



\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2001/2019, CM APPL. 9393/2019

S. DAYA SINGH LAHORIA AND ORS. Petitioners

Through: None.

versus

GOVERNMENT OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Harshit Anand, Advocate for
Mr. Shadan Farasat, ASC-GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

%

22.09.2023

1. The Petitioners, undertrial prisoners charged with offences punishable under the Maharashtra Control of Organized Crime Act, 1999 [“MCOCA, 1999”], have filed the present petition as a Public Interest Litigation against the Respondent No. 2 – Director General of Prisons’ decision dated 15th January, 2019, restricting visits to inmates booked under MCOCA, 1999 to only their family members.

2. Petitioners contend that the impugned decision arbitrarily restricts the rights of the concerned inmates to meet persons other than their family members, including their *paurokars*, who handle the legal proceedings. Moreover, such a restriction has been levied only on prisoners facing charges under MCOCA, 1999, and not the inmates who are imprisoned for



other offences. It is argued that there is no rationale for such discrimination.

In this background, Petitioners have sought the following reliefs:

- “1. Issue Writ(s) or Order(s) in the nature of Certiorari and/ or any other appropriate Writ/ Order/ Direction of like nature thereby quashing Order (U.O. f10/003533156/5/legal/19/2622) dated 15.01.2019 passed by the Additional Inspector General Of Prisons, Prisons Headquarters Tihar, New Delhi for being unconstitutional and violative of the fundamental rights guaranteed under the Constitution Of India, and;*
- 2. Issue Writ(s) or Order(s) in the nature of Mandamus thereby directing the respondents to restore the previous lists of mulakatees by inserting the names of the friends/relatives/pairokars allowing them to conduct meetings with the prisoners in general and prisoners booked under MCOCA and prisoners lodged in the High Security Ward of Tihar Jail as per law, and;*
- 3. Issue Writ(s) or Order(s) in the nature of Mandamus thereby directing the respondents to re-insert the name of the friends/Pairokars for High Security Ward prisoners in general and friend/pairokar (brother in law) of the Petitioner No. 1 in the mulakatee list in specific, and;*
- 4. Issue Writ(s) or Order(s) in the nature of Mandamus thereby directing the respondents to not make cutouts from newspapers bought by the prisoners lodged in High Security Wards and provide newspaper as intact and in full containing legally permitted information, and;*
- 5. Issue Writ(s) or Order(s) in the nature of Mandamus thereby directing the respondents to permit mulaqat booking by alternative routes like email and same day mulaqat booking for family/friends of prisoners, and;*
- 6. Issue a Writ of Mandamus and/or any other appropriate Writ/ Order/ Direction of like nature thereby directing the Respondents to provide Television sets (with Cable Network connection) and Radio sets to the Prisoners lodged in High Security Wards, Tihar Jail, New Delhi so that the Prisoners lodged/ imprisoned in the High Security Wards are not 15 discriminated against in any manner vis-a-vis the Prisoners lodged in General Wards, and;*
- 7. Issue Writ(s) or Order(s) in the nature of Mandamus thereby directing the respondents to refrain from acting in arbitrary and discriminatory manner against the prisoners lodged in the high security wards/prisons, Tihar jail, New Delhi.”*

3. On 29th November, 2019, learned counsel for Petitioners submitted before this Court that they shall only be pressing prayer clause 1. The record of the case reflects that none has marked their appearance on behalf of Petitioners since 29th April, 2022. Nonetheless, we have considered the merits of the



case.

4. The impugned decision dated 15th January, 2019 reads as under:

“ORDER

*It has been decided by the competent Authority that all such inmates who are confined in Delhi Prisons and are booked under MCOCA Act will be allowed to avail interview in the jail premises **with their family members only.***

*As per Rule 1201 Of Delhi Prison Rules 2018, the family is defined as under “”.....means **grandparents, parents, brothers, sisters, spouse, children and grandchildren**”*

For strict compliance from all concerned.

*(Raj Kumar)
Additional Inspector General of Prisons
Prisons Headquarter
Tihar: New Delhi”*

5. A detailed counter affidavit has been filed in the matter by the Respondents, stating that the impugned order is in compliance with Rule 1410 of the Delhi Prison Rules, 2018, which permits only the blood relations, spouse, and authorized lawyers to conduct interviews with high-risk offenders. Prisoners are classified as “high-risk offenders” on the basis of criteria entailed in Standing Order No. 33 issued by Respondent No. 2 on 30th April, 2012. As per Section 28 of the Delhi Prisons Act, 2000 and administrative orders issued in pursuance thereof by competent authority, the Respondents are authorized to separate high-risk prisoners or prisoners perceived as security threats, and lodge them in high security wards. At present, 250 prisoners have been incarcerated in such wards. Reliance is placed on the judgment delivered in the case of *State of Maharashtra v.*



Sayed Noor Hasan Gulam Hussain,¹ to argue that lodging/ placement of prisoners in any part of the prisons is solely an administration/ executive function. Respondents have categorically averred that they have been duly abiding by the directions issued by Hon'ble Supreme Court of India in ***Re: Inhuman Conditions in 1382 Prisons***,² and are protecting the fundamental rights available to all inmates of high security wards, without any discrimination. All prisoners, including high-risk prisoners, are permitted to meet their family members and provision for legal aid to them has also been made.

6. In the considered opinion of this Court, keeping in view the averments made by Respondents on affidavit that high security prisoners are being permitted to meet their family members in accordance with law, no reason is made out to interfere with order dated 15th January, 2019. The Respondents shall continue to abide by the extant laws/ regulations as well as directions periodically issued by the Hon'ble Supreme Court in this regard.

7. With the aforesaid, the PIL stands disposed of.

SATISH CHANDRA SHARMA, CJ

SANJEEV NARULA, J

SEPTEMBER 22, 2023

nk

¹ 1994 SCC OnLine Bom 166.

² Writ Petition (Civil) 406/2013.