

ASSESSING JUVENILITY A 'DELICATE TASK': SC

Relevant for: Developmental Issues | Topic: Rights & Welfare of Children - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

NEW DELHI, 03/08/2019: A view of Supreme Court of India during a hearing on Ayodhya issue at Supreme Court , as the the mediation process in the Ayodhya temple-mosque case has failed to evolve any solution, the Supreme Court said today, declaring daily hearings from August 6 in the decades-old dispute, in New Delhi on Friday . Photo: Sushil Kumar Verma / The Hindu SUPREME_COURT

The “delicate task” of deciding whether juveniles aged between 16 and 18, accused of heinous offences such as murder, can be tried like adults should be based on “meticulous psychological investigation” rather than be left to the discretion and perfunctory “wisdom” of juvenile justice boards and children’s courts across the country, the Supreme Court held in a judgment on Wednesday.

Initial assessment

Section 15 of the Juvenile Justice (Care and Protection of Children) Act of 2015 requires a “preliminary assessment” to be done of the mental and physical capacity of juveniles, aged between 16 and 18, who are involved in serious crimes.

The assessment is meant to gauge a child’s ability to understand the consequences of the offence and the circumstances in which he or she allegedly committed the offence.

If the Juvenile Justice Board is of the opinion that the juvenile should not be treated as an adult, it would not pass on the case to the children’s court and hear the case itself. In that case, if the child is found guilty, he would be sent to juvenile care for three years.

On the other hand, if the Board decides to refer the case to the children’s court for trial as an adult, the juvenile, if guilty, would even face life imprisonment.

‘Mental capacity’

“The report of the preliminary assessment decides the germane question of transferring the case of a child between 16 and 18 years of age to the children’s court. This evaluation of ‘mental capacity and ability to understand the consequences’ of the child in conflict with law can, in no way, be relegated to the status of a perfunctory and a routine task. The process of taking a decision on which the fate of the child in conflict with law precariously rests, should not be taken without conducting a meticulous psychological evaluation,” a Bench of Justices Dinesh Maheshwari and Vikram Nath observed.

The court discovered that there were neither guidelines nor a specific framework in place for conduct of the preliminary assessment.

Guidelines needed

“It appears expedient that appropriate and specific guidelines are put in place... We leave it open for the Centre and the National Commission for Protection of Child Rights and the State Commission for Protection of Child Rights to consider issuing guidelines or directions in this regard,” Justice Nath, who authored the judgment, ordered.

The court said the Board which conducts the assessment of the child should have at least one child psychologist. It should further take the assistance of experienced psychologists or psychosocial workers.

The apex court's judgment came while dismissing the appeals filed by the CBI and the relative of a Class 2 child who was allegedly found murdered in the washroom of his Gurugram school in 2017.

The suspect, a Class 9 student of the same school, underwent a preliminary assessment in which it was decided that he should be tried as an adult. The Bench found that his assessment was limited to an IQ test. The apex court upheld the High Court's decision to reverse the assessment and refer the case back to the Juvenile Justice Board for a fresh 'preliminary assessment' of the now 21-year-old.

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