

ITEM NO.304

COURT NO.9

SECTION PIL

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(Civil) No(s).406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

Date : 24/04/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s)

By Post

For Respondent(s)

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Telangana	Mr. S. Udaya Kumar Sagar, Adv. Mr. Krishna Kumar Singh, Adv.
Uttar Pradesh	Ms. Pragati Neekhra, AOR Mr. Mukul Singh, Adv.
Uttarakhand	Mr. Aviral Saxena, Adv. Ms. Rachana Srivastava, AOR
West Bengal	Mr. Anip Sachthey, AOR Mr. Saakaar Sardana, Adv.
A&N Islands	Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, AOR
Puducherry	Mr. V.G. Pragasam, AOR Mr. S.J. Aristotle, Adv.

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

We have perused the affidavit filed by the Ministry of Home Affairs on 23rd April, 2015 and have heard learned counsel.

The admitted position is 67% of all the prisoners in jails are under trial prisoners. This is an extremely high percentage and the number of such prisoners is said to be about 2,78,000 as on 31st December, 2013.

Keeping this in mind and the various suggestions that have been made in the affidavit, we are of the view that the following directions need to be issued:

1. A Prisoners Management System (a sort of Management Information System) has been in use in Tihar Jail for quite some time, as stated in the affidavit. The Ministry of Home Affairs should carefully study this application software and get back to us on the next

date of hearing with any suggestions or modifications in this regard, so that the software can be improved and then deployed in other jails all over the country, if necessary.

2. We would like the assistance of the National Legal Services Authority (NALSA) in this matter of crucial importance concerning prisoners in the country. We direct the Member Secretary of NALSA to appoint a senior judicial officer as the nodal officer to assist us and deal with the issues that have arisen in this case.
3. For the purpose of implementation of Section 436A of the Code of Criminal Procedure, 1973 (for short "the Code"), the Ministry of Home Affairs has issued an Advisory on 17th January, 2013. One of the requirements of the Advisory is that an Under Trial Review Committee should be set up in every district. The composition of the Under Trial Review Committee is the District Judge, as Chairperson, the District Magistrate and the District Superintendent of Police as members.

The Member Secretary of NALSA will, in coordination with the State Legal Services Authority and the Ministry of Home Affairs, urgently ensure that such an Under Trial Review Committee is established in every District, within one month. The

next meeting of each such Committee should be held on or about 30th June, 2015.

4. In the meeting to be held on or about 30th June, 2015, the Under Trial Review Committee should consider the cases of all under trial prisoners who are entitled to the benefit of Section 436A of the Code. The Ministry of Home Affairs has indicated that in case of multiple offences having different periods of incarceration, a prisoner should be released after half the period of incarceration is undergone for the offence with the greater punishment. In our opinion, while this may be the requirement of Section 436A of the Code, it will be appropriate if in a case of multiple offences, a review is conducted after half the sentence of the lesser offence is completed by the under trial prisoner. It is not necessary or compulsory that an under trial prisoner must remain in custody for at least half the period of his maximum sentence only because the trial has not been completed in time.
5. The Bureau of Police Research and Development had circulated a Model Prison Manual in 2003, as stated in the affidavit. About 12 years have gone by and since then there has been a huge change in circumstances and availability of technology. We direct the Ministry of Home Affairs to ensure that

the Bureau of Police Research and Development undertakes a review of the Model Prison Manual within a period of three months. We are told that a review has already commenced. We expect it to be completed within three months.

6. The Member Secretary of NALSA should issue directions to the State Legal Services Authorities to urgently take up cases of prisoners who are unable to furnish bail and are still in custody for that reason. From the figures that have been annexed to the affidavit filed by the Ministry, we find that there are a large number of such prisoners who are continuing in custody only because of their poverty. This is certainly not the spirit of the law and poverty cannot be a ground for incarcerating a person. As per the figures provided by the Ministry of Home Affairs, in the State of Uttar Pradesh, there are as many as 530 such persons. The State Legal Services Authorities should instruct the panel lawyers to urgently meet such prisoners, discuss the case with them and move appropriate applications before the appropriate court for release of such persons unless they are required in custody for some other purposes.
7. There are a large number of compoundable offences for which persons are in custody. No attempt seems to have been made to compound those offences and instead

the alleged offender has been incarcerated. The State Legal Services Authorities are directed, through the Member Secretary of NALSA to urgently take up the issue with the panel lawyers so that wherever the offences can be compounded, immediate steps should be taken and wherever the offences cannot be compounded, efforts should be made to expedite the disposal of those cases or at least efforts should be made to have the persons in custody released therefrom at the earliest.

A copy of this order be given immediately to the Member Secretary, NALSA for compliance.

List the matter on 7th August, 2015 for further directions and updating the progress made.

For the present, the presence of leaned counsel for the States and Union Territories is not necessary. Accordingly, their presence is dispensed with.

(SANJAY KUMAR-I)
COURT MASTER

(RENU DIWAN)
COURT MASTER

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.406/2013

RE - INHUMAN CONDITIONS IN 1382 PRISONS

ORDER

Madan B. Lokur, J.

1. Prison reforms have been the subject matter of discussion and decisions rendered by this Court from time to time over the last 35 years. Unfortunately, even though Article 21 of the Constitution requires a life of dignity for all persons, little appears to have changed on the ground as far as prisoners are concerned and we are once again required to deal with issues relating to prisons in the country and their reform.

2. As far back as in 1980, this Court had occasion to deal with the rights of prisoners in ***Sunil Batra (II) v. Delhi Administration***.¹ In that decision, this Court gave a very obvious answer to the question whether prisoners are persons and whether they are entitled to fundamental rights while in custody, although there may be a shrinkage in the fundamental rights. This is what

¹ (1980) 3 SCC 488

this Court had to say in this regard:

“Are prisoners persons? Yes, of course. To answer in the negative is to convict the nation and the Constitution of dehumanization and to repudiate the world legal order, which now recognises rights of prisoners in the International Covenant on Prisoners’ Rights to which our country has signed assent. In *Batra case*,² this Court has rejected the hands-off doctrine and it has been ruled that fundamental rights do not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration.

3. A little later in the aforesaid decision, this Court pointed out the double handicap that prisoners face; the first being that most prisoners belong to the weaker sections of society and the second being that since they are confined in a walled-off world their voices are inaudible. This is what this Court had to say in this regard:

“Prisoners are peculiarly and doubly handicapped. For one thing, most prisoners belong to the weaker segment, in poverty, literacy, social station and the like. Secondly, the prison house is a walled-off world which is incommunicado for the human world, with the result that the bonded inmates are invisible, their voices inaudible, their injustices unheeded. So it is imperative, as implicit in Article 21, that life or liberty, shall not be kept in suspended animation or congealed into animal existence without the freshening flow of fair procedure.”

4. In ***Rama Murthy v. State of Karnataka***³ this Court identified as many as nine issues facing prisons and needing reforms. They are:

(i) over-crowding;

² (1978) 4 SCC 494

³ (1997) 2 SCC 642

- (ii) Delay in trial;
- (iii) Torture and ill-treatment;
- (iv) Neglect of health and hygiene;
- (v) Insubstantial food and inadequate clothing;
- (vi) Prison vices;
- (vii) Deficiency in communication;
- (viii) Streamlining of jail visits;
- (ix) Management of open air prisons.

This Court expressed the view that these major problems need immediate attention. Unfortunately, we are still struggling with a resolution of at least some of these problems.

5. In ***T. K. Gopal v. State of Karnataka***⁴ this Court advocated a therapeutic approach in dealing with the criminal tendencies of prisoners. It was pointed out that there could be several factors that lead a prisoner to commit a crime but nevertheless a prisoner is required to be treated as a human being entitled to all the basic human rights, human dignity and human sympathy. It was pointed out that it is this philosophy that has persuaded this Court in a series of decisions to project the need for prison reforms. This is what this Court had to say:

“The therapeutic approach aims at curing the criminal tendencies which were the product of a diseased psychology. There may be many factors, including

⁴ (2000) 6 SCC 168

family problems. We are not concerned with those factors as therapeutic approach has since been treated as an effective method of punishment which not only satisfies the requirements of law that a criminal should be punished and the punishment prescribed must be meted out to him, but also reforms the criminal through various processes, the most fundamental of which is that in spite of having committed a crime, maybe a heinous crime, he should be treated as a human being entitled to all the basic human rights, human dignity and human sympathy. It was under this theory that this Court in a stream of decisions, projected the need for prison reforms, the need to acknowledge the vital fact that the prisoner, after being lodged in jail, does not lose his fundamental rights or basic human rights and that he must be treated with compassion and sympathy.”

6. In this background, a letter on 13th June, 2013 addressed by Justice R.C. Lahoti, a former Chief Justice of India to Hon'ble the Chief Justice of India relating to conditions in prisons is rather disturbing. Justice R.C. Lahoti invited attention to the inhuman conditions prevailing in 1382 prisons in India as reflected in a Graphic Story appearing in Dainik Bhaskar (National Edition) on 24th March, 2013. A photocopy of the Graphic Story was attached to the letter.

Justice R.C. Lahoti pointed out that the story highlights:

- (i) Overcrowding of prisons;
- (ii) Unnatural death of prisoners;
- (iii) Gross inadequacy of staff and
- (iv) Available staff being untrained or inadequately trained.

7. Justice R.C. Lahoti also pointed out that the State cannot disown its liability to the life and safety of a prisoner once in custody and that there were hardly any schemes for reformation for first time offenders and prisoners in their youth and to save them from coming into contact with hardened prisoners.

8. Justice R.C. Lahoti ended the letter by submitting that the Graphic Story raised an issue that needed to be taken note of and dealt with in public interest by this Court and that he was inviting the attention of this Court in his capacity as a citizen of the country. We may say that Justice R.C. Lahoti has brought an important issue to the forefront, dispelling the view:

“Judges rarely express concern for the inhumane treatment that the person being sentenced is likely to face from fellow prisoners and prison officials, or that time in prison provides poor preparation for a productive life afterwards. Courts rarely consider tragic personal pasts that may be partly responsible for criminal behavior, or how the communities and families of a defendant will suffer during and long after his imprisonment.”⁵

9. By an order dated 5th July, 2013 the letter was registered as a public interest writ petition and the Registry of this Court was directed to take steps to issue notice to the appropriate authorities after obtaining a list from the office of the learned Attorney General.

10. In reply to the notice issued by this Court, several States and Union Territories gave their response either in the form of

⁵ Decency, Dignity, and Desert: Restoring Ideals of Humane Punishment to Constitutional Discourse by Eva S. Nilsen, Boston University School of Law Working Paper Series, Public Law & Legal Theory Working Paper No. 07-33

communications addressed to the Registry of this Court or in the form of affidavits. It is not necessary for us to detail each of the responses. Suffice it to say that on the four issues raised by Justice R.C. Lahoti there is general consensus that the prisons (both Central and District) are over-crowded, some unnatural deaths have taken place in some prisons, there is generally a shortage of staff and it is not as if all of them are adequately and suitably trained to handle issues relating to the management of prisons and prisoners and finally that steps have been taken for the reformation and rehabilitation of prisoners. However, a closer scrutiny of the responses received indicates that by and large the steps taken are facile and lack adequate sincerity in implementation.

11. In view of the above, the Social Justice Bench of this Court passed an order on 13th March, 2015 requiring the Union of India to furnish certain information primarily relating to the more serious issue of over-crowding in prisons and improving the living conditions of prisoners. The order passed by the Social Justice Bench on 13th March, 2015 reads as follows:-

“We have heard learned Additional Solicitor General and would like information on the following issues:

- (i) The utilization of the grant of Rs.609 crores under the 13th Finance Commission for the improvement of

- conditions in prisons.
- (ii) The grant to the States in respect of the prisons under the 14th Finance Commission.
 - (iii) Steps taken and being taken by the Central Government as well as by the State Governments for effective implementation of Section 436A of the Code of Criminal Procedure, 1973.
 - (iv) Steps taken and being taken by the Central Government and the State Governments for effective implementation of the Explanation to Section 436 of the Code of Criminal Procedure, 1973 and the number of persons in custody due to their inability to provide adequate security/surety for their release on bail.
 - (v) The number of persons in custody who have committed compoundable offences and are languishing in custody.
 - (vi) Steps taken for the effective implementation of the Repatriation of Prisoners Act, 2003.

We expect all the State Governments to fully cooperate with the Central Government in this regard since the matter involves Article 21 of the Constitution and to furnish necessary information within three weeks.

List the matter on 24th April, 2015.”

12. In compliance with the aforesaid order, the Union of India through the Ministry of Home Affairs filed a detailed affidavit dated 23rd April, 2015. It was stated in the affidavit that all States and Union Territories were asked to provide the information as required by this Court but in spite of reminders and meetings, the information had not been received from the State of Uttarakhand and the Union Territories of Dadra & Nagar Haveli, Daman & Diu and Lakshadweep.

13. It was stated that one of the problems faced in aggregating the information that had been received was that management

information systems were not in place in a comprehensive manner. To remedy this situation an e-prisons application was being designed so that all essential data could be centrally aggregated. It was stated in the affidavit that a draft project report was being prepared through a project management consultancy so that an e-prisons application could be rolled out with integrated information in all States and Union Territories comprehensively for better monitoring of the status of prisoners, particularly undertrial prisoners.

14. In response to the first issue, it was pointed out in the affidavit in the form of a tabular statement that funds were made available under the 13th Finance Commission for the improvement of conditions in prisons in respect of several States. We are surprised that no grant was allotted in as many as 19 States and in the States where grants were allotted, the utilization was less than 100%, except in the State of Tripura.

15. With regard to the grant under the 14th Finance Commission, it was stated that the 14th Finance Commission had reported that the States have the appropriate fiscal space to provide for the additional expenditure needs as per their requirements. The 14th Finance Commission did not make any specific fund allocation in favour of the Central Government but the States had projected

their demands individually and the tabular statement in that regard is annexed to the affidavit. As far as the Union Territories are concerned, apart from Delhi and Puducherry none of the Union Territories had projected any demand.

16. With regard to the third issue regarding effective implementation of Section 436A of the Code of Criminal Procedure, (for short the Cr.P.C.), the affidavit stated that an advisory had been issued by the Ministry of Home Affairs of the Government of India on 17th January, 2013 to all the States and Union Territories to implement the provisions of Section 436A of the Cr.P.C. to reduce overcrowding in prisons. Among the measures suggested in this regard by the Ministry of Home Affairs was the constitution of a Review Committee in every district with the District Judge in the Chair with the District Magistrate and the Superintendent of Police as Members to meet every three months and review the cases of undertrial prisoners. The Jail Superintendents were also required to conduct a survey of all cases where undertrial prisoners have completed more than one fourth of the maximum sentence and send a report in this regard to the District Legal Services Committee constituted under The Legal Services Authorities Act, 1987 as well as to the Review Committee. It was also suggested that the prison authorities should educate undertrials of their right

to bail and the District Legal Services Committee should provide legal aid through empanelled lawyers to the undertrial prisoners for their release on bail or for the reduction of the bail amount. The Home Department of the States was also requested to develop a management information system to ascertain the jail-wise progress in this regard.

17. The aforesaid advisory dated 17th January, 2013 was followed up through a letter of the Union Home Minister to the Chief Ministers/Lieutenant Governors on 3rd September, 2014. It was pointed out in the letter that as per the statistics provided by the National Crime Records Bureau (NCRB) as on 31st December, 2013 the number of undertrial prisoners was 67.6% of the entire prison population and that the percentage was unacceptably high. In this context it was suggested that the provisions of Section 436 of the Cr.P.C. as well as Section 436A of the Cr.P.C. had to be made use of. It was also suggested that steps be taken to utilize the provisions of plea bargaining, the establishment of fast track courts, holding of Lok Adalats and ensuring adequate means for the production of the accused before the Court directly or through video conferencing.

18. Yet another letter was sent to the Director General of Prisons of all States/Union Territories on 22nd September, 2014 by the

Ministry of Home Affairs drawing attention to the directions of this Court in ***Bhim Singh v. Union of India*** dated 5th September, 2014⁶ relating to Section 436A of the Cr.P.C. and to take necessary steps to comply with the orders passed by this Court.

19. In a similar vein, yet another advisory was issued by the Government of India on 27th September, 2014. It was averred in the affidavit that as a result of these advisories and communications, some undertrial prisoners have been released in implementation of the provisions of Section 436A of the Cr.P.C.

20. With regard to the fourth issue concerning the effective implementation of Section 436 of the Cr.P.C., the affidavit stated that an advisory was issued way back on 9th May, 2011 in which it was pointed out, *inter alia*, that prison overcrowding compels prisoners to be kept under conditions that are unacceptable in light of the United Nations Standard Minimum Rules for Treatment of Offenders to which India is the signatory. It was pointed that as per the statistics prepared by the NCRB as on 31st December, 2008 prisons in India are overcrowded to the extent of 129%. The advisory highlighted some measures taken by some of the States to reduce the number of undertrial prisoners, including their release under the provisions of the Probation of Offenders Act, 1958 and encouraging NGOs in association with District Legal Services

⁶ MANU/SC/0786/2014

Committees to arrange legal aid for unrepresented undertrial prisoners as well as to implement the guidelines issued by the Bombay High Court in ***Rajendra Bidkar v. State of Maharashtra***, CWP No. 386 of 2004 (unreported decision).

21. With regard to the fifth issue relating to the number of persons who have been languishing in jails in compoundable offences, a chart was annexed to the affidavit which indicated, by and large, that quite a few States had taken no effective steps in this regard particularly Andhra Pradesh, Assam, Chhattisgarh, Haryana, Kerala, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Telangana, Tripura and Uttar Pradesh. The reason why many undertrial prisoners had not been released was their inability to provide security and surety for their release. The steps taken to have these prisoners released from custody were not indicated in the affidavit.

22. With regard to the effective implementation of the Repatriation of Prisoners Act, 2003 it was stated that agreements on transfer of sentenced persons have been bilaterally signed with 25 countries but the agreements are operational after ratification by both sides only with respect to 18 countries. In addition, transfer arrangements have been made with 19 countries under the Inter-American Convention on Serving Criminal Sentences Abroad

thereby making the total number of countries with which transfer arrangements have been made for prisoners to 37 countries.

23. Keeping in view the affidavit dated 23rd April, 2015 filed by the Ministry of Home Affairs and the somewhat lukewarm response of the States and Union Territories, the Social Justice Bench passed the following directions on 24th April, 2015:

“We have perused the affidavit filed by the Ministry of Home Affairs on 23rd April, 2015 and have heard learned counsel.

The admitted position is 67% of all the prisoners in jails are under trial prisoners. This is an extremely high percentage and the number of such prisoners is said to be about 2,78,000 as on 31st December, 2013.

Keeping this in mind and the various suggestions that have been made in the affidavit, we are of the view that the following directions need to be issued:

1. A Prisoners Management System (a sort of Management Information System) has been in use in Tihar Jail for quite some time, as stated in the affidavit. The Ministry of Home Affairs should carefully study this application software and get back to us on the next date of hearing with any suggestions or modifications in this regard, so that the software can be improved and then deployed in other jails all over the country, if necessary.
2. We would like the assistance of the National Legal Services Authority (NALSA) in this matter of crucial importance concerning prisoners in the country. We direct the Member Secretary of NALSA to appoint a senior judicial officer as the nodal officer to assist us and deal with the issues that have arisen in this case.
3. For the purpose of implementation of Section 436A of the Code of Criminal Procedure, 1973 (for short “the Code”), the Ministry of Home Affairs has issued an Advisory on 17th January, 2013. One of the

requirements of the Advisory is that an Under Trial Review Committee should be set up in every district. The composition of the Under Trial Review Committee is the District Judge, as Chairperson, the District Magistrate and the District Superintendent of Police as members.

The Member Secretary of NALSA will, in coordination with the State Legal Services Authority and the Ministry of Home Affairs, urgently ensure that such an Under Trial Review Committee is established in every District, within one month. The next meeting of each such Committee should be held on or about 30th June, 2015.

4. In the meeting to be held on or about 30th June, 2015, the Under Trial Review Committee should consider the cases of all under trial prisoners who are entitled to the benefit of Section 436A of the Code. The Ministry of Home Affairs has indicated that in case of multiple offences having different periods of incarceration, a prisoner should be released after half the period of incarceration is undergone for the offence with the greater punishment. In our opinion, while this may be the requirement of Section 436A of the Code, it will be appropriate if in a case of multiple offences, a review is conducted after half the sentence of the lesser offence is completed by the under trial prisoner. It is not necessary or compulsory that an under trial prisoner must remain in custody for at least half the period of his maximum sentence only because the trial has not been completed in time.
5. The Bureau of Police Research and Development had circulated a Model Prison Manual in 2003, as stated in the affidavit. About 12 years have gone by and since then there has been a huge change in circumstances and availability of technology. We direct the Ministry of Home Affairs to ensure that the Bureau of Police Research and Development undertakes a review of the Model Prison Manual within a period of three months. We are told that a review has already commenced. We expect it to be completed within three months.

6. The Member Secretary of NALSA should issue directions to the State Legal Services Authorities to urgently take up cases of prisoners who are unable to furnish bail and are still in custody for that reason. From the figures that have been annexed to the affidavit filed by the Ministry, we find that there are a large number of such prisoners who are continuing in custody only because of their poverty. This is certainly not the spirit of the law and poverty cannot be a ground for incarcerating a person. As per the figures provided by the Ministry of Home Affairs, in the State of Uttar Pradesh, there are as many as 530 such persons. The State Legal Services Authorities should instruct the panel lawyers to urgently meet such prisoners, discuss the case with them and move appropriate applications before the appropriate court for release of such persons unless they are required in custody for some other purposes.
7. There are a large number of compoundable offences for which persons are in custody. No attempt seems to have been made to compound those offences and instead the alleged offender has been incarcerated. The State Legal Services Authorities are directed, through the Member Secretary of NALSA to urgently take up the issue with the panel lawyers so that wherever the offences can be compounded, immediate steps should be taken and wherever the offences cannot be compounded, efforts should be made to expedite the disposal of those cases or at least efforts should be made to have the persons in custody released therefrom at the earliest.

A copy of this order be given immediately to the Member Secretary, NALSA for compliance.

List the matter on 7th August, 2015 for further directions and updating the progress made.

For the present, the presence of learned counsel for the States and Union Territories is not necessary. Accordingly, their presence is dispensed with.”

24. The order dated 24th April, 2015 made a pointed reference to

the extremely high percentage of undertrial prisoners and the total number of prisoners as on 31st December, 2013.

25. Reference was also made to the fact that the Bureau of Police Research and Development had circulated a Model Prison Manual in 2003 but since about 12 years had gone by, the Ministry of Home Affairs was directed to ensure that the Bureau of Police Research and Development undertakes a review of the Model Prison Manual within a period of three months.

26. Directions were also issued for the assistance of the National Legal Services Authority (NALSA) to assist the Social Justice Bench and deal with the issues that had arisen in the case.

27. A direction was also issued to ensure that the Under Trial Review Committee is established within one month in all districts and the next meeting of that Committee in each district should be held on or about 30th June, 2015. NALSA was required to take up the issue of undertrial prisoners particularly in the State of Uttar Pradesh where as many as 530 persons were in custody only because of their poverty.

28. Pursuant to the aforesaid order and directions, NALSA filed a compliance report on 4th August, 2015 in which it was stated that steps have been taken to ensure that Under Trial Review Committees are set up in every district and the State Legal Services

Authorities had also been asked to take up the cases of prisoners who were unable to furnish bail bonds and to move appropriate applications on their behalf.

29. The compliance report stated that with regard to the Prisoners Management System, the Ministry of Home Affairs had already appointed a project management consultant to prepare a detailed project report for the e-Prisons project. It was stated that there were four prison software applications that had been developed by (i) National Informatics Centre (ii) Goa Electronic Ltd. (iii) Gujarat Government through TCS and (iv) Phoenix for Prison Management System in Haryana. The various applications would be evaluated and discussed in a conference of the Director General (Prisons)/Inspector General (Prisons) to be held on 20th August, 2015.

30. The compliance report also indicated a break-up of the meetings of the Under Trial Review Committees that had been set up in the various States and that reports of the meeting that were directed to be held on or about 30th June, 2015 were still awaited from a few States and Union Territories.

31. As regards the Model Prison Manual it was submitted that a draft had been prepared and was circulated for comments and a further meeting was scheduled to be held in August, 2015 to

finalize the draft.

32. With regard to the cases of undertrial prisoners who were unable to furnish bail bonds it was stated that as many as 3470 such persons were in custody due to their inability to furnish bail bonds and a maximum number of such undertrial prisoners were in the State of Maharashtra, that is, 797 undertrial prisoners. It was stated that as many as 3278 undertrial prisoners were those who were involved in compoundable offences and efforts were being made to expedite the disposal of their cases.

33. Keeping in view the compliance report as well as some of the gaps that appeared necessary to be filled up, the Social Justice Bench passed an order dated 7th August, 2015 requiring, *inter alia*, the Under Trial Review Committee to include the Secretary of the District Legal Services Committee as one of the members of the Review Committee. The Ministry of Home Affairs was directed to issue an appropriate order in this regard.

34. With regard to the Model Prison Manual, it was suggested to the learned Additional Solicitor General appearing on behalf of the Union of India that the composition of the Committee looking into the Model Prison Manual should be a multi-disciplinary body involving members from civil society and NGOs as well as other experts. It was also directed that the Model Prison Manual should

look into providing a crèche for the children of prisoners.

35. With regard to the large number of undertrial prisoners in the State of Maharashtra, it was directed that the matter should be reviewed and an adequate number of legal aid lawyers may be appointed so that necessary steps could be taken with regard to the release of undertrial prisoners in accordance with law, particularly those who had been granted bail but were unable to furnish the bail bond due to their poverty.

The order dated 7th August, 2015 reads as follows:-

“We have gone through the compliance report filed on behalf of NALSA and we appreciate the work done by NALSA within the time frame prescribed.

We find from the report that the *Under Trial Review Committees* have been established in large number of districts but they have not been established in all the districts across the country. Mr. Rajesh Kumar Goel, Director, NALSA - the nodal officer will look into the matter and ensure that, wherever necessary, the Under Trial Review Committee should be established and should meet regularly.

We are told that the Under Trial Review Committee consists of the District Judge, the Superintendent of Police and the District Magistrate. Since the issues pertaining to under trial prisoners are also of great concern of the District Legal Services Authorities, we direct that the Under Trial Review committee should also have the Secretary of the District Legal Services Authority as one of the members of the Committee. The Ministry of Home Affairs will issue a necessary order in this regard to the Superintendent of Police to associate the Secretary of the District Legal Services Authority in such meetings.

It is stated that so far as a software for the prisoners is concerned, the Ministry of Home Affairs has appointed a Project Management Consultant and at present there are four kinds of software in existence in the country with regard to prison management. It is stated that a meeting will be held on 20th August, 2015 with the Director General (Prisons)/Inspector General (Prisons) to evaluate the existing application software.

We expect an early decision in the matter and early implementation of the decision that is taken.

It is stated that a *Model Prison Manual* is being looked into since the earlier Manual was of considerable vintage. We are told that a meeting is likely to be held towards the end of this month to finalize the Model Prison Manual.

Learned ASG is unable to inform us about the composition of the Committee that is looking into the Model Prison Manual. We have suggested to him (and this suggestion has been accepted) that a multi-disciplinary body including members from Civil Society, NGOs concerned with under trial prisoners as also experts from some other disciplines, including academia and whose assistance would be necessary, should also be associated in drafting the comprehensive Model Prison Manual.

To the extent possible, the Model Prison Manual should be finalized at the earliest and preferably within a month or two, but after having extensive and intensive consultations with a multi-disciplinary body as above.

In the Model Prison Manual, the Ministry of Home Affairs should also look into the possibility of having a creche for the children of prisoners, particularly women prisoners as it exists in Tihar Jail.

We find that the number of under trial prisoners in the State of Maharashtra is extremely large and we also think that there are not adequate number of legal aid lawyers to look into the grievances of under trial prisoner. Mr. Rajesh Kumar Goel, Director, NALSA says on behalf of NALSA that necessary steps will be taken to appoint adequate number

of legal aid lawyers so that necessary steps can be taken with regard to the release of under trial prisoners in accordance with law including those who have been granted bail but are unable to furnish the bail bond.

List the matter on 18th September, 2015.”

36. When the matter was taken up by the Social Justice Bench on 18th September, 2015, Mr. Gaurav Agrawal, Advocate was appointed as *Amicus Curiae* to assist the Social Justice Bench.

37. On that date, the learned Additional Solicitor General informed the Social Justice Bench that the Ministry of Home Affairs had duly written to the Directors General of all the States and Union Territories to ensure that the Secretary of the District Legal Services Committee is included as a member in the Under Trial Review Committee. The learned Additional Solicitor General also informed that the Model Prison Manual was likely to be made available sometime in the middle of December, 2015.

38. It was pointed out on behalf of NALSA by Mr. Rajesh Kumar Goel that some clarity was required with respect to paragraph 4 of the order dated 24th April, 2015. In view of this request, it was clarified that there is no mandate that a person who has completed half the period of sentence, in the case of multiple offences, should be released. This was entirely for the Under Trial Review Committee to decide and there was no direction given for release in this regard.

39. With regard to the large number of undertrial prisoners in Maharashtra who were entitled to bail, it was submitted that out of 797 such undertrial prisoners nearly 503 had been released and that steps were being taken with regard to the remaining undertrial prisoners.

40. The order passed by the Social Justice Bench on 18th September, 2015 reads as follows:-

“This petition pertains to what has been described as inhuman conditions in 1382 prisons across the country.

On our request, Mr. Gaurav Agrawal, Advocate has agreed to assist us in the matter as Amicus Curiae since the complaint was received by Post. The Registry should give a copy each of all the documents in this matter to Mr. Gaurav Agrawal.

Learned Additional Solicitor General has drawn our attention to the order dated 7th August, 2015 and in compliance thereof he has stated that the Ministry of Home Affairs has written to the Directors General of all the States/Union Territories on 14th August, 2015 to ensure that the Secretary of the District Legal Services Committee is included as a member in the Under Trial Review Committee. A similar letter was written by NALSA on 11th August, 2015. NALSA should follow up on this and ensure that it is effectively represented in the Under Trial Review Committee.

It is not yet clear whether the Under Trial Review Committee has been set up in every District. Learned Additional Solicitor General and Mr. Rajesh Kumar Goel, Director, NALSA will look into this and let us know the progress on the next date of hearing.

As far as the software for *Prison Management* is concerned, it is stated by the learned Additional Solicitor General that all the Directors General of Police have been asked to intimate

which of the four available software is acceptable to them. He further states that the software will be integrated on the cloud so that all information can be made available regardless of which software is being utilized. He expects the needful to be done within a period of about two months.

We expect the Directors General of Police in every State/Union Territory to respond expeditiously to any request made by the Ministry of Home Affairs in this regard.

With regard to the *Model Prison Manual* of 2003, it is stated by the learned Additional Solicitor General that meetings have been held in this regard and it is expected that the Model Prison Manual will be made available by sometime in the middle of December, 2015. He states that people from academia as well as NGOs are associated in the project. It is expected that the Prison Manual will also take care of establishing a creche in respect of women prisoners who have children.

With regard to the release of under trial prisoners, particularly in the States of Uttar Pradesh and Maharashtra, as mentioned in our order dated 24th April, 2015, learned Additional Solicitor General says that at the present moment he does not have any instructions in this regard, but the Ministry of Home Affairs will write to the State Governments/Union Territories to take urgent steps in terms of our orders.

Mr. Rajesh Kumar Goel, Director, NALSA says that legal aid lawyers have been instructed to take steps for the possible release of under trial prisoners in accordance with law.

Mr. Rajesh Kumar Goel has also drawn our attention to paragraph 4 of the order dated 24th April, 2015. We make it clear that there is no mandate that a person who has completed half the period of his sentence, in the case of multiple offences, should be released. This is entirely for the Under Trial Review Committee and the competent authority to decide and there is absolutely no direction given by this Court for release of such under trials. Their case will have to be considered by the Under Trial Review Committee and the competent authority in accordance with law.

Mr. Rajesh Kumar Goel, Director, NALSA says that steps are being taken to appoint an adequate number of panel lawyers.

With reference to the release of *under trial prisoners*, he says that in the State of Maharashtra, as per the information available, 797 under trial prisoners were entitled to bail and with the efforts of the State Legal Services Authority, nearly 503 have since been released. Steps are being taken with regard to the remaining under trial prisoners.

Mr. Rajesh Kumar Goel, Director, NALSA says that the Member Secretaries of the State Legal Services Authority will be advised to compile relevant information with regard to the cases of compoundable offences pending in the States so that they can also be disposed of at the earliest. We expect the States of Uttar Pradesh and Maharashtra to expeditiously respond to the letter written by NALSA since the maximum number of cases pertaining to compoundable offences are pending in these States.

List the matter on 16th October, 2015.”

41. Pursuant to the aforesaid order, NALSA filed another compliance report dated 14th October, 2015 in which it was stated that an Under Trial Review Committee had been set up in every district. However, the annexure to the compliance report indicated that no information was available from the State of Jammu & Kashmir and in some States particularly Gujarat and Uttar Pradesh and the Union Territory of Andaman & Nicobar Islands, the Secretary of the District Legal Services Committee was not made a member of the Review Committee.

42. It was also stated that the State Legal Services Authority had been requested to appoint an adequate number of panel lawyers

and to instruct them to take steps for the early release of undertrial prisoners.

43. When the matter was taken up on 16th October, 2015 the Social Justice Bench expressed its distress that only three States had responded to the information sought by the Ministry of Home Affairs with regard to holding the quarterly meeting of the Under Trial Review Committee on or before 30th September, 2015. Learned counsel appearing for the Union of India stated that the matter would be taken up with all the State Governments with due seriousness and it would be ensured that such meetings are held regularly. It was also stated that the latest status report would be filed in the second week of January, 2016.

44. Learned *amicus curiae* informed the Social Justice Bench that the Under Trial Review Committee had been set up in every district and a representative of the District Legal Services Committee was included in the said Committee.

The order dated 16th October, 2015 reads as follows:-

“It is very disconcerting to hear from learned counsel for the Union of India that there is no information available except from three States with regard to the release of under trial prisoners.

A meeting of the Under Trial Review Committee was supposed to be held on or before 30th September, 2015, but only three States have responded to the information sought by the Ministry of Home Affairs, Government of India.

Learned counsel for the Union of India says that the matter will now be taken up very seriously with all the State Governments and the Union Territories and it will be ensured that the meetings are regularly held in terms of the Advisories given by the Ministry of Home Affairs at least once in every three months.

Learned counsel for the Union of India also says that the latest status report will be filed in the second week of January, 2016.

In the meanwhile, learned amicus curiae informs us that the Under Trial Review Committee has been set up in every District and a representative of the District Legal Services Authority has been included in all the Under Trial Review Committees and, therefore, to this extent the order dated 18th September, 2015 has been complied with.

List the matter on 29th January, 2016. We make it clear that learned counsel for the Union of India should be fully briefed in all aspects of the case.”

45. In compliance with the order passed on 16th October, 2015 an affidavit dated 22nd January, 2016 was filed by the Ministry of Home Affairs in which it was stated that a detailed evaluation of the software for the e-Prisons Project had been completed and guidelines had also been circulated to all the States for their proposals and for exercising their option for selecting the appropriate software.

46. It was stated in the affidavit that a provision for funds had been made for the application software from the Crime and Criminal Tracking Network & System (CCTNS) project and an amount of Rs.227.01 crores had been approved for the

implementation of the e-Prisons Project. It was stated that the e-Prisons proposals had been received from seven States and other States/Union Territories had been asked to expedite their proposal for evaluation by the Ministry of Home Affairs.

47. With regard to the Model Prison Manual, it was stated that the revised Model Prison Manual had been approved by the competent authority and it was circulated to all States and Union Territories. The revised manual also included a provision for a suitable crèche for the children of women inmates in the prison.

48. With regard to the quarterly meetings of the Under Trial Review Committee, the affidavit disclosed the dates on which such Committees had met but on a perusal of the chart annexed to the affidavit there is a clear indication that not every such Committee met on a quarterly basis. This is most unfortunate.

49. With regard to the undertrial prisoners who could be considered for release under the provisions of Section 436A of the Cr.P.C., some progress had been made except in the States of Assam, Bihar, Chhattisgarh, Goa, Karnataka, Meghalaya, West Bengal, and the Union Territories of Dadra & Nagar Haveli and Lakshadweep. It was stated in the affidavit that notwithstanding the lack of detailed information it did appear that due to the institutionalization of the exercise, the number of undertrial

prisoners eligible for release under Section 436A of the Cr.P.C. had been considerably reduced in some States.

50. In the hearing that took place on 29th January, 2016 it was pointed out that considerable progress had been made inasmuch as the Model Prison Manual had been finalized and perhaps circulated to all the States and Union Territories; Under Trial Review Committees had been set up in every district but unfortunately many of such Committees were not meeting on a regular basis every quarter; the application software for prison management had more or less been identified but a final decision was required to be taken in this regard; steps were required to be taken for the release of undertrial prisoners particularly in the State of Uttar Pradesh and the State of Maharashtra and wherever necessary, the number of panel lawyers associated with the State Legal Services Authority/District Legal Services Committee were required to be increased to meet the requirement of early release of undertrial prisoners and prisoners who remain in custody due to their poverty and inability to furnish bail bonds. In addition, it was pointed out that steps should be taken to ensure that wherever persons are in custody under offences that are compoundable, steps should be taken to compound the offences so that overcrowding in jails is reduced.

51. Has anything changed on the ground? The prison statistics available as on 31st December, 2014 from the website of the NCRB⁷ indicate that as far as overcrowding is concerned, there is no perceptible change and in fact the problem of overcrowding has perhaps been accentuated with the passage of time. The figures in this regard are as follows:

	Central Jails	District Jails
Capacity	1,52,312	1,35,439
Actual	1,84,386	1,79,695
%	121.1%	132.7%
Undertrials	95,519 (51.8%)	1,43,138 (79.7%)

52. The maximum overcrowding is in the jail in the Union Territory of Dadra & Nagar Haveli (331.7%) followed by Chhattisgarh (258.9%) and then Delhi (221.6%).

53. It is clear that in spite of several orders passed by this Court from time to time in various petitions, for one reason or another, the issue of overcrowding in jails continues to persist and apart from anything else, appears to have persuaded Justice R.C Lahoti to address a letter of the Chief Justice of India on this specific issue of overcrowding in prisons.

54. We cannot forget that the International Covenant on Civil and Political Rights, to which India is a signatory, provides in Article 10 that: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the

⁷ <http://ncrb.nic.in>

human person.” Similarly, Article 5 of the Universal Declaration of Human Rights (UDHR) provides: “No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.” With reference to the UDHR and the necessity of treating prisoners with dignity and as human beings, Vivien Stern (now Baroness Stern) says in *A Sin Against the Future: Imprisonment in the World* as follows:

“Detained people are included because human rights extend to all human beings. It is a basic tenet of international human rights law that nothing can put a human being beyond the reach of certain human rights protections. Some people may be less deserving than others. Some may lose many of their rights through having been imprisoned through proper and legal procedures. But the basic rights to life, health, fairness and justice, humane treatment, dignity and protection from ill treatment or torture remain. There is a minimum standard for the way a state treats people, whoever they are. No one should fall below it.”⁸

55. In a similar vein, it has been said, with a view to transform prisons and prison culture:

“Treating prisoners not as objects, but as the human beings they are, no matter how despicable their prior actions, will demonstrate an unflagging commitment to human dignity. It is that commitment to human dignity that will, in the end, be the essential underpinning of any endeavor to transform prison cultures.”⁹

56. The sum and substance of the aforesaid discussion is that prisoners, like all human beings, deserve to be treated with dignity.

⁸ Vivien Stern, *A Sin Against the Future: Imprisonment in the World* 192 (1998).

⁹ *The Mess We’re In: Five Steps Towards the Transformation of Prison Cultures* by Lynn S. Branham, *Indiana Law Review*, Vol. 44, p. 703, 2011

To give effect to this, some positive directions need to be issued by this Court and these are as follows:

1. The Under Trial Review Committee in every district should meet every quarter and the first such meeting should take place on or before 31st March, 2016. The Secretary of the District Legal Services Committee should attend each meeting of the Under Trial Review Committee and follow up the discussions with appropriate steps for the release of undertrial prisoners and convicts who have undergone their sentence or are entitled to release because of remission granted to them.
2. The Under Trial Review Committee should specifically look into aspects pertaining to effective implementation of Section 436 of the Cr.P.C. and Section 436A of the Cr.P.C. so that undertrial prisoners are released at the earliest and those who cannot furnish bail bonds due to their poverty are not subjected to incarceration only for that reason. The Under Trial Review Committee will also look into issue of implementation of the Probation of Offenders Act, 1958 particularly with regard to first time offenders so that they have a chance of being restored and rehabilitated in society.

3. The Member Secretary of the State Legal Services Authority of every State will ensure, in coordination with the Secretary of the District Legal Services Committee in every district, that an adequate number of competent lawyers are empanelled to assist undertrial prisoners and convicts, particularly the poor and indigent, and that legal aid for the poor does not become poor legal aid.
4. The Secretary of the District Legal Services Committee will also look into the issue of the release of undertrial prisoners in compoundable offences, the effort being to effectively explore the possibility of compounding offences rather than requiring a trial to take place.
5. The Director General of Police/Inspector General of Police in-charge of prisons should ensure that there is proper and effective utilization of available funds so that the living conditions of the prisoners is commensurate with human dignity. This also includes the issue of their health, hygiene, food, clothing, rehabilitation etc.
6. The Ministry of Home Affairs will ensure that the Management Information System is in place at the earliest in all the Central and District Jails as well as jails for women so that there is better and effective management of

the prison and prisoners.

7. The Ministry of Home Affairs will conduct an annual review of the implementation of the Model Prison Manual 2016 for which considerable efforts have been made not only by senior officers of the Ministry of Home Affairs but also persons from civil society. The Model Prison Manual 2016 should not be reduced to yet another document that might be reviewed only decades later, if at all. The annual review will also take into consideration the need, if any, of making changes therein.
8. The Under Trial Review Committee will also look into the issues raised in the Model Prison Manual 2016 including regular jail visits as suggested in the said Manual.

We direct accordingly.

57. A word about the Model Prison Manual is necessary. It is a detailed document consisting of as many as 32 chapters that deal with a variety of issues including custodial management, medical care, education of prisoners, vocational training and skill development programmes, legal aid, welfare of prisoners, after care and rehabilitation, Board of Visitors, prison computerization and so on and so forth. It is a composite document that needs to be implemented with due seriousness and dispatch.

58. Taking a cue from the efforts of the Ministry of Home Affairs in preparing the Model Prison Manual, it appears advisable and necessary to ensure that a similar manual is prepared in respect of juveniles who are in custody either in Observation Homes or Special Homes or Places of Safety in terms of the Juvenile Justice (Care and Protection of Children) Act, 2015.

59. Accordingly, we issue notice to the Secretary, Ministry of Women and Child Development, Government of India, returnable on 14th March, 2016. The purpose of issuance of notice to the said Ministry is to require a manual to be prepared by the said Ministry that will take into consideration the living conditions and other issues pertaining to juveniles who are in Observation Homes or Special Homes or Places of Safety in terms of the Juvenile Justice (Care and Protection of Children) Act, 2015.

60. The remaining issues raised before us particularly those relating to unnatural deaths in jails, inadequacy of staff and training of staff will be considered on the next date of hearing.

.....**J**
(Madan B. Lokur)

.....**J**
(R.K. Agrawal)

New Delhi;
February 5, 2016

ITEM NO.1B
(for orders)

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

Date : 05/02/2016 This petition was called on for pronouncement of order today.

For Petitioner(s) By Post

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

For Respondent(s) Ms. Sushma Suri, AOR

Hon'ble Mr. Justice Madan B. Lokur pronounced the order of the Bench comprising His Lordship and Hon'ble Mr. Justice R.K. Agrawal with the following observations:

"59. Accordingly, we issue notice to the Secretary, Ministry of Women and Child Development, Government of India, returnable on 14th March, 2016. The purpose of issuance of notice to the said Ministry is to require a manual to be prepared by the said Ministry that will take into consideration the living conditions and other issues pertaining to juveniles who are in Observation Homes or Special Homes or Places of Safety in terms of the Juvenile Justice (Care and Protection of Children) Act, 2015.

60. The remaining issues raised before us particularly those relating to unnatural deaths in

jails, inadequacy of staff and training of staff
will be considered on the next date of hearing."

(SANJAY KUMAR-I)

AR-CUM-PS

(Signed "Reportable" order is placed on the file)

(JASWINDER KAUR)

COURT MASTER

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.

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 Neekhra,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 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

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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.
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Ms. Sakshi Kakkar, Adv.
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Ms. Sanmya, Adv.
Mr. Rohit Rathi, Adv.

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

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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.
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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 Neekhra, Adv.

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

Mr. T.V.L. Ramachari, Adv.
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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

ITEM NO.1501

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
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 IA No.68248/2017-APPROPRIATE ORDERS/DIRECTIONS)

Date : 15-09-2017 This petition was called on for pronouncement of judgment today.

For Petitioner(s) Mr. Gaurav Agrawal, Adv. (A.C.)
By Post

For Respondent(s) Mr. R.M. Bajaj, Adv.
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Mr. B.K. Prasad, Adv.
Ms. Sushma Manchanda, Adv.
Mr. M.K. Maroria, Adv.

For States of
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Ms. Prerna Singh, Adv.

Assam Mr. Shuvodeep Roy, Adv.
Mr. Rohit K., Adv.

Bihar Mr. M. Shoeb Alam, Adv.
Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
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Apoorva Bhumes, Adv.

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Ms. Shodika Sharma, Adv.
Ms. Mamta Singh, Adv.

J&K Mr. M. Shoeb Alam, Adv.
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Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

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Madhya Pradesh	Mr. Mishra Saurabh, AOR
Maharashtra	Mr. Mahaling Pandarge, Adv. Mr. Nishant R. Katneshwarkar, Adv.
Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Naresh Kumar Gaur, Adv. Mr. Ashok Kumar Singh, AOR
Meghalaya	Mr. Ranjan Mukherjee, AOR
Mizoram	Mr. T. G. Narayanan Nair, AOR Mr. K.N. madhusoodhanan, Adv.
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Tripura	Mr. Gopal Singh, AOR Ms. Vimla Sinha, Adv. Mr. Rituraj Biswas, Adv. Mr. Manish Kumar, Adv. Mr. Pranab Prakash, Adv. Mr. Shivam Singh, Adv. Mr. Aditya Raina, Adv. Mr. Shreyas Jain, Adv. Mr. Kumar Milind, Adv.

	Ms. Ambika Gautam, Adv.
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Uttarakhand	Ms. Rachana Srivastava, AOR Ms. Monika, Adv. Mr. Sukrit R. Kapoor, Adv. Ms. Nitya Madhusoodhanan, Adv.
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A&N Islands	Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.
Puducherry	Mr. V.G. Pragasam, AOR Mr. Rajvinder Singh, Adv. Mr. Hitesh Kumar Sharma, Adv. Mr. T.V. Talwar, Adv. Mr. Colin Gonsalves, Sr. Adv. Ms. Ritu Kumar, Adv. Mr. Satya Mitra, Adv. Mr. Kamal Mohan Gupta, AOR

Hon'ble Mr. Justice Madan B. Lokur pronounced the judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice Deepak Gupta.

In terms of the signed reportable judgment, the following directions have been passed:

"Directions

57. We are of the view that on the facts and in the circumstances before us, the suggestions put forward by the learned *Amicus* and the learned counsel appearing for the National Forum deserve acceptance and, therefore, we issue the following directions:

1. The Secretary General of this Court will transmit a copy of this decision to the Registrar General of every High Court within one week with a request to the Registrar General to place it before the Chief Justice of the High Court. We request the Chief Justice of the High Court to register a *suo motu* public interest petition with a view to identifying the next of kin of the prisoners who have admittedly died an unnatural death as revealed by the NCRB during the period between 2012 and 2015 and even thereafter, and award suitable compensation, unless adequate compensation has already been awarded.
2. The Union of India through the Ministry of Home Affairs will ensure circulation within one month and in any event by 31st October, 2017 of (i) the Model Prison Manual, (ii) the monograph prepared by the NHRC entitled "Suicide in Prison - prevention strategy and implication from human rights and legal points of view", (iii) the communications sent by the NHRC referred to above, (iv) the compendium of advisories issued by the Ministry of Home Affairs to the State Governments, (v) the Nelson Mandela Rules and (vi) the Guidelines on Investigating Deaths in Custody issued by the International Committee of the Red Cross to the Director General or Inspector General of Police (as the case may be) in charge of prisons in every State and Union Territory. All efforts should be made, as suggested by the NHRC and others, to reduce and possibly eliminate unnatural deaths in prisons and to document each and every death in prisons - both natural and unnatural.
3. The Union of India through the Ministry of Home Affairs will direct the NCRB to explain and clarify the distinction between unnatural and natural deaths in prisons as indicated on the website of the NCRB and in its Annual Reports and also explain the sub-categorization 'others' within the category of unnatural deaths. The NCRB should also be required to sub-categorize natural deaths. The sub-categorization and clarification should be complied with by 31st October, 2017.
4. The State Governments should, in conjunction with the State Legal Services Authority (SLSA), the National and State Police Academy and the Bureau of Police Research and Development conduct training and sensitization programmes for senior police officials of all prisons on their functions, duties and responsibilities as also the rights and duties of prisoners. A copy of this order be sent by the Registry of this Court to the Member-Secretary of each SLSA to follow-up and ensure compliance.

5. The necessity of having counselors and support persons in prisons cannot be over-emphasized. Their services can be utilized to counsel and advice prisoners who might be facing some crisis situation or might have some violent or suicidal tendencies. The State Governments are directed to appoint counselors and support persons for counselling prisoners, particularly first-time offenders. In this regard, the services of recognized NGOs can be taken and encouraged.
6. While visits to prison by the family of a prisoner should be encouraged, it would be worthwhile to consider extending the time or frequency of meetings and also explore the possibility of using phones and video conferencing for communications not only between a prisoner and family members of that prisoner, but also between a prisoner and the lawyer, whether appointed through the State Legal Services Authority or otherwise.
7. The State Legal Services Authorities (SLSAs) should urgently conduct a study on the lines conducted by the Bihar State Legal Services Authority in Bihar and the Commonwealth Human Rights Initiative in Rajasthan in respect of the overall conditions in prisons in the State and the facilities available. The study should also include a performance audit of the prisons, as has been done by the CAG. The SLSAs should also assess the effect and impact of various schemes framed by NALSA relating to prisoners. We request the Chief Justice of every High Court, in the capacity of Patron-in-Chief of the State Legal Services Authority, to take up this initiative and, if necessary, set up a Committee headed preferably by the Executive Chairperson of the State Legal Services Authority to implement the directions given above.
8. Providing medical assistance and facilities to inmates in prisons needs no reaffirmation. The right to health is undoubtedly a human right and all State Governments should concentrate on making this a reality for all, including prisoners. The experiences in Karnataka, West Bengal and Delhi to the effect that medical facilities in prisons do not meet minimum standards of care is an indication that the human right to health is not given adequate importance in prisons and that may also be one of the causes of unnatural deaths in prisons. The State Governments are directed to study the availability of medical assistance to prisoners and take remedial steps wherever necessary.
9. The constitution of a Board of Visitors which includes non-official visitors is of considerable importance so that eminent members of society can participate in initiating reforms in prisons and in the rehabilitation of prisoners. Merely changing the nomenclature of

prisons to 'Correction Homes' will not resolve the problem. Some proactive steps are required to be taken by eminent members of society who should be included in the Board of Visitors. The State Governments are directed to constitute an appropriate Board of Visitors in terms of Chapter XXIX of the Model Prison Manual indicating their duties and responsibilities. This exercise should be completed by 30th November, 2017.

