

ITEM NO.1

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s).406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

Date : 02-08-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Gaurav Agrawal, Adv. (A.C.)

For Petitioner(s) By Post

For Respondent(s) Mr. Tushar Mehta, ASG
Ms. Binu Tamta, Adv.
Mr. R.M. Bajaj, Adv.
Mr. R. Bala, Adv.
Ms. Sushma Suri, AOR
Mr. B.K. Prasad, Adv.
Ms. Sushma Manchanda, Adv.
Mr. M.K. Maroria, Adv.
Ms. Aarti Sharma, Adv.
Mr. B.V. Balaram Das, Adv.
Mr. G.S. Makker, Adv.

For States of
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Ms. Prerna Singh, Adv.

Arunachal Pradesh Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

Assam Mr. Tushar Mehta, ASG
Mr. Shuvodeep Roy, Adv.
Mr. Rajat Nair, Adv.
Mr. Sayooj Mohandas M., Adv.

Bihar Mr. M. Shoeb Alam, Adv.
Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Chhattisgarh Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

Goa Mr. Anshuman Srivastava, Adv.

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Sikkim	<p>Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. for M/s Arputham Aruna & Co.</p>
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West Bengal	<p>Mr. Suhaan Mukerji, Adv. Mr. Vishal Prasad, Adv. Ms. Astha Sharma, Adv. Ms. Kajal Dalal, Adv. Mr. Amit Verma, Adv. For PLR Chambers and Co.</p>
A&N Islands	<p>Mr. Bhupesh Narula, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.</p>
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Mr. Prashant Kr. Tyagi, Adv.
for M/s. Venkat Palwai Law Associates

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned *amicus curiae* and have gone through the Note of Hearing prepared by him. We have also heard Mr. Surinder S. Rathi, Director, NALSA.

The office report is to the effect that all the High Courts have initiated *suo motu* petitions or are already dealing with the petitions relating to overcrowding in prisons.

We trust that the High Courts are looking into the matter seriously.

Under Trial Review Committee

The Under Trial Review Committees have been set up in every district of the country or are at least expected to be set up in every district of the country pursuant to our orders.

We would request the High Courts to consider the functioning of the Under Trial Review Committees along with the *suo motu* petitions since they are dealing with overcrowding and the release of under trial prisoners is also one of the concerns relating to overcrowding in prisons.

NALSA has prepared an SOP with regard to the functioning of the Under Trial Review Committee. In our opinion, the document will need to be redrafted and we

have requested Mr. Rathi to take assistance and to have the document redrafted so that it can be used by the Under Trial Review Committees as well as by the High Courts who will be dealing with the functioning of the Under Trial Review Committees.

Women prisoners and their children

The issue of children of women prisoners is an extremely serious issue. It has been pointed out by learned *amicus curiae* that he has visited a prison in Faridabad, Haryana where he learnt that children of women prisoners who are below six years of age are not allowed to leave the prisons. This is hardly conducive to their well-being and health.

There is another category of such children who have crossed the age of six years and they are released from prison, but there is nothing to indicate how such children are looked after. Surely, these children cannot be left to fend for themselves just because they are six years of age when their mother is in prison.

The third category of children are minors above six years of age and whose mother is in custody. Such children also need to be looked after since their father or any next of kin, etc. may not be there to look after them.

In view of this, we have suggested to learned *amicus curiae* that it might be appropriate if a Committee is appointed to look into this issue in great depth with the

assistance of psychologists, social scientists and experts in different fields so that some pragmatic policy is framed for looking after such children.

Learned *amicus curiae* says that he would like to think about it and get back to us on the next date of hearing.

Board of Visitors

It is stated by learned *amicus curiae* in his Note for Hearing that there are several States where the Board of Visitors have not been appointed. We have been informed that even in Tihar Jail, Delhi, the appointment of Board of Visitors has not been notified. In any case, non-official members are not included in Board of Visitors. It is for this reason that perhaps the conditions in prisons are pathetic and prompted a former Chief Justice of India to write to this Court to look into this issue.

The appointment of Board of Visitors that regularly visits jails is an absolute necessity and it is also provided for in the Model Prison Manual prepared by the Ministry of Home Affairs, Government of India. We do not see why an acceptable document prepared by the Ministry of Home Affairs should not be followed by the Prison Departments. We are informed that the Ministry of Home Affairs has also issued advisories on appointment of visitors, but obviously they are not being followed.

List the matter on 8th August, 2018.

Training Manuals and Open Prisons

The issue of training manuals and open prisons will also be taken up on 8th August, 2018.

IA No.112556/2017 & 67234/2018

No orders are required to be passed in these two applications which are disposed of accordingly.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER

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COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. No.105821/2018 in
Writ Petition(s)(Civil) No(s).406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

(APPLICATION FOR DIRECTIONS BY COLLABORATE NETWORK FOR RESEARCH AND
CAPACITY BUILDING)

Date : 02-08-2018 This application was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Gaurav Agrawal, Adv. (A.C.)

For Petitioner(s) By Post

For Respondent(s) Mr. Tushar Mehta, ASG
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Mr. M.K. Maroria, Adv.
Ms. Aarti Sharma, Adv.
Mr. B.V. Balaram Das, Adv.
Mr. G.S. Makker, Adv.

Assam Mr. Tushar Mehta, ASG
Mr. Shuvodeep Roy, Adv.
Mr. Rajat Nair, Adv.
Mr. Sayooj Mohandas M., Adv.

UPON hearing the counsel the Court made the following
O R D E R

IA No.105281

Issue notice.

Mr. Shuvodeep Roy, learned counsel accepts notice on
behalf of State of Assam.

Ms. Binu Tamta, learned counsel accepts notice on behalf of Union of India.

A large number of prayers have been made in this application. We are not concerned with many of those prayers. Our concern is only limited to the living conditions of those who are kept in the detention centres in Assam.

It has been pointed out that notifications have been issued to the effect that some detention centres are actually located inside the premises of the prisons. Therefore, detention centres are not completely independent of prisons.

Be that as it may, we would like to know from the State Government as well as from the Central Government the facilities and living conditions of the persons in the detention centres. We make it clear that our enquiry is limited only to this aspect.

It is stated by Mr. Surinder S. Rathi, Director, NALSA who is present in Court, that legal aid is being provided to the persons who are housed in the detention centres. This may also be confirmed since it is a vital part of Article 21 of the Constitution of India.

List the application on 24th August, 2018.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER