

ITEM NO.5

COURT NO.9

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 (CIVIL) NO. 406/2013

IN RE-INHUMAN CONDITIONS IN 1382 PRISONS

[MR. GAURAV AGRAWAL, ADVOCATE IS AMICUS CURIAE]

Date : 11-07-2024 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SANDEEP MEHTA

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

By Post

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

1. Note of hearing has been handed over by Mr. Gaurav Agrawal, learned *Amicus Curiae*. The note starts by referring to the constitution of a Committee for looking into the issue of overcrowding and the facilities available to the prisoners in Delhi. It is stated that Delhi is a Union Territory

and a single Committee may be constituted for the entire NCT of Delhi, that may include Member Secretary DSLSA, Principal Secretary (Home), Government of NCT of Delhi, D.G.P. Tihar Jail, Delhi and the senior most lady Judicial Officer functioning as a Principal District Judge.

- 1.1 Ms. Aishwarya Bhati, learned Additional Solicitor General is agreeable to the aforesaid proposal made by the learned *Amicus Curiae*.
- 1.2 Accordingly, it is directed that a single Committee shall be constituted to address overcrowding in jails and adequate facilities to prisoners in Delhi comprising of the aforementioned officers. The senior most officer shall convene a meeting within four weeks from today. An affidavit shall be filed by the Chief Secretary, Government of Delhi in terms of the directions issued by this Court on 30th January, 2024.
2. It is next submitted by the learned *Amicus Curiae* that the present note for hearing does not refer to the compliances made by the State of Haryana, Andhra Pradesh, Madhya Pradesh, Maharashtra and Assam for the reasons that the affidavits of the State of Haryana and Madhya Pradesh were received by him only last evening. The States of Andhra Pradesh, Maharashtra and Assam have yet to file their compliance affidavits.

2.1 Last opportunity of two weeks is granted to the States of Andhra Pradesh, Maharashtra and Assam to file their compliance affidavits with a copy furnished to the learned *Amicus Curiae*, who shall, in the meantime, collate the information furnished by the States of Haryana and Madhya Pradesh for the next date of hearing.

3. The note prepared by the learned *Amicus Curiae* in respect of the State of Uttar Pradesh summarizes the status of 54 ongoing projects/proposed projects. Out of 54 projects there is a proposal to construct 8 new jails, as detailed in paragraph A. The status of ongoing construction of new barracks in the existing jails that would result in enhancing the capacity of holding 606 prisoners has been detailed in paragraph B. The proposal in respect of new jails in six districts where at present, there are no jails and will enhance the capacity of holding prisoners to the extent of 7000 has been set out in paragraph C. The proposed project of constructing new barracks in the existing 20 District Jails that will enhance the holding capacity to 1224 prisoners, has been set out in paragraph D.

3.1 Learned *Amicus Curiae* submits that after examining the detailed affidavit filed by the State of Uttar Pradesh, he has made some suggestions and sought directions to the State of Uttar Pradesh. We have perused the said

suggestions, which are extracted hereinbelow:

- i. The State of UP has pointed out that it is constructing 8 new jails and additional barracks are being constructed in other 9 jails. In 6 Districts, land is being finalized for construction of new jails and in another 20 jails, there is proposal to construct more barracks which would enhance the capacity and reduce overcrowding to some extent. However, in large number of other jails in the State of UP, there is a problem of overcrowding. It is, therefore, respectfully prayed that the State Government may examine all the recommendations and in cases where space is available in the existing jail facility, the same may be identified qua each of the above jails and the proposal for additional barracks and infrastructure may be included in the next more 2-3 financial years.
- ii. In 4 new jails, i.e. Hathras, Kushinagar, Hapur and Jaunpur, the tender process is underway at PWD level. The Secretary PWD may expedite the finalization of the tender so that construction begins as financial approval has already been granted.
- iii. In 6 places, the process of land is under acquisition. It is prayed that the Chief Secretary may review the progress of acquisition of the land at Amroha, Sambal, Shyamli, Bhadohi, Auraiya, Chandauli so that the process of acquisition of land is not delayed any further.
- iv. In 20 jails, the additional barracks has been proposed, but the tender of the same has not yet been finalized. It is prayed that the PWD Department/ concerned Department may examine the stage of the tender process and initiate the work at the earliest, as financial sanction has already been granted.
- v. In most cases, the report does not deal with the condition of women jails/ women barracks in the jails, and difficulties being faced by the women prisoners and children [who are lodged in the said jails alongwith their mothers]. It is, therefore, prayed that the committees constituted by this Hon'ble Court which consists of Woman Judicial Officer may examine this aspect of the matter [if not already examined] and specific recommendations qua the same may be made and forwarded to the State Government with a copy to the undersigned."

3.2 Ms. Garima Prashad, learned Additional Advocate General, who appears for the State of Uttar Pradesh submits that a fresh affidavit shall be filed by the State of Uttar Pradesh after examining the aforesaid directions sought by the learned

Amicus Curiae within four weeks.

4. Coming next to the State of Gujarat, the note of the learned *Amicus Curiae* submits that there are 32 jails in the said State and the State Government has stated in its affidavit that it is in the process of acquiring land for constructing new jails and adding to the capacity of the existing jails in terms of the details furnished in a tabulated form in respect of jails in 15 Districts.

- 4.1 Learned *Amicus Curiae* submits that after perusing the said affidavit, some suggestions have been made by him in a tabulated chart at paragraph 3.2 of the note and the following directions have been prayed for:

- i. The proposals of the Committee in some of the districts and the steps which are required to be taken are mentioned in the chart above in the 3rd column.
- ii. In most cases, the report does not deal with the condition of women jails/ women barracks in the jails, and difficulties being faced by the women prisoners and children [who are lodged in the said jails alongwith their mothers]. It is, therefore, prayed that the committees constituted by the Hon'ble Court which consists of Woman Judicial Officer may examine this aspect of the matter [if not already examined] and specific recommendations qua the same may be made and forwarded to the State of Gujarat with a copy to the undersigned."

- 4.2 Learned counsel appearing for the State of Gujarat submits that the suggestions made by the learned *Amicus Curiae* shall be examined by the State Government and a fresh affidavit in response thereto will be filed within four weeks.

5. Suggestions made by the learned *Amicus Curiae* in respect of the State of Telangana have been set out in the note. The recommendations made by the District Level Committee in respect of 8 Districts has been placed in a tabulated

form along with the response of the State Government.

- 5.1 When it comes to enhancement of capacity in prisons situated in the District of Mahabub Nagar, Nalgonda, and Vikarabad, we are surprised to note that the State Government has stated that it will take up to 10 years for it to execute the recommendations made by the Committee for undertaking the construction work to state the least, this is an extremely unreasonable timeline. It appears from the above affidavit that the State of Telangana is not serious about increasing the capacity of the jails in the aforesaid Districts. The State Government is directed to take up the issue of enhancing the capacity of the jails in the aforesaid Districts on priority and file a fresh affidavit giving specific milestones for commencing the work and conclude along with the details of the budget allocation.
- 5.2. Further, the learned *Amicus Curiae* has suggested that shifting of prisoners to almost 200 km away from the present place of lodgment would not be appropriate as it may result in breaking of the family ties.
- 5.3. The aforesaid aspect shall be examined by the State of Telangana and a comprehensive affidavit shall be filed within four weeks with a copy to the learned *Amicus Curiae*.
6. The affidavit filed by the State of Tamil Nadu has been summarized by the learned *Amicus Curiae* in the note of hearing wherein, the lacunae in the response has been pointed out. It is submitted that while the State Government has itself stated that it proposes to upgrade selected sub-jails as District jails

with increased capacity and all modern facilities, it has not mentioned any timeline within which it proposes to do so or indicate at least some of the Districts where it proposes to establish District jails with increased capacity. It is further stated that the State Government has made a mention that it proposes to set up new jails at Madurai and Coimbatore due to overcrowding without stating the expected timeline within which it shall deal with the said problem of overcrowding.

6.1. Overcrowding in some Districts mentioned in paragraph 5.7 of the report has also been pointed out by the learned *Amicus Curiae* stating that no suggestions have been made by the State Government as to its response to the report of the Committee and the manner in which it proposes to deal with the aspect of overcrowding. The directions prayed for are as follows:

- i. "The Committee headed by District and Sessions Judge have been constituted by the order of this Hon'ble Court and has made recommendations regarding various difficulties being faced by the prisoners and in fact the prison administration. The State of Tamil Nadu has taken very generalistic decision, namely it would convert sub jails to district jails if required, recommendations would be examined appropriate decisions will be taken. None of the recommendations of the committee seem to have met with the seriousness, which it deserves. Hence, it is humbly prayed that the State Government may be directed to examine all the recommendations and put on affidavit decisions taken by the State Government regarding each of the recommendations of the Committees.
- ii. The State Government has stated that some of the Sub-Jails would be upgraded to District Jails. It is humbly prayed that the State may take appropriate decision with fixed timeline and wherever it is decided to upgrade the Sub Jails to District Jails, those decisions may be put into operation immediately.
- iii. The State of Tamil Nadu may be directed to take note of the recommendations of the Committees and take a decision on the proposal where instead of improving Sub Jails whether it is better to

construct District Jails. In such of the Districts, a District Jail is proposed may be processed for acquisition of land etc.

- iv. In other Districts where the Sub-Jails are proposed to be continued, the recommendations of the Committee qua the said Sub Jail are required to be implemented.
- v. In the District Jails and Central Jails, there is overcrowding over lack of infrastructure in terms of drinking water, sanitation, toilets. The State may be directed to take note of the recommendations of the Committee and inform this Hon'ble Court about specific timeline regarding addressing those difficulties & shortcomings."

6.2 The State Government of Tamil Nadu is directed to examine the aforesaid suggestions made by the learned *Amicus Curiae* and file a fresh comprehensive affidavit within four weeks.

7. We express our dissatisfaction with the affidavit of the State of West Bengal. Learned *Amicus Curiae* has summarized the response to the affidavit filed by the State of West Bengal. Clearly, each Department is busy passing on the buck to the other, without taking any responsibility. The State of West Bengal is cautioned to put its house in order and ensure that the next affidavit, which shall be filed within four weeks, addresses the issues without one Department trying to blame the other Department for their inaction. The directions prayed for by the learned *Amicus Curiae* shall also be kept in mind while filing a fresh affidavit.

8. Though the State of Karnataka had filed a compliance affidavit which has been summarized in the note for hearing by the learned *Amicus Curiae*, it is submitted that a voluminous affidavit has subsequently been filed by the State of Karnataka giving an update. Learned *Amicus Curiae* is requested to peruse

the same and prepare a comprehensive note in respect of the State of Karnataka for the perusal of this Court on the next date of hearing.

9. List on 13th August, 2024, at the top of the Board.

(POOJA SHARMA)
COURT MASTER (SH)

(NAND KISHOR)
COURT MASTER (NSH)