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SHEELA BARSE

v.

UNION OF INDIA AND ORS.

SEPTEMBER 5, 1995

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[B.P. JEEVAN REDDY AND M.K. MUKHERJEE, JJ.]

Public Interest Litigation—Writ—Alleging deplorable conditions in jails detaining insane woman and children—Investigation—Order by Supreme Court—Implementation of—Directions for monitoring of.

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In a writ petition filed by the petitioner, this Court(i) appointed Commissioners to investigate and report on the deplorable conditions in which mentally ill and insane women and children were detained in the jails and (ii) passed several orders from time to time. With a view to monitoring the implementation of its orders this Court gave the following directions :

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1. The office shall prepare requisite number of sets of the record of this case in two parts. part-I shall contain the letter written by the petitioner, the orders passed by this Court from time to time and the reports of the Commissioners appointed by this Court. [352-E-F]

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2. The affidavits, counter affidavits, rejoinders, and further affidavits, if any along with their Annexures shall be separated for each State concerned. Any affidavits, reports or other documents filed by the Union of India may be included in each of such sets. This shall be treated as Part-II of the record. The cost of preparing both Parts-I and II shall be borne by the Union of India. [352-F-G]

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3. A copy of the record shall be communicated to each of the High Courts. Along with Part-I, Part II relating to that particular State shall also be enclosed. [353-A]

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4. The High Courts are requested to register the record so received by them as a Public Interest Litigation. The Hon'ble Chief Justice of each of the High Courts is requested to

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designate a Judge of that Court to deal with the matter. The High Courts shall make all such necessary and appropriate orders as may be warranted, from time to time, for proper implementation of the orders of this Court or as may be found necessary or appropriate to protect and improve the conditions obtaining in places where women and children - not accused or convicted of any crime - are detained. [353-B-C]

5. The High Court Legal Aid Committee of each of the High Courts shall be treated as the petitioner in the matter in that High Court. Relevant record shall be communicated to the respective Legal Aid Board in the High Court. The High Court Legal Aid and Advice Board will assist the High Court in the matter of monitoring compliance with the orders and directions made by this Court. [353-D-E]
6. The High Court of Assam shall ensure that the State of Assam complies with the several suggestions made in the report of the Commissioner and the order made by this Court on October, 3, 1994 on the basis of the said report. [353-G]

CRIMINAL ORIGINAL JURISDICTION : Criminal Miscellaneous Petition No. 505 of 1994.

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Writ Petition (CRL.) No. 237 of 1989.

(Under Article 32 of the Constitution of India.)

Harish N.Salve, S.N. Choudhary, N.N. Goswami, and V.C. Mahajan, S. Murlidhar, A. Sharan, A. K. Sinha, Ms. Shalini Kumar, Ms. Indu Malhotra, Ashok Srivastava, T.C. Sharma, Ms. Sushma Suri, Naresh K. Sharma, Ranbir Yadav, R.S. Suri, P. Parmeshwaran, Krishan Mahajan, K.V. Venkataraman, N. Sharma, M. Mudgal, D.K. Sinha and J. R. Dass for the Appearing parties.

The following Order of the Court was delivered :

A letter from Ms. Sheela Barse addressed to the Hon'ble Chief Justice of India with respect to the deplorable conditions in which mentally

A ill and insane women were locked up and kept in presidency jail, Calcutta, was registered as a writ petition and certain orders passed. Subsequently, Ms. Sheela Barse withdrew from the matter. In her place, the Supreme Court Legal Aid Committee was substituted. Several orders were passed by this Court from time to time. Commissioners were also appointed to investigate and report on the conditions obtaining in places where women and children were being detained. Over the years, this Court has also been monitoring the implementation of its orders.

When this matter was placed before us on August 21, 1995, it was suggested by Sri S. Muralidhar, learned counsel for the petitioner (Supreme Court Legal Aid Committee) and also by some of the learned counsel appearing for the respondents that it would be appropriate if the function of monitoring the implementation of the several orders passed by this Court is made over to respective High Courts. It was suggested that each High Court be requested to monitor and ensure proper and full implementation of the orders of this Court insofar as that particular State is concerned. We found that suggestion acceptable. Sri Muralidhar, learned counsel for the petitioner and Sri Harish Salve, learned counsel for the respondents have placed before us their suggestions. The following orders are made after hearing the learned counsel:

1. The office shall prepare requisite number of sets of the record of this case. The record shall be in two parts. Part-I shall contain the letter written by Ms. Sheela Barse (along with the enclosures thereto), the orders passed by this Court from time to time arranged in proper sequence and the reports of the Commissioners appointed by this Court, again in their proper sequence.

2. The office shall separate the affidavits, counter-affidavits, rejoinders and further affidavits, if any, along with their annexures with respect to each State separately. If there are any affidavits, reports or other documents filed by the Union of India, the same may be included in each of such sets. This shall be treated as Part-II of the record. Obviously, it will be separate for each State concerned herein.

3. The cost of preparing both Parts-I and II shall be borne by the Union of India. After the record is prepared as directed above, the cost thereof shall be intimated to the learned counsel for the Union of India in this case who shall communicate the same to the concerned authority. The payment shall be made into the office of this Court within three months

therefrom.

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4. The office shall communicate a copy of Part-I to each of the High Courts. Along with Part-I, Part-II relating to that particular State shall also be enclosed.

5. The High Courts are requested to register the record so received by them as a Public Interest Litigation. The Hon'ble Chief Justice of each of the High Courts is requested to designate a Judge of that Court to deal with the matter. The High Court shall made all such necessary and appropriate orders as may be warranted, from time to time, for a proper implementation of the orders of this Court. The High Court shall also be free to pass such other and further orders as may be found necessary or appropriate to protect and improve the conditions obtaining in places where women and children - not accused or convicted of any crime - are detained.

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6. The High Court Legal Aid Committee of each of the High Courts shall be treated as the petitioner in the matter in that High Court. Copies of Part-I (and Part-II, wherever applicable) shall be communicated to the respective Legal Aid Board in the High Court.

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The High Court Legal Aid and Advice Board will assist the High Court in the matter of monitoring compliance with the orders and directions made by this Court. It will be entitled to apply for such further orders and directions from the High Court as may be found necessary in the matters.

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7. It is made clear that the High Courts to whom the proceedings are being made over shall be fully free and competent to pass such further and make such further directions as they think appropriate in the light of the facts and circumstances obtaining in that particular State consistent with and to further the objectives underlying the orders of this Court.

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8. So far as the State of Assam is concerned, the High Court shall ensure that the State of Assam complies with the several suggestions made in the report of the Commissioner, Sri Gopal Subramaniam, and the order made by this Court on October 3, 1994 on the basis of the said report.

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With the above directions, the matter is closed.

T.N.A.

Disposed of.