10. The suggestion given by the learned *Amicus* of encouraging the establishment of 'open jails' or 'open prisons' is certainly worth considering. It was brought to our notice that the experiment in Shimla (Himachal Pradesh) and the semi-open prison in Delhi are extremely successful and need to be carefully studied. Perhaps there might be equally successful experiments carried out in other States as well and, if so, they require to be documented, studied and emulated.
11. The Ministry of Women & Child Development of the Government of India which is concerned with the implementation of Juvenile Justice (Care and Protection of Children) Act, 2015 is directed to discuss with the concerned officers of the State Governments and formulate procedures for tabulating the number of children (if any) who suffer an unnatural death in child care institutions where they are kept in custody either because they are in conflict with law or because they need care and protection. Necessary steps should be taken in this regard by 31st December, 2017.

58. We expect the above directions to be faithfully implemented by the Union of India and State Governments. In the event of any difficulty in the implementation of the above directions, the Bench hearing the *suo motu* public interest litigation in the High Court in term of our first direction is at liberty to consider those difficulties and pass necessary orders and directions.

59. List for follow-up in December, 2017."

(SHASHI SAREEN)

AR-CUM-PS

(Signed Reportable judgment is placed on the file)

(KAILASH CHANDER)

COURT MASTER

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

Petitioner(s)

VERSUS

STATE OF ASSAM & ORS.

Respondent(s)

Date : 08-08-2018 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE DEEPAK GUPTA

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

For Petitioner(s) By Post

For Respondent(s) Mr. K.K. Venugopal, Attorney General
Mr. A.N.S. Nadkarni, ASG
Mr. R.M. Bajaj, Adv.
Ms. Binu Tamta, Adv.
Mr. R. Bala, Adv.
Ms. Sushma Manchanda, Adv.
Ms. Aarti Sharma, Adv.
Mr. G.S. Makker, Adv.
Mr. B.V. Balram Das, Adv.For States of
Andhra PradeshMr. Guntur Prabhakar, Adv.
Ms. Prerna Singh, Adv.
Mr. Siva Santosh Kumar, Adv.

Arunachal Pradesh

Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

Assam

Mr. Shuvodeep Roy, Adv.

Bihar

Mr. M. Shoeb Alam, Adv.
Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Chhattisgarh

Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

Goa	Mr. Anshuman Srivastava, Adv. Mr. S.S. Rebello, Adv. Mr. Apoorva Bhumes, Adv.
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H.P.	Mr. Vikas Mahajan, AAG Mr. Vinod Sharma, Adv.
J&K	Mr. M. Shoeb Alam, AOR Ms. Fauzia Shakil, Adv. Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
Jharkhand	Mr. Tapes, Kumar Singh, AOR Mohd. Waquas, Adv. Mr. Aditya Pratap Singh, Adv.
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Kerala	Mr. C.K. Sasi, Adv. Ms. Nayantara Roy, Adv.
Maharashtra	Ms. Deepa M. Kulkarni, Adv. Mr. Nishant R. Katneshwarkar, Adv.
Manipur	Mr. Leisangthem Roshmani Kh., Adv. Mr. Maibam Babina, Adv.
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Puducherry	Mr. V.G. Pragasam, AOR Mr. S. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv. Mr. T.N. Rama Rao, Adv. Mr. Hitesh Kumar Sharma, Adv.

Mrs. T. Veera Reddy, Adv.

UPON hearing the counsel the Court made the following

O R D E R

In partial modification of order dated 08.05.2018, we direct that Training Manuals should be circulated to the Director General of Prisons and Secretaries of Prison Department in each State Government/ UT and also to three training institutes i.e. Institute of Corrections Administration, Chandigarh; Regional Institute of Correctional Administration, Kolkatta and Academy of Prison and Correctional Administration, Vellore.

We have heard the learned Attorney General, the learned ASG, the learned Amicus and learned counsel for the parties.

To tackle some of the issues pertaining to prisons and reforms in prison including children who are in prison only because their mother is in prison and other related issues, the learned Attorney General agrees with the view expressed by this Court that a Committee should be appointed to look into all these issues. The Committee will be headed by a retired Judge of this Court and will be assisted by 2-3 officers of the Government of India. This has also been agreed by the learned Attorney General, the learned ASG and the learned Amicus.

We request the learned Amicus to sit with the learned ASG to prepare terms of reference and the responsibilities of the proposed Commission.

Needless to say, the Union of India will have to issue a notification and provide all necessary facilities considering the

importance of prison reforms in the country and importance of Article 21 of the Constitution of India.

For this purpose, list the matter on 17.08.2018.

Well before the next date of hearing, an agreed document should be prepared by the learned ASG and the learned Amicus.

I.A. No. 26542/2018

We have requested the learned Amicus to put in the form of a chart the Rules in the various Prison Manuals that appear to be constitutionally invalid along with the response of the State Government to communications in this regard so that we can go through each Rule one by one and determine its constitutional validity.

Needful be done within ten days.

List the application on 29.08.2018.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER

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

Date : 25-09-2018 This petition was called on for pronouncement
of order today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE DEEPAK GUPTA

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

For Petitioner(s) By Post

For Respondent(s) Mr. G.S. Makker, AOR

For States of
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Mr. Guntur Prabhakar, Adv.
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Ms. Pallavi Baghel, Adv.

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Mr. Nishant R. Katneshwarkar, Adv.

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Mr. Ankit Raj, Adv.
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Sikkim Ms. Aruna Mathur, Adv.
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	Ms. Geetanjali, Adv. for M/s Arputham Aruna & Co.
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Tamil Nadu	Mr. M. Yogesh Kanna, AOR Mr. S. Partha Sarathi, Adv. Mr. Raja Rajeshwaran, Adv.
Telangana	Mr. P. Venkat Reddy, Adv. Mr. Prashant Tyagi, Adv. For M/s Venkat Palwai Law Associates
Uttarakhand	Ms. Rachana Srivastava, AOR Ms. Monika, Adv.
West Bengal	Mr. Suhaan Mukerji, Adv. Mr. Harsh Gursahani, Adv. Ms. Astha Sharma, Adv. Mr. Abhishek Manchanda, Adv. Ms. Kajal Dalal, Adv. Mr. Amit Verma, Adv. For M/s PLR Chambers
A&N Islands	Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.
Puducherry	Mr. V.G. Pragasam, AOR Mr. S. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The Ministry of Home Affairs in the Government of India shall issue a notification constituting a Supreme Court Committee on Prison Reforms in terms of the signed reportable order.

As and when a copy of the final report is submitted, the matter to be listed for further orders.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
ASSISTANT REGISTRAR

[Signed reportable order is placed on record]