child is still missing, an F.I.R. should be lodged within a month from the date of communication of this Order and further investigation may proceed on that basis.
- (xvi)** Once a child is recovered, the police authorities shall carry out further investigation to see whether there is an involvement of any trafficking in the procedure by which the child went missing and if, on investigation, such links are found, the police shall take appropriate action thereupon
- (xvii)** The State authorities shall arrange for adequate Shelter Homes to be provided for missing children, who are recovered and do not have any place to go to. Such Shelter Homes or After-care Homes will have to be set up by the State Government concerned and funds to run the same will also have to be provided by the State Government together with proper infrastructure. Such Homes should be put in place within three months, at the latest. Any private Home, being run for the purpose of sheltering children, shall not be entitled to receive a child, unless forwarded by the Child Welfare Committee and unless they comply with all the provisions of the Juvenile Justice Act, including registration

It is requested that the above directions of the Hon'ble Supreme Court may be adhered to in letter and spirit and implementation at the ground level may closely be monitored to eradicate any loophole within the system.

Dr. (Smt) Praveen Kumari Singh
Director (SR)