

RE-INHUMAN CONDITIONS IN 1382 PRISONS

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(Writ Petition (Civil) No. 406 of 2013)

MAY 08, 2018

[MADAN B. LOKUR AND DEEPAK GUPTA, JJ.]

Prison: Under trial – Implementation of Standard Operating Procedure (SOP) for Under Trial Review Committee – Overcrowding in prisons – High courts to take up the issue of overcrowding in prisons as a suo moto writ petition – Vacancies in the prison staff – High Court to look into this issue as a suo moto writ petition – Government of India is conducting a study through the National Law University on women prisoners and their children – Ministry will consider the study report – State Government to notify and implement Model Rules called Model Uniform Rules for the Administration of Open Correctional Institutions – State Governments to try and utilize the existing capacity of these open prisons and if necessary increase the existing capacity of these open prisons in due course of time – Matter to be listed on 2.8.2018.

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CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil) No. 406 of 2013.

Under Article 32 of the Constitution of India.

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A. N. S. Nadkarni, ASG, Vibha Dutta Makhija, Sr. Adv., Saurabh Mishra, Ms. Aishwarya Bhati, S. S. Shamshery, AAGs, Gaurav Agrawal (AC), R. M. Bajaj, Ms. Binu Tamta, R. Bala, Ms. Sushma Suri, B. K. Prasad, Ms. Sushma Manchanda, M. K. Maroria, Ms. Aarti Sharma, Santosh Kr. Vishwakarma, B. V. Balaram Das, Guntur Prabhakar, Ms. Prerna Singh, Gautam Prabhakar, Shuvodeep Roy, Sayooj Mohandas M., M. Shoeb Alam, Ms. Fauzia Shakil, Ujjwal Singh, Mojahid Karim Khan, Atul Jha, Sandeep Jha, Dharmendra Kumar Sinha, Anshuman Srivastava, S. S. Rebello, Apoorva Bhumes, Ms. Hemantika Wahi, Ms. Mamta Singh, Ms. Vishakha, Ms. Shodhika Sharma, Ms. Pallavi Baghel, Ajay Marwah, Mool Singh, B. K. Satija, Sanjay Kr. Visen, Tapesh Kumar Singh, Mohd. Waquas, Aditya Pratap Singh, V. N. Raghupathy, Parikshit P. Angadi, C. K. Sasi, Arjun Garg, Mahaling Pandarge, Nishant R. Katneshwarkar, Leishangthem Roshmani Kh., Ms. Maibam Babina, Ranjan Mukherjee, Daniel Stone Lyngdoh,

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- A K. V. Kharlyndoh, K. N. Madhusoodhanan, Nitya Madhusoodhanan, T. G. Narayanan Nair, Mrs. K. Anatoli Sema, Edward Belho, Amit Kumar Singh, K. Luikang Michael, Z. H. Isaac Haiding, Ms. Anindita Pujari, Ms. Kavita Bhardwaj, Ashok Panigrahi, Ms. Uttara Babbar, Ms. Akanksha Choudhary, Ms. Bhavna Duhoon, Amit Sharma, Sandeep Singh, Ankit Raj, Ms. Ruchi Kohli, Ms. Pragati Neekhara, Aruna Mathur,
- B Avneesh Arputham, Ms. Anuradha Arputham, Ms. Simran Jeet (for M/s. Arputham Aruna & Co.), Shuvodeep Roy, Rituraj Biswas, M. Yogesh Kanna, Sujatha Bagadhi, Garvesh Kabra, Ms. Rachana Srivastava, Ms. Monika, Ms. Sudipta, Suhaan Mukerji, Harsh Hiroo Gusahanbi, Vishal Prasad, Ms. Astha Sharma, Amjid Maqbool, Amit
- C Verma (for PLR Chamers and Co.), Bhupesh Narula, K. V. Jagdishvaran, Mrs. G. Indira, M. S. Doabia, S. S. Rawat, V. G. Pragasam, S. Prabu Ramasubramanian, S. Manuraj, T. N. Rama Rao, Hitesh Kumar Sharma, T. Veera Reddy, Ms. Ritu Kumar, Ms. Pragya Singh, Satya Mitra, Kamal Mohan Gupta, P. Venkat Reddy, PRashant Kr. Tyagi (for M/s. Venkat
- D Palwai Law Associates), Pukhrambam Ramesh Kumar, Himanshu Agarwal, Yash S. Vijay, Advs. for the appearing parties.

The following Order of the Court was passed :

ORDER

E We have seen the Note of Hearing submitted by learned *amicus curiae*.

We have heard learned *amicus curiae* as well as learned Additional Solicitor General and other learned counsel.

There are six issues for consideration today:

F 1. Under Trial Review Committee

It is stated by Mr. Surinder S. Rathi, Director, NALSA that the Standard Operating Procedure (SOP) for Under Trial Review Committee is ready.

G Learned *amicus curiae* says that he will look into it and perhaps have some further discussion with NALSA.

In any event, the SOP will be finalized on or before 30th June, 2018.

H As soon as the SOP is finalized, it should be circulated to all the District Judges and Under Trial Review Committees for implementation.

If and when there are some constraints in the implementation of the SOP, it should be brought to the notice of NALSA so that necessary or corrective measures can be taken. A

No further orders are required to be passed on this issue.

We compliment Mr. Rathi and others in NALSA associated in the drafting of the SOP and place on record our appreciation for their efforts. B

2. Overcrowding in Prisons

It appears from the Note given by learned *amicus curiae* that the issue of overcrowding in prisons is not being taken seriously by the prison authorities. There are several prisons where the overcrowding is well beyond 100% and in some cases it exceeds 150%. C

In our opinion, this matter should be considered by each High Court independently with the assistance of the State Legal Services Authority/ High Court Legal Services Committee so that there is some sanity in the overcrowding in prisons since it involves violation of human rights. D

Under the circumstances, we request the Chief Justice of every High Court to take up the issue of overcrowding in prisons as a *suo moto* writ petition.

The Secretary General should send a copy of this order to the Registrar General of every High Court for necessary steps in this regard and report back to us. E

3. Vacancies in the prisons staff

From the Note of learned *amicus curiae*, we find that once again there is little interest being shown by the prison authorities and the State Governments to recruit staff in prisons. This, of course, has its own impact on prison administration. F

Looking to the Note of learned *amicus curiae*, we are of opinion that this matter should also be taken up by each High Court. G

Accordingly, we request the Chief Justice of every High Court to take up this matter as a *suo moto* writ petition.

The Secretary General should send a copy of this order to the Registrar General of every High Court for necessary steps in this regard and report back to us. H

A 4. Women prisoners and their children

Learned Additional Solicitor General informs us that the Ministry of Women and Child Development, Government of India is conducting a study through the National Commission for Women and the National Law University, Delhi on women prisoners and their children. He says that as per his information the Study will be completed by 30th June, 2018 and the Ministry would thereafter like to look into the Study and take necessary steps. He further says that the consideration will take about 2 or 3 weeks.

For this purpose, list the matter on 2nd August, 2018.

C 5. Training Manuals

The Bureau of Police Research and Development has prepared some training manuals for the prison officers and prison warders.

D We expect the National Police Academy and the State Police Academies to take advantage of the excellent effort put in by the Bureau of Police Research and Development and conduct training courses appropriately.

E As and when the Bureau of Police Research and Development feels it necessary to prepare other training manuals for the benefit of the prison staff, it is, of course, at liberty to do so, but should bring it to the notice of learned *amicus curiae* for information.

No further orders are required to be passed on this issue.

6. Open Prisons

F It is stated by learned Additional Solicitor General that steps are being taken to encourage setting up of open prisons.

In fact, Model Rules called the Model Uniform Rules for the Administration of Open Correctional Institutions have been framed.

G As far as the Union of India is concerned, these Rules are final. Learned Additional Solicitor General says that these Model Rules will be circulated to all the State Governments for notification and implementation.

H We expect that on receipt of these Model Rules, necessary steps will be taken by the State Governments to notify and implement these Rules faithfully and sincerely.

It is submitted by learned *amicus curiae* that there are already 63 open prisons in different parts of the country, but the existing capacity is not being fully utilized. A

We expect the State Governments concerned to not only try and utilize the existing capacity of these open prisons and if necessary increase the existing capacity of these open prisons in due course of time. The State Governments and Union Territory Administrations should also seriously consider the feasibility of establishing open prisons in as many locations as possible. B

List the matter on 2nd August, 2018.

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Devika Gujral

Directions issued.