

Court No. - 1

Case :- CRIMINAL WRIT-PUBLIC INTEREST LITIGATION No. - 3562
of 1998

Petitioner :- Ishtiaq Hasan Khan

Respondent :- State of U.P.

Counsel for Petitioner :- P.I.L.

Counsel for Respondent :- Govt. Advocate

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Brij Raj Singh,J.

1. Sri Anurag Verma, learned A.G.A. has informed that on verification of the status of the petitioner in this letter petition(later on converted in PIL Criminal), it has transpired that the petitioner who was a convict and was serving the sentence in Model Jail, Lucknow, on an appeal having been filed against the judgment/order of his conviction and sentence, has already been acquitted vide judgment dated 24.7.2001 passed in Crl. Appeal No. 103 of 1996.
2. Thus, the cause confined to the petitioner no more survives. By our order dated 7.2.2024, we had taken note of certain more issues keeping in view the larger interest of the convicts serving the sentence rendered in the respective trials by the competent courts of law. The said order reads as under :-

"This petition in public interest is registered on the basis of a letter received from a person, who is incarcerated in Model Jail, Lucknow.

Ms. Nikita Mishra, learned Additional Government Advocate prays for and is granted a week's time to obtain instructions to clarify the number of male undertrials as well as convicts and female undertrials as well as convicts alongwith children,if any, who are going through incarceration in Model Jail Lucknow. The mechanism

of providing food to the persons incarcerated be also explained apart from other measures which the State takes to ensure support to the families of the undertrials and convicts depending upon their income.

All these aspects of the matter be clarified before this Court on the next date of listing.

A responsible officer of the State shall also be present to explain the position dealing with administration of jail on the next date when the case is taken up.

List this case on 28.02.2024."

3. The court had expressed a concern regarding the family condition of those convicts who were the sole breadwinners for their family reduced to a state of penury on account of the incarceration of their mukhiya. There may be a situation where the dependent family members might be faced with acute financial hardship and the children are deprived of fundamental education and health cover.
4. In order to ascertain the impact of incarceration upon the dependent family members at large and to look at the limited area of personal liberty of the convicts themselves, it was deemed proper to go into all such aspects of the matter in larger public interest. It is in the background of this part of human life that the consideration on these aspects becomes an important question of law which would require attention of this Court.
5. In view of the above, we re-title the present PIL as suo moto PIL for the welfare of the convicts and their dependent family members in **U.P. versus State of U.P. through Additional Chief Secretary, Home, Government of U.P.**

6. Let the PIL be retitled accordingly.
7. Sri S.M. Royekwar, learned counsel who is a practicing lawyer in this Court is appointed as amicus curiae to assist the Court.
8. Sri Anurag Verma, learned A.G.A. may also obtain definite instructions and details in the light of the order passed by this Court on 7.2.2024 and may also bring on record the schemes evolved by other States on the subject, if any. The jail superintendents of all the jails within the State of U.P. may also propose necessary measures to bring about reformatory changes as may be necessary.
9. A concept of open jails to serve the personal liberty of the convicts has been evolved in the State of Rajasthan, State of Maharashtra and other States need to be studied so as to evolve a better reformatory mechanism. All such concepts on being studied and considered be brought to the notice of this court through a scheme or proposal as may be just and proper to serve the cause.
10. Let this exercise be completed by the State within a period of one month from today.
11. List/put up this PIL on 29.3.2024.
12. Registry as well as the State is directed to supply a copy of the paper book to Sri S.M. Royekwar, learned Amicus Curiae.
13. This order shall be brought to the notice of the Additional Chief Secretary, Home as well as the Director General, Prisons and Jail

Reforms for making necessary compliance so as to evolve a complete reformative mechanism in the large interest of convicts to serve the cause.

(Brij Raj Singh,J.) (Attau Rahman Masoodi,J.)

Order Date :- 28.2.2024
kanhaiya