

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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

RE-INHUMAN CONDITIONS IN 1382 PRISONS

RE-INHUMAN CONDITIONS IN 1382 PRISONS VS Petitioner(s)

VERSUS

STATE OF ASSAM & ORS. Respondent(s)

Date : 10-10-2017 This matter 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

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Mr. Kamal Mohan Gupta, AOR

Applicant

Mr. Colin Gonsalves, Sr. Adv.

Ms. Ritu Kumar, Adv.

Mr. Satya Mitra, Adv.

Ms. Anitha Shenoy, Adv.

Ms. Srishti Agnihotri, Adv.

UPON perusing papers the Court made the following

O R D E R

The learned *Amicus* has given us a Note dated 10.10.2017 containing the proforma / questionnaire prepared by him for responses to be given by the States on various aspects regarding prison and prison management. The learned *Amicus* says that he has circulated the proforma to the Ministry of Home Affairs yesterday itself i.e. 09.10.2017 and now he will circulate it to the State Governments also.

The learned Attorney General says that the concerned officers of the Ministry of Home Affairs will render all possible assistance in finalizing proforma / questionnaire within a period of 10 days and will also advise the State Governments to render all necessary assistance to the learned *Amicus* so that the proforma / questionnaire can be finalized within ten days.

We also request learned counsel appearing for the State Governments and the Union Territories who are present in Court today to give necessary instructions to the concerned officials.

We find it necessary to give only ten days since the affidavit filed by NALSA on or about 11.08.2017 indicates that a very large

number of persons are still in prison in complete violation of their rights under Article 21 of the Constitution. This situation simply cannot be accepted.

The learned Attorney General suggests, and we accept his suggestion, that in view of the affidavit filed by NALSA, three State Governments i.e. States of Madhya Pradesh, Maharashtra and Uttar Pradesh should file an affidavit within ten days explaining why the recommendations of the Member Secretary of the District Legal Services Authority and the Under Trial Review Committee are not accepted and why persons are not released even though there is a recommendation for their release by the Member Secretary, District Legal Services Authority as well as by the Under Trial Review Committee which includes among others the District Judge, the Superintendent of Police as well as the District Magistrate.

The affidavits be filed by the State Governments positively on or before 25th October, 2017. We make it absolutely clear that extension of time will not be granted. If necessary, we may be required to summon the Chief Secretary of these three States as suggested by the learned Attorney General if there is no satisfactory answer about why persons are not being released in spite of the recommendations made.

We are compelled to pass this order since we have been shown figures from the affidavit filed by NALSA which indicate a pretty shocking state of affairs.

We may also mention that in several instances more persons are released than are recommended either by the Member Secretary, District Legal Services Authority or by the Under Trial Review

Committee. This should also be explained in the affidavit.

List the matter on 31st October, 2017.

List I.A. No. /2017 (Application for clarification/intervention) filed by Ms. Anitha Shenoy along with this matter.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER