

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.  
Ms. Binu Tamta, Adv.  
Ms. Sushma Suri, AOR  
Mr. B.K. Prasad, Adv.  
Ms. Sushma Manchanda, Adv.  
Mr. M.K. Maroria, Adv.

For States of  
Andhra Pradesh      Mr. Guntur Prabhakar, Adv.  
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.  
Mr. Mojahid Karim Khan, Adv.

Chhattisgarh      Mr. C.D. Singh, AAG  
Mr. Prateek Rusia, Adv.

Goa      Mr. Anshuman Srivastava, Adv.  
Apoorva Bhumes, Adv.

Gujarat      Ms. Hemantika Wahi, AOR  
Ms. Jesal Wahi, Adv.  
Ms. Shodika Sharma, Adv.  
Ms. Mamta Singh, Adv.

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

Jharkhand	Mr. Tapesh Kumar Singh, AOR Mohd. Waquas, Adv. Mr. Aditya Pratap Singh, Adv.
Karnataka	Mr. V.N. Raghupathy, AOR
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.
Nagaland	Mrs. K. Enatoli Sema, AOR Mr. Edward Belho, Adv. Mr. Amit Kumar Singh, Adv. Mr. K.Luikang Michael, Adv. Mr. Z.H. Isaac Haiding, Adv.
Odisha	Ms. Anindita Pujari, Adv. Mr. Ashok Panigrahi, AOR
Punjab	Ms. Uttara Babbar, Adv.
Rajasthan	Mr. S.S. Shamsbery, Adv. Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Ruchi Kohli, Adv. Ms. Pragati Neekhara, Adv.
Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. for M/s Arputham Aruna & Co.
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.
Tamil Nadu	Mr. M. Yogesh Kanna, Adv. Ms. Mahalakshmi, Adv. Ms. Sujatha Bagadhi, Adv.
Telangana	Mr. S. Udaya Kumar Sagar, Adv. Mr. Mrityunjai Singh, Adv.
Uttarakhand	Ms. Rachana Srivastava, AOR Ms. Monika, Adv. Mr. Sukrit R. Kapoor, Adv. Ms. Nitya Madhusoodhanan, Adv.
West Bengal	Mr. Raja Chatterjee, Adv. Ms. Runa Bhuyan, Adv. Mr. Chanchal Kr. Ganguly, Adv. Mr. Piyush Sachdev, Adv.
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 31<sup>st</sup> 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 31<sup>st</sup> 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 30<sup>th</sup> 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 31<sup>st</sup> 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