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HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

Sr. No. 213

CJ Court

Case: **PIL No. 24 of 2015**

Shivan Mahajan

...Petitioner(s)

Through: Petitioner present in person

v/s

State of J&K & others

.... Respondent(s)

Through: Sh. Aseem Sawhney, AAG

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

1. Heard Sh. Shivan Mahajan, learned counsel, who has filed this petition and is appearing in person and Sh. Aseem Sawhney, learned Additional Advocate General for the respondents.
2. The petitioner, by means of this Public Interest Litigation, is seeking to espouse the cause of child rights under the provisions of the Commissions for Protection of Child Rights Act, 2005.
3. Various status reports have been filed from time to time pursuant to the directions issued by the Court.
4. In view of the said reports, it is apparent that the State Government has taken sufficient steps for the protection of child rights but still the cause of concern which remains is non-establishment of the State Commission for Protection of Child Rights.

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5. Sh. Shivan Mahajan submits that it is very necessary in every State to have a State Commission for Protection of Child Rights and so a direction be issued to the government for establishing one in the Union Territory as well.

6. He further points out that the National Commission is discussing the matter and shortly some guidelines are likely to be laid down in establishing a State Commission in J&K as well.

7. We have seen the provisions of the Commission for Protection of Child Rights Act, 2005 and find that Section 17 thereof envisages constitution of a body known as the State Commission for Protection of Child Rights.

8. Section 17 (1) of the Act which is relevant for our purpose, reads as under :-

*“17. Constitution of State Commission for Protection of Child Rights. – (1) A State Government may constitute a body to be known as the (name of the State) Commission for Protection of Child Rights to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.
.....”*

9. A bare reading of the aforesaid provision reveals that the State Government may constitute such a Commission but it is not mandatory for every State to do so.

10. In view of the aforesaid facts and circumstances, as establishment of the State Commission for Protection of Child Rights in the Union Territory of Jammu and Kashmir is the only surviving relief in the writ petition, we do not consider it proper to keep this petition alive any further and dispose of the same with the direction to the Government to consider the establishment of the State Commission for Protection of Child Rights in the light of the provisions of

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Section 17 of the Act and the Guidelines or the directions that may have been issued or likely to be issued by the National Commission for Protection of Child Rights.

11. The earlier consideration takes place is better.
12. The PIL is accordingly directed to be closed and consigned to records.

(JAVED IQBAL WANI)
JUDGE

(PANKAJ MITHAL)
CHIEF JUSTICE

Jammu
16.02.2021
Tilak

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