

ITEM NO.2

COURT NO.10

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO. 406/2013

IN RE-INHUMAN CONDITIONS IN 1382 PRISONS

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

Date : 14-05-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

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By Post

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**UPON hearing the counsel the court made the following
O R D E R**

1. The matter be next listed on 11th July, 2024 at the top of the Board.
2. The detailed reportable order is placed on the file.
3. The operative part of the Order *inter alia* reads as under :

“35. Upon careful consideration of the stands taken by the States *supra* as also the oral submissions of various other States made through their respective learned counsel, we are constrained to observe that the State Governments/Union Territory Administrations have not fully woken up to the dire situation. Bereft of a sense of urgency, we sense a certain lethargy. It is most unfortunate that upon queries put by the Court to the learned counsel appearing for the States, the standard response received is that further time be given to come up with details. Obviously, learned counsel cannot address the Court without instructions.

36. There has been a detailed dialogue between the Court, the AC and the learned counsel, during the hearing. Many aspects and factors have been clarified to learned counsel appearing for the parties. We presume that learned counsel, having taken note of the same, would impress upon their respective clients i.e. the respective States or Union Territories (hereinafter referred to as 'UT') to act with diligence. *Ex consequenti*, we direct that appropriate response(s) shall be filed by way of additional affidavits personally affirmed by the Chief Secretary of the State/UT concerned, at least a week before the next date of hearing, of course, with advance copies to the AC.

37. In addition to specific directions issued to certain States, it is categorically indicated that pending approval(s), be it for sanction of projects or identification of suitable land, the same be proceeded with and brought to their logical conclusion by the States/UTs within a period of ten weeks, reckoned from today.

38. Few learned counsel have requested that the Court may specify some common/ uniform parameters for States/UTs to create facilities in prisons. This suggestion is merited. To begin with, specifications/parameters for jails may be in terms prescribed by and

under the *Model Prison Manual 2016* (hereinafter referred to as the 'MPM') issued by the Government of India, Ministry of Home Affairs.

39. Learned Senior counsel for the State of Uttar Pradesh has submitted that as per the parameters in its latest Jail Manual¹, the average area per prisoner is more than what is provided for in the MPM. It is canvassed that if the MPM specification is applied, then the capacity of prisons in Uttar Pradesh would increase substantially, with the current infrastructure alone.

40. We may note that perhaps mere existence of a large campus area would not *per se* mean that the capacity has been enhanced or augmented. What is required to be seen is that whether the requisite facilities for each individual prisoner are adequate in terms of sleeping area, mobility within the prison, kitchen/food, health facilities, other matters etc.

41. Thus, States/UTs, in their proposed affidavits, should address all issues holistically, including inmate-capacity enhancement/augmentation. Other logistics such as creation of posts of wardens/cooks/doctors/various jail staff etc. should also be factored in.

42. Before concluding, we may reiterate that prisoners are covered under Article 21 of the Constitution of India. In ***Sunil Batra (II) v Delhi Administration***², this Court had pointedly answered that prisoners are persons who are entitled to Fundamental Rights even while in custody. ***Rama Murthy v State of Karnataka***³, was a case where this Court had identified some problems plaguing jails in India, some of which continue to linger till today. Even before these cases, the view of this Court in respect of prisoners and undertrials was expounded in ***State of Maharashtra v Prabhakar Pandurang Sangzgiri***⁴ and ***Mohan Patnaik v State of Andhra Pradesh***⁵. These are merely illustrative but sufficient to demonstrate the intent of this Court to secure basic facilities for those housed in prisons and were noticed in Orders/Judgment passed in this writ petition reported as **(2016) 3 SCC 700**⁶, **(2016) 10 SCC 17**⁷, **(2017) 10 SCC 658**⁸, and **(2018) 18 SCC 777**⁹. We expect all stakeholders to rise to

¹ We take it that the reference is to the Uttar Pradesh Jail Manual, 2022.
² (1980) 3 SCC 488
³ (1997) 3 SCC 642
⁴ AIR 1966 SC 424
⁵ (1975) 3 SCC 185
⁶ Order dated 05.02.2016.
⁷ Order dated 03.10.2016.
⁸ Judgment dated 15.09.2017.
⁹ Order dated 25.09.2018.

the occasion and discharge the obligation cast on them as expeditiously as is possible.”

(Nand Kishor)
Court Master (NSH)

(Geeta Ahuja)
Assistant Registrar-cum-PS

(Signed Reportable Order is placed on the file)