

ITEM NO.50

COURT NO.8

CORRECTED COPY
SECTION PIL(W)S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSWrit Petition(s) (Civil) No(s). 406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

(With appln. For exemption from filing O.T. and intervention and seeking waiver of cost imposed vide order dated 04.04.2016 and recalling the Court's Order dated 04.04.2016).

Date : 06/05/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE N.V. RAMANA

Mr. Gaurav Agarwal, Adv. (Amicus Curiae)

For Petitioner(s) By Post, Adv.

For Respondent(s) Mr. N.K. Kaul, ASG
Ms. Bina Tamta, Adv.
Mr. R.M. Bajaj, Adv.
Mr. Rajiv Singh, Adv.
Ms. Sushma Suri, Adv.
Mrs. Anil Katiyar, Adv.

Mr. Rajesh Kumar Goel, Director, NALSA

For Karnataka Mr. V.N. Raghupathy, Adv.
Mr. Parikshit P. Angadi, Adv.For West Bengal Mr. Soumik Ghosal, Adv.
Mr. Parijat Sinha, Adv.For Chattisgarh Ms. Shashi Juneja, Adv.
Ms. Apoorv Kurup, Adv.
Ms. Sakshi Kakkar, Adv.
Mr. C.D. Singh, Adv.
Ms. Sanmya, Adv.
Mr. Rohit Rathi, Adv.For State of Haryana Mr. B.K. Satija, AAG
Mr. Sanjay Kr. Visen, Adv.For Jharkhand Mr. Tapes Kumar Singh, Adv.
Mr. Mohd. Waquas, Adv.

For Arunachal Pradesh	Mr. Anil Shrivastav Mr. Rituraj Biswas, Adv.
For U.T. Chandigarh	Mr. Nikhil Goel, Adv. Mr. Ashutosh Ghose, Adv. Mr. Chandra Prakash, Adv.
For Maharashtra	Mr. Amol Chitale, Adv. Mr. Nishant Ramakant Rao Katneswakar, Adv.
For A.P.	Mr. Guntur Prabhakar, Adv. Ms. Prerna Singh, Adv.
For U.P.	Ms. Pragati Neekhara, Adv. Mr. Utkarsh Sharma, Adv.
For Puducherry	Mr. V.G. Pragasam, Adv. Mr. Prabu Ramasubramanian, Adv.
For Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Mr. Yusuf Khan, Adv. M/s Arputham, Aruna & Co.
For Mizoram	Mr. K.N. Madhusoodhanan, Adv. Mr. T.G.N. Nair, Adv.
For Tamil Nadu	Mr. B. Balaji, Adv. Mr. Muthuvel Palani, Adv.
For Nagaland	Mr. Yashank Adhyaru, Sr. Adv. Mrs. K. Enatoli Sema, Adv. Mr. Edward Belho, Adv. Mr. Amit Kumar Singh, Adv.
For UT of Andaman & Nicobar Admn.	Mr. Balasubramanian, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.
For Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Ashok Kr. Misra, Adv. Mr. Naresh Kr. Gaur, Adv. Mr. B. Khushbansi, Adv. Mr. Ashok Kr. Singh, Adv.
For Rajasthan	Mr. S.S. Shamsbery, AAG Mr. Amit Sharma, Adv. Mr. Prateek Yadav, Adv. Ms. Anu Dixit Kaushik, Adv.

Ms. Apoorva Bhumesh, Adv.

Mr. Anip Sachthey, Adv.

M/s Corporate Law Group

Ms. G. Indira, Adv.

Ms. Rachana Srivastava, Adv.

Mr. B. Balaji, Adv.

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

In I.A. Nos.3, 4 and 5 of 2016

We have learned counsel for the applicants.

The costs imposed by our order dated 04.04.2016 are waived.

However, learned counsel very graciously say that an amount of Rs.25,000/- will be given to the Supreme Court Legal Services Committee for utilization for juvenile justice issues.

Four weeks' time is granted for depositing the amount with Supreme Court Legal Services Committee. The amount shall be utilized for juvenile justice issues.

Four weeks' time is finally granted to the States which have not yet deposited the costs.

Writ Petition (Civil) No.406 of 2013

We have heard learned counsel for the parties and learned amicus curiae.

It is submitted by learned Amicus Curiae that the Manual for Juveniles may take some more time for preparation. He estimates about three months time for completing the exercise.

With regard to over-crowding in prisons, learned Amicus submits that the extent of over-crowding in each jail

needs to be identified rather than looking at the figures relating to the entire State. He submits that in the first instance the States be directed to identify those jails in which over-crowding is to the extent of 150% or more.

Learned Additional Solicitor General supports this submission that prisons in which there is over-crowding to the extent of 150% and above should be identified by the States.

Accordingly, we direct that the States particularly the Inspector General of Prisons should urgently identify those jails in the respective State where over-crowding is to the extent of 150% and above and provide the information to the learned Additional Solicitor General as well as to the learned Amicus Curiae. In addition, the States and the Inspector General of Prisons should prepare a Plan of Action either to reduce over-crowding or to augment the infrastructure so that there is more space available in the prisons. The cut-off date for calculating the over-crowding will be 30th April, 2016.

Learned Amicus Curiae has also suggested that the under-trial Review Committee, in addition to the work that it is already doing as earlier directed shall also consider the additional suggestions given by the learned Amicus Curiae which are as follows:

The committee will examine the cases of undertrials who

- a) Become eligible to be released on bail under Section 167(2)(a)(i)&(ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of section 19 or section 24 or section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days;
- b) Are imprisoned for offences which carry a maximum punishment of 2 years;
- c) Are detained under Chapter VIII of the Criminal Procedure Code i.e. under Sections

107, 108, 109 and 151 of Cr.P.C.;

d) Become sick or infirm and require specialized medical treatment (S.437 of the Code);

e) Women offenders (S.437 of the Code);

f) Are first time male offenders between the ages 19 and 21 who are in under trial custody for offences punishable with less than 7 years of imprisonment and have suffered atleast 1/4th of the maximum sentence possible;

g) Are of unsound mind and must be dealt under Chapter XXV of the Code;

h) Are eligible for release under Section 437(6) of the Code, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of sixty days from the first date fixed for taking evidence in the case;

The Member Secretary of NALSA is present in Court and he will ensure that this communication is sent to the Member Secretary of the States Legal Services Authority. Learned counsel for the States and Union Territories should communicate this order to the States and Union Territories and Inspectors General of Police(Prisons).

With regard to unnatural deaths in prisons, list the matter for hearing on 3rd August, 2016 as Item No.1.

(Madhu Bala)
Court Master

(Jaswinder Kaur)
Court Master

ITEM NO.50

COURT NO.8

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

(With appln. For exemption from filing O.T. and intervention and seeking waiver of cost imposed vide order dated 04.04.2016 and recalling the Court's Order dated 04.04.2016).

Date : 06/05/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE N.V. RAMANA

Mr. Gaurav Agarwal, Adv. (Amicus Curiae)

For Petitioner(s) By Post, Adv.

For Respondent(s) Mr. N.K. Kaul, ASG
Ms. Bina Tamta, Adv.
Mr. R.M. Bajaj, Adv.
Mr. Rajiv Singh, Adv.
Ms. Sushma Suri, Adv.
Mrs. Anil Katiyar, Adv.

Mr. Rajesh Kumar Goel, Director, NALSA

For Karnataka Mr. V.N. Raghupathy, Adv.
Mr. Parikshit P. Angadi, Adv.

For West Bengal Mr. Soumik Ghosal, Adv.
Mr. Parijat Sinha, Adv.

For Chattisgarh Ms. Shashi Juneja, Adv.
Ms. Apoorv Kurup, Adv.
Ms. Sakshi Kakkar, Adv.
Mr. C.D. Singh, Adv.
Ms. Sanmya, Adv.
Mr. Rohit Rathi, Adv.

For State of Haryana Mr. B.K. Satija, AAG
Mr. Sanjay Kr. Visen, Adv.

For Jharkhand Mr. Tapes Kumar Singh, Adv.
Mr. Mohd. Waquas, Adv.

For Arunachal Pradesh	Mr. Anil Shrivastav Mr. Rituraj Biswas, Adv.
For U.T. Chandigarh	Mr. Nikhil Goel, Adv. Mr. Ashutosh Ghose, Adv. Mr. Chandra Prakash, Adv.
For Maharashtra	Mr. Amol Chitale, Adv. Mr. Nishant Ramakant Rao Katneswakar, Adv.
For A.P.	Mr. Guntur Prabhakar, Adv. Ms. Prerna Singh, Adv.
For U.P.	Ms. Pragati Neekhara, Adv. Mr. Utkarsh Sharma, Adv.
For Puducherry	Mr. V.G. Pragasam, Adv. Mr. Prabu Ramasubramanian, Adv.
For Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Mr. Yusuf Khan, Adv. M/s Arputham, Aruna & Co.
For Mizoram	Mr. K.N. Madhusoodhanan, Adv. Mr. T.G.N. Nair, Adv.
For Tamil Nadu	Mr. B. Balaji, Adv. Mr. Muthuvel Palani, Adv.
For Nagaland	Mrs. K. Enatoli Sema, Adv. Mr. Edward Belho, Adv. Mr. Amit Kumar Singh, Adv.
For UT of Andaman & Nicobar Admn.	Mr. Balasubramanian, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.
For Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Ashok Kr. Misra, Adv. Mr. Naresh Kr. Gaur, Adv. Mr. B. Khushbansi, Adv. Mr. Ashok Kr. Singh, Adv.
For Rajasthan	Mr. S.S. Shamsbery, AAG Mr. Amit Sharma, Adv. Mr. Prateek Yadav, Adv. Ms. Anu Dixit Kaushik, Adv.

For Tripura Mr. Gopal Singh, Adv.
Mr. Rituraj Biswas, Adv.
Mr. Aditya Raina, Adv.

For M.P. Mr. Sunny Choudhary, Adv.
Mr. Mishra Saurabh, Adv.

For Telangana Mr. S. Udaya Kumar Sagar, Adv.
Mr. Krishna Kumar Singh, Adv.

For H.P. Mr. Suryanarayana Singh, Sr. Adv.
Ms. Pragati Neekhara, Adv.

For Mizoram Mr. Pragyam Sharma, Adv.
Mr. Shikhar Garg, Adv.
Mr. P.V. Yogeswaran, Adv.

Mr. T.V.L. Ramachari, Adv.
Mr. K.V.L. Raghavn, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. P.V. Yogeswaran, Adv.

For Goa Mr. Anshuman Srivastava, Adv.

Ms. Hemantika Wahi, Adv.

Mr. Ashok Panigrahi, Adv.

Mr. Balaji Srinivasan, Adv.

Mr. Chandra Prakash, Adv.

Mr. D. Mahesh Babu, Adv.

Mr. Gopal Singh, Adv.

Mr. Kamal Mohan Gupta, Adv.

Mr. Kuldip Singh, Adv.

Mr. Mishra Saurabh, Adv.

Mr. Samir Ali Khan, Adv.

Mrs. Anil Katiyar, Adv.

Mr. Sudarshan Singh Rawat, Adv.

Mr. Sunil Fernandes, Adv.

Ms. Apoorva Bhumes, Adv.

Mr. Anip Sachthey, Adv.

M/s Corporate Law Group

Ms. G. Indira, Adv.

Ms. Rachana Srivastava, Adv.

Mr. B. Balaji, Adv.

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

In I.A. Nos.3, 4 and 5 of 2016

We have learned counsel for the applicants.

The costs imposed by our order dated 04.04.2016 are waived.

However, learned counsel very graciously say that an amount of Rs.25,000/- will be given to the Supreme Court Legal Services Committee for utilization for juvenile justice issues.

Four weeks' time is granted for depositing the amount with Supreme Court Legal Services Committee. The amount shall be utilized for juvenile justice issues.

Four weeks' time is finally granted to the States which have not yet deposited the costs.

Writ Petition (Civil) No.406 of 2013

We have heard learned counsel for the parties and learned amicus curiae.

It is submitted by learned Amicus Curiae that the Manual for Juveniles may take some more time for preparation. He estimates about three months time for completing the exercise.

With regard to over-crowding in prisons, learned Amicus submits that the extent of over-crowding in each jail needs to be identified rather than looking at the figures

relating to the entire State. He submits that in the first instance the States be directed to identify those jails in which over-crowding is to the extent of 150% or more.

Learned Additional Solicitor General supports this submission that prisons in which there is over-crowding to the extent of 150% and above should be identified by the States.

Accordingly, we direct that the States particularly the Inspector General of Prisons should urgently identify those jails in the respective State where over-crowding is to the extent of 150% and above and provide the information to the learned Additional Solicitor General as well as to the learned Amicus Curiae. In addition, the States and the Inspector General of Prisons should prepare a Plan of Action either to reduce over-crowding or to augment the infrastructure so that there is more space available in the prisons. The cut-off date for calculating the over-crowding will be 30th April, 2016.

Learned Amicus Curiae has also suggested that the under-trial Review Committee, in addition to the work that it is already doing as earlier directed shall also consider the additional suggestions given by the learned Amicus Curiae which are as follows:

The committee will examine the cases of undertrials who

- a) Become eligible to be released on bail under Section 167(2)(a)(i)&(ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of section 19 or section 24 or section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days;
- b) Are imprisoned for offences which carry a maximum punishment of 2 years;
- c) Are detained under Chapter VIII of the Criminal Procedure Code i.e. under Sections 107, 108, 109 and 151 of Cr.P.C.;

d) Become sick or infirm and require specialized medical treatment (S.437 of the Code);

e) Women offenders (S.437 of the Code);

f) Are first time male offenders between the ages 19 and 21 who are in under trial custody for offences punishable with less than 7 years of imprisonment and have suffered atleast 1/4th of the maximum sentence possible;

g) Are of unsound mind and must be dealt under Chapter XXV of the Code;

h) Are eligible for release under Section 437(6) of the Code, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of sixty days from the first date fixed for taking evidence in the case;

The Member Secretary of NALSA is present in Court and he will ensure that this communication is sent to the Member Secretary of the States Legal Services Authority. Learned counsel for the States and Union Territories should communicate this order to the States and Union Territories and Inspectors General of Police(Prisons).

With regard to unnatural deaths in prisons, list the matter for hearing on 3rd August, 2016 as Item No.1.

(Madhu Bala)
Court Master

(Jaswinder Kaur)
Court Master