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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6610 of 2006

Krushna Prasad Sahoo *Petitioner*
Mr. Gautam Misra, Senior Advocate
Amicus Curiae
-versus-
State of Orissa and others *Opposite Parties*
Mr. M.S. Sahoo, A.G.A.
Mr. Ashok Parija, Advocate General

CORAM:
THE CHIEF JUSTICE
JUSTICE B. P. ROUTRAY

ORDER
26.08.2021

Order No.

30.

1. Today's hearing had the participation of the D.G. of Prisons in virtual mode. This Court has heard Mr. Gautam Misra, learned Amicus Curiae (AC), Mr. Ashok Parija, learned Advocate General and Mr. M.S. Sahoo, learned Additional Government Advocate.

Overcrowding of jails

2. One of the issues taken up for discussions at today's hearing was the issue of overcrowding of prisoners. The latest figure as of 31st July, 2021 shows that the situation continues to be a cause of great concern with a large number of prisons in Odisha having beyond 20% overcrowding and a substantial number beyond 50% of overcrowding. Even at the jail in Bhubaneswar, the scheduled accommodation is 749 whereas the present prisoner population is 1006. The situation is as bad in Malkangiri. There the scheduled

accommodation is 314, whereas the current inmate population is 679. In Bhadrak jail, the scheduled accommodation is 166, the current population is 415.

3. In an affidavit dated 23rd August, 2021, the Deputy Inspector General of Prisons has set out some of the measures to tackle the issue. *Inter alia*, it is stated that an action plan for 2020-21 and 2021-22 has been approved by Government for construction of additional wards in different jails of the State. It is expected that the scheduled capacity of some of the jails will be upgraded to accommodate 2994 more prisoners. It is further submitted that the new jail building of Special Sub-Jail, Bhadrak will be constructed at the proposed land with an enhanced capacity of 460. However the affidavit does not indicate any time schedules for completion of the aforementioned projects and how the additional capacity of 2994 would be distributed across the jails in the State of Odisha.

4. As rightly pointed out by Mr. Misra, learned AC, the specific directions in paragraph 12 of this Court's order dated 16th July, 2021 (reproduced below) have not been responded to:

“12. The Court would also like to emphasise that effective steps should be taken as regards the suggestion regarding decongestion of the present population in prisons in Odisha. The Court directs that rather than ad hoc measures which serve only the present needs, a long-term plan to deal with the issue of overcrowding in prisons has to be drawn up on urgent basis and be placed before this Court before the next date. The plan be drawn up on a consultative basis involving all

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the important stakeholders and civil society groups actively engaged with these issues.”

5. The DG of Prisons and the Advocate General assure the Court that within the next two weeks a meeting will be convened of the Departments of Home, Prisons, Finance, Office of the Public Prosecutor and all the important stakeholders including civil society groups, and those conversant with the issues including Court former Directors General of Prisons of some States, who could participate in the virtual mode and offer suggestions. The outcome of the meeting(s) should be the drawing up of a blue print/ action plan, in the short-term and in the long-term, addressing the issue of overcrowding for every jail i.e. circle jail, special jail, district jail, special sub-jail and sub-jail etc. in the State of Odisha. The minutes of such meeting(s) be placed before the Court by the next date along with an affidavit of the DG of Prisons.

6. The Court would like to emphasize that the best practices adopted elsewhere in the world to address the issue of overcrowding of jails also be examined to see how far they can be adopted for implementation in Odisha.

Quarantine of new prisoners

7. The other issue discussed was the quarantine of new prisoners and the prisoners returning at the end of the parole period with the relaxing of the COVID-19 restrictions.

8. Learned AC WWW.LIVELAW.IN has drawn the attention of this Court to the minutes of the meeting of a High Power Committee (HPC), Bihar dated 28th May, 2021 a copy of which has been enclosed with his note dated 24th June, 2021. It *inter alia* makes the following recommendation.

“For the new inmates twenty prisons/part of prisons have been declared as quarantine prisons where the new prisoners are kept for fourteen days. They are provided with all essential things (viz-mask, hand sanitizer, soaps, hot water, thermal screening etc.) for the prevention of corona infection.”

9. The DG of Prisons informs the Court that in most of the prisons in Odisha, new prisoners who test positive for COVID-19 are not allowed to enter into the prison and are sent to a separate Covid Care Centre. Nevertheless, the Court would like to the DG to respond to the above suggestion of the HPC Bihar and examine to what extent the said suggestion can be operationalized in every of the jail, sub-jail, district jail, circle jail, etc. in Odisha.

E-Mulaqat Facility

10. As regards the E-Mulaqat facility, it is stated that it has commenced in many of the jails in Odisha. The DG states that he shall place on record with an affidavit, by the next date, copy of the guidelines issued in this regard.

11. The Court had on 9th March, 2021 made two further suggestions, one of which was the conducting of jail adalats. The Court directs the Member, Odisha State Legal Services Authority

to file an affidavit by the next date informing what steps have been taken in that regard. Another direction issued was to the concerned District Magistrates to conduct a surprise visit to the jails within their jurisdiction and submit reports. While many of them have submitted reports, the Court directs that as a follow up each of them shall again visit unannounced, the jails within their jurisdiction, and submit a report by the next date. The report be submitted in the format as directed in the order dated 19th April, 2021. The report should indicate what improvements have been made since the previous visit.

12. A copy of this order be transmitted by the learned Additional Government Advocate to each of the District Magistrates for compliance forthwith.

13. List on 1st November, 2021.

14. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge