

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

RE-INHUMAN CONDITIONS IN 1382 PRISONS VS

Petitioner(s)

VERSUS

STATE OF ASSAM & ORS.

Respondent(s)

(Applications for intervention and clarification)

Date : 31-10-2017 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

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Mr. Kuldip Singh, Adv.

Mr. Kamal Mohan Gupta, AOR

Applicant Ms. Ritu Kumar, Adv.
Mr. Satya Mitra, Adv.

NHRC Ms. Anitha Shenoy, Adv.
Ms. Srishti Agnihotri, Adv.

UPON hearing the counsel the Court made the following

O R D E R

We have seen the affidavits filed by the States of Maharashtra, M.P. and U.P. and we have also heard learned counsel appearing for these three States. We have also heard the learned Attorney General as well as the learned *Amicus* and Mr. Alok Agarwal, Member Secretary, NALSA.

It appears from the affidavits and submissions made that some fine tuning is required in respect of the functioning of the Under Trial Review Committee.

Two suggestions have immediately been advanced:

The first suggestion is that the Superintendent of the District Jail/Central Jail/Sub-Jail should be a member of the Under Trial Review Committee so that information from the Jail is made available to the members of the Committee.

We are of the view that this suggestion is worth accepting. We direct that henceforth in all the meetings of the Under Trial Review Committee, the Superintendent of the concerned District Jail/Central Jail/Sub-Jail should also be included as a member of the Under Trial Review Committee in all States.

The second suggestion put forth (and which we accept) is that

some sort of standard operating procedure should be prepared for the functioning of the Under Trial Review Committee for all States.

The learned *Amicus* says that he will sit down with the Member Secretary, NALSA and learned counsel for the States of Maharashtra, M.P. and U.P. who have volunteered to assist the learned *Amicus* as well as the Member Secretary, NALSA for framing a standard operating procedure so that the functioning of the Under Trial Review Committee is made more meaningful and efficient. The standard operating procedure will also include the procedures to be followed after the recommendations are made by the Under Trial Review Committee for moving appropriate applications before the concerned court for release of the Under Trial Prisoner and also follow up for the next meeting.

Additional or further suggestions may be discussed by learned counsel with the learned *Amicus*. With regard to the questionnaire framed by the learned *Amicus* and circulated on 10.10.2017, he says that he has been in touch with the concerned officials of the Ministry of Home Affairs who have in turn been in touch with the concerned officials of the State Governments and NIC.

The learned *Amicus* informs us that the Ministry of Home Affairs is taking steps to finalize the questionnaire and perhaps put up the draft questionnaire on a portal to be created by the NIC. The learned *Amicus* has been assured that the needful will be done within 2-3 weeks. The learned Attorney General says that not more than four weeks may be required for this purpose.

The learned Attorney General has informed us that a meeting has been convened by the Ministry of Home Affairs on 16.11.2017 at

the level of the Additional Secretary in the Ministry of Home Affairs. The Inspector General of Police (Prisons) of all the States have been invited to participate in the meeting. It is proposed, among other things, to discuss the software pertaining to e-prisons and the various advisories that have been issued by the Ministry of Home Affairs as well as implementation of the directions given by this Court from time to time.

We expect the State Governments and the Inspector General of Police (Prisons) to respond to the queries / issues raised by the Ministry of Home Affairs particularly keeping in mind the fact that we are dealing with issues relating to the human rights of individuals which must be given prime importance.

The Member Secretary, NALSA along with the Director, NALSA as well as the learned *Amicus* may participate in the meeting to be held on 16.11.2017.

There is no requirement for the State of Meghalaya to file an affidavit. The Registry is directed to return the same.

List the matter on 12.12.2017.

I.A. No. 103676 (Application for intervention)

The application for intervention has been filed by the National Human Rights Commission.

The application for intervention is allowed.

I.A. No. 103677/17 (Application for clarification)

The prayer in this application is to clarify that whether the

cases from the period 2012 to 2015 that are pending before the NHRC and cases disposed of by the NHRC would require to be considered by the High Courts.

We make it clear that there is no intention to take away the jurisdiction of the NHRC in respect of the cases that have already been decided and in which compensation has been awarded. However, the NHRC is requested to ensure that payment of compensation is made early.

We also make it clear that there is no intention to take away the jurisdiction of the NHRC with regard to the pending cases of custodial deaths whether natural or unnatural.

The application is disposed of.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER