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ITEM NO.24

COURT NO.4

SECTION PIL-W

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

IN RE-INHUMAN CONDITIONS IN 1382 PRISONS

Petitioner(s)

VERSUS

. & ORS.

Respondent(s)

([MR. GAURAV AGRAWAL, SENIOR ADVOCATE IS AMICUS CURIAE.])

Date : 10-12-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE S.V.N. BHATTI

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

This matter, *inter alia*, pertains to examined prison conditions in the country. On the last date i.e. 19.11.2024, this Court required the States/ Union Territories to file their response on the implementation of the beneficial provision of Section 479 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (BNSS), which intended early release benefits for the eligible under-trial prisoners. It was pointed out by Mr. Gaurav Agrawal, learned Amicus Curiae, and Ms. Rashmi Nandakumar representing NALSA, that while appropriate responses were received from around 27 States and Union Territories, few of the States/UTs were yet to furnish information on the steps taken by them to release the eligible under-trial prisoners, in their respective State/UTs

2. Since then, information is furnished by the State of Uttar Pradesh, Bihar, Goa and Tripura. It is however seen that although bail orders were passed for prisoners at Sl No.29, 30, 31 and 32 in the response of the State of Uttar Pradesh, the benefit of the bail order has not reached the concerned prisoners. Likewise for prisoners at Sl. No.28 in the response filed by the State of Bihar, the undertrial who is accused under Section 414 of the IPC is still detained for non-furnishing of bail bonds.

3. In response, Ms. Garima Prasad, learned Addl. Advocate General appearing for the State of U.P. would however point

out that she has received information that steps have been taken for release of the concerned four prisoners on personal bond.

4. To ensure the immediate release of these five undertrials and other similarly situated undertrials in other parts of the Country, the concerned State Legal Services Authorities should depute lawyers from their panel who may visit the undertrials and render legal assistance, for their immediate release.

5. As earlier ordered, the concerned undertrial Review Committee (UTRC) which is operating in each district should continue to monitor the status of the under-trials in the jails within their jurisdiction. There must be proactive effort to ensure liberty of the eligible undertrial prisoners as was emphasized in this Court's last orders on 22.10.2024 and on 19.11.2024 respectively.

6. Additionally, in the counter affidavit filed by the State of UP, it is indicated that there are 3 female prisoners who are on the list of first time offenders and have completed one-third of their sentence. However, the data from other states regarding the number of female prisoners is unclear. On this aspect, one might usefully refer to the report of the Justice VR Krishna Iyer Committee on Women Prisoners¹ and the report of the Parliamentary Standing Committee on Home Affairs titled 'Prison - Conditions, Infrastructure and Reforms'², wherein specific recommendations were made for the release of

¹ Justice Krishna Iyer, *Report of National Expert Committee on Women Prisoners* (1987)

² Department-Related Parliamentary Standing Committee on Home Affairs, *Prison - Conditions, Infrastructure and Reforms* (Report No. 245, 2023)

women prisoners. The Justice Amitava Roy Committee appointed in this very PIL also highlighted that the correctional justice system is 'evidently gender exclusionary'. Therefore, special efforts must be made to ensure the release of all deserving under-trial women prisoners languishing in jails.

7. Earlier, in the order dated 27.03.2018, this Court observed that large number of posts in the jails have remained vacant. The all India figure as on 31.12.2017 indicated that 24588 vacancies exists of the total strength of prison staff (77,230). On this issue, the learned Amicus had a meeting with the Member Secretary and the Director NALSA on 03.12.2024 and deliberation were made on the acute shortage of jail staff and existing unfilled vacancies. Accordingly, letters were written to the concerned Director General of Prisons but information is received only from the State of Bihar.

8. When the jails are over-crowded and the prisons are under staffed, it is bound to escalate the difficulties for the convicts and the under-trials, in the overflowing Jails. While it may not be feasible for the Government to fill up all the existing jail vacancies, information on the total cadre strength and also the number of vacancies in the Jails/Correctional Homes in the country, needs to be procured. Since the vacancy position furnished earlier to this Court is not updated and may not give the correct picture, the States/Union Territories must furnish cadre wise information on the actually deployed Officers and Staff serving in the Jails. Information should also be given on the sanctioned

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strength and the number of unfilled posts and whether any steps have been taken or underway, to fill up those vacancies or at least the essential posts in the staffing pattern for improving the conditions in the prisons.

9. The requisite information as above be furnished in the same format as provided by the State of U.P., in the next eight weeks. As all the State and Union Territories are represented by their respective counsel, the Registry to furnish a copy of this order to learned Amicus Curiae and the counsel so that requisite information can be obtained and filed before this Court with advance copy to Mr. Gaurav Agrawal and Ms. Rashmi Nandkumar, learned counsel.

10. The matter be listed after twelve weeks.

[DEEPAK JOSHI]
ASTT. REGISTRAR-cum-PS

[KAMLESH RAWAT]
ASSISTANT REGISTRAR