

Determinatin of Age in Juvenile Justice Act

Section 9 Procedure to be followed by a Magistrate who has not been empowered under this Act

(1) When a Magistrate, not empowered to exercise the powers of the Board under this Act is of the opinion that the person alleged to have committed the offence and brought before him is a child, he shall, without any delay, record such opinion and forward the child immediately along with the record of such proceedings to the Board having jurisdiction.

(2) In case a person alleged to have committed an offence claims before a court other than a Board, that the person is a child or was a child on the date of commission of the offence, or if the court itself is of the opinion that the person was a child on the date of commission of the offence, the said court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) to determine the age of such person, and shall record a finding on the matter, stating the age of the person as nearly as may be:

**Rakesh Kumar Verma VS State of
U.P.&Ors.,2000(4)AWC 2722**

Affidavit of a juvenile can not be taken in to account for the determination of his age .

Provided that such a claim may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such a claim shall be determined in accordance with the provisions contained in this Act and the rules made thereunder even if the person has ceased to be a child on or before the date of commencement of this Act.

Ashok kumar Mehra vs State of Punjab

AIR 2019 SC 1903

Accused can raise the plea of juvenility for the first time even before the Supreme Court. Even when he has not raised that plea before the trial court or the High Court.

(3) If the court finds that a person has committed an offence and was a child on the date of commission of such offence, it shall forward the child to the Board for passing appropriate orders and the sentence, if any, passed by the court shall be deemed to have no effect.

(4) In case a person under this section is required to be kept in protective custody, while the persons claim of being a child is being inquired into, such person may be placed, in the intervening period in a place of safety.

Section 94 Presumption and determination of age

(1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining--

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person

C.Doddanarayana Reddy vs Jayarama Reddy , **(2020) 4 SCC 659**

So far as the entries made in the official record by an official or person authorised in performance of official duties are concerned , they may be admissible under sec . 35 of evidence act but the court has a right to examine their probative value .

The authenticity of the entries would depend on whose information such entries stood recorded and what was his source of information . The entries in school register or school leaving certificate require to be proved in accordance with law .

Om Prakash vs State of Rajasthan (2012)5 SCC201

Though doctors examination of age is only an opinion but where such opinion is based on scientific medical test like ossification test and radiological examination it will be treated as strong evidence having corroborative value while determining age of alleged juvenile .

Nafees Ahmad vs State of U.P.2010

While holding enquiry to decide juvenility of a person , the court is bound to give appportunity to the parties to lead their evidence.

Relevant date for determination of juvenility under the JJ Act 2015 is the date of offence- as per sec. 2(13), 9 (2)and 14 of the JJ Act 2015 and Rule 12(7) of the JJ Rules 2016.

Thank you