

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

PUBLIC INTEREST LITIGATION NO.OF 2020
(Under Article 226 of the Constitution of India)

Man Mohan Mishra

.... Petitioner
(In Person)

VERSUS

1. High Court of Judicature at Allahabad, Nyaya Marg, Canton,
Dhoomanganj, Prayagraj (Allahabad),
Uttar Pradesh – 211001 through its Registrar General
2. State of Uttar Pradesh, through the
Secretary, Department of Home (Police) Anubhag-9,
Government of Uttar Pradesh, Lucknow.
3. Principal Secretary,
Department of Prison Administration,
Government of Uttar Pradesh.
4. Uttar Pradesh High Powered Committee through its Chairman
.....Respondents

To,

The Hon'ble the Chief Justice and his other companion judges
of the aforesaid court.

The humble petition on behalf of the petitioner above named,
Most Respectfully Showeth:

1. That this is the first Writ Petition filed by the petitioner before this
Hon'ble court and no other writ or appeal or Civil Revision on the same

cause of action or seeking the same or related relief, has been filed by the petitioners before this Hon'ble Court or before Lucknow bench of the Hon'ble High Court, or pending in the Lower court.

2. That no caveat application has been received by the petitioner for the present cause of action in any way, by the respondents of the present writ petition.
3. That the petitioner by way of this Public Interest Litigation hereby affirm that he has no personal or private interest in the issue herein raised in this petition and that there is no authoritative pronouncement by the Hon'ble Supreme Court or any Court on the aforesaid issue raised. The result of the litigation will not lead to any undue gain to himself or anyone associated with him, or any undue loss to any person, body of persons or the State.
4. That by means of the present public interest petition, the petitioner is hereafter seeking alleviation of the sufferings of the prisoners lodged in the congested jails of the state of Uttar Pradesh in view of the increasing contamination by the COVID-19 (Corona Virus Disease 2019) virus, by way of certain suggestions proposed by the petitioner here in the present petition.
5. That the brief facts giving rise to the present Writ petition by way of this Public Interest Litigation (PIL, hereafter) is being mentioned hereinbelow :-
6. That by the time the present writ petition being typed as on 17.08.2020 the reported cumulative total number of cases for coronavirus positive patients have gone upto 26,47,663 in which

discharged number of patients stands at 19,19,842 number of active cases at 6,76,900 number of cumulative deaths at 50,921 and newly reported cases in 24 hours at 57,981. For the ready reference, the report on the Ministry of Health and Family Welfare, Government of India website is being filed and marked herewith as **Annexure No. I** to this writ petition.

7. That in the state of Uttar Pradesh alone the stats shows that there have been 1,54,418 number of total confirmed cases out of which 51,537 cases are presently active and 2449 number of people have lost their battle with the virus.
8. That the number of people cured/discharged/migrated have also risen to 19,19,842 out of 26,47,663 total number of cases which is 72.52% of the total cases. The percentage of patients cured have shown regular progress whereas the percentage of deaths which is at 1.92% has gradually dropped on per day comparison basis.
9. That, however, the rate of coronavirus positive cases from January 21 to August 17, 2020 have shown drastic rise in numbers. For the ready reference, the graph for daily new confirmed cases in India is being filed and marked herewith as **Annexure No. II** to this writ petition.
10. That it is also interesting to note that as of March 18, 2020 a corona positive patient was being detected after every 86 tests, however, as of August 16, 2020 a corona positive patient is being detected after every 12 tests. For the ready reference, the graph for daily new confirmed cases in India is being filed and marked herewith as **Annexure No. III** to this writ petition.

11. That although the common governments have been trying to handle the pandemic in most of the effective ways as possible, however, in view of the rising confirmed cases for the virus the value of human life and livelihood, where there is slightest danger, cannot be risked to the deadly character of the virus on the pretext of commendable figures.
12. That in order to combat the spread and contamination of the deadly virus the primary suggestion that have been advised by the prominent organizations is to maintain social distancing of minimum of one meter, avoid crowding, use sanitizers, use mask etc.
13. That although the measures to maintain social distancing among the citizens are being taken by the authorities, however, the situation of the prison in the country have remained the same on account of overcrowding and non-management.
14. That the deadly virus have already infiltrated the over-crowded prisons in our country in lieu of which there have been sharp rise in the number of infected prisoners since the first recorded case of the virus infection in any prison of the country.
15. That in the state of Uttar Pradesh alone several jail/prisons such as Agra, Jhansi, Etah, Gyanpur, Basti etc have reported the contamination of the deadly virus among its prisoners and the numbers are still increasing day by day. For the ready reference, the collective newspaper reports for the corona virus infection for different prisons in the state is filed and marked herewith as **Annexure No. IV** to this writ petition.

16. That by the data report of the newspaper “The Hindu” as on July 29, 2020 out of 26 total jail coronavirus contagion in the country 3 District Jails of Uttar Pradesh has reported the contamination in its prisons. For the ready reference, the “The Hindu” newspapers data report is filed and marked herewith as **Annexure No. V** to this writ petition.
17. That by the same data report of the aforesaid newspaper it is reported that the state of Uttar Pradesh has recorded highest jail occupancy as of year 2018. The rate of occupancy has also been shown as one among the highest by any state.
18. That it is pertinent to site another report from an electronic media entity named “NewsClick” which stated that the jails in Uttar Pradesh has become a “Virus Hubs”. For the ready reference, the “NewsClick” website dated 25.07.2020 is being filed and marked herewith as **Annexure No. VI** to this writ petition.
19. That as per the latest data available on the UP Prisons Administration and Reforms Services as 31.07.2020, the jails in the state has total capacity of 60,580 inmates. However, the total number of prisoners lingering are 1,01,958 in which 24,977 are convicted and 76981 are undertrials. For the ready reference, the report of the UP Prisons Administration and Reforms Services for the month of July is being filed and marked herewith as **Annexure No. VII** to this writ petition.
20. That it is pertinent to mention that Hon’ble Supreme Court took suomotu cognizance of condition of the prisons due to pandemic in the country and ordered the constitution of high powered committee by every state in order to deal with the issue of overcrowding in all

prisons. For the ready reference, the order of the Supreme Court is being filed and marked herewith as **Annexure No. VIII** to this writ petition.

21. That by the recommendation of the High Powered Committee dated 21.05.2020 about 17,602 prisoners were given parole and interim bail. For the ready reference, the order of the High Powered Committee is being filed and marked herewith as **Annexure No. IX** to this writ petition.

22. That in spite of the release of the prisoners on parole and interim bail there are currently about 1,07,621 prisoners inside the Uttar Pradesh jails as per live information report by the National Prisons Information Portal as on 17.08.2020. For the ready reference, the live report of the e-prison portal dated 17.08.2020 is being filed and marked herewith as **Annexure X** to this affidavit.

23. That on perusal of the aforesaid data it is evident that against the capacity of 60,580 there are almost 47,041 excessive prisoners crowded in our jails presently which is approximately 178% of the occupancy rate.

24. That given the appalling congestions in addition to shortage of medical staff and unhygienic condition of the prisons in the state it is highly imperative for this Hon'ble court to take actions in order to decongest the prisons at the time of this communicable coronavirus contagion.

25. That as per the available news reports as given in annexure IV, the corona virus contagion has infected District Jails and Central Jails of

Gyanpur, Mirzapur, Basti, Kanpur, Bulandshehar, Agra, Muzaffarnagar, Jhansi, Etah and Azamgarh.

26. That as per the U.P. prison administration report available in annexure VII, following list of prisons have occupancy more than 100 per cent:-

CENTRAL JAILS

i.	Naini	-	213%
ii.	Varanasi.	-	137%
iii.	Fatehgarh.	-	139%
iv.	Bareilly	-	120%
v.	Agra	-	142%

District Jails

i.	Agra	-	227%
ii.	Firozabad	-	191%
iii.	Mainpuri.	-	257%
iv.	Mathura.	-	284%
v.	Etah	-	197%
vi.	Jhansi.	-	207%
vii.	Lalitpur.	-	347%
viii.	Urai	-	179%
ix.	Badayu.	-	281%
x.	Shahjahanj.	-	275%
xi.	Pilibhit	-	147%
xii.	Rampur.	-	233%
xiii.	Bijnor.	-	187%
xiv.	Raibareli	-	249%
xv.	Unnao	-	176%
xvi.	Hardoi.	-	217%
xvii.	Sitapur.	-	176%
xviii.	Khiri	-	203%
xix.	Kanpur Nagar.	-	200%
xx.	Kanpur Dehat.	-	151%
xxi.	Fatehgarh	-	109%
xxii.	Kannauj	-	118%
xxiii.	Bulandshehar.	-	238%
xxiv.	Merut	-	155%
xxv.	Bagpat	-	108%
xxvi.	Saharanpur	-	311%
xxvii.	Fatehpur	-	188%
xxviii.	Pratapgarh	-	254%
xxix.	Gazipur	-	208%
xxx.	Jaunpur	-	418%
xxxi.	Mirzapur	-	215%
xxxii.	Sonbhadra	-	182%
xxxiii.	Gyanpur	-	239%
xxxiv.	Banda	-	170%

xxxv. Hamirpur	-	170%
xxxvi. Gorakhpur	-	203%
xxxvii. Maharajhanj.	-	165%
xxxviii. Siddharthnagar-	-	151%
xxxix. Ayodhya	-	141%
xl. Barabanki	-	128%
xli. Bahraich.	-	250%
xlii. Gonda	-	173%
xliii. Azamgarh	-	153%
xliv. Mau	-	119%
xlv. Balia	-	224%
xlvi. Kaushambi	-	225%
xlvii. Deoband	-	156%
xlviii. Mahoba	-	186%

27. That given the peculiar character of the aforesaid virus, it has become highly important that the right to life of the citizens imprisoned in the jails of the state must be protected against the dangers casted upon by the deadly communicable virus.
28. That although actions have been taken not only by the judiciary but also by the state in the form of the High Powered Committee, however, these measures still does not suffice to the parameters that must be taken against the spread of the virus in the jails of the country, especially, in the state of Uttar Pradesh.
29. That since the State has a primary duty to protect the right of the citizens detained in its jails to live with human dignity as a fundamental right, it becomes highly incumbent for the State to act in lieu of these rights in way best possible to protect the inmates from the virus contagion.
30. That this Hon'ble court being one of the essence of the State under part VI of the Constitution of India it is cardinal for this Hon'ble court to endeavour to implement the idea of a welfare State as envisaged by our constitution.

31. That in view of the facts and circumstances stated above it is expedient in the interest of justice that this Hon'ble Court might may consider the suggestions hereafter given below:-
- a. That the cases relating to economic embezzlements/offences may be segregated to one special court and bail should be granted on deposition of one-fourth (1/4) or half (1/2) of the alleged amount on an undertaking.
 - b. Those Criminal Appeals in which the appellant have spent 10 or more than 10 years may be allotted to special court/courts for expeditious disposal. In case the appeal is not disposed of timely, timely parole may be granted until the final disposal of the said appeals.
 - c. That cases of the applicant/appellants may be heard expeditiously via special court where Coronavirus has been reported in their respective prison. The prisoners may be released after their test have been reported negative.
 - d. The Criminal appeals in which maximum sentence for an offence is not more than 7 years, may be allotted to special court and bail be granted on the principle of Plea Bargaining.
 - e. The applicants and appellants of appeal and bail applications whose ages is more than 75 years may be granted parole until the disposal of their application.

- f. That otherwise to any exceptions, anticipatory bail may be granted to the accused who has been charged of any offences punishable for not more than 7 years.
 - g. That Habeas Corpus writ petitions may be disposed of as expeditiously as possible and may not be kept pending for more than a month.
 - h. The pending bail application of those prisoners must be heard expeditiously where the relative prisons has occupancy of more than 100 per cent.
 - i. Direct Respondent no. 2 to provide proper management of the prisons in view of the present pandemic.
32. That lastly it is further submitted that prisons where coronavirus has been reported have gone incommunicado to the relatives of the prisoners due to which no status of the prisoners are known to any of the relatives.
33. It is submitted that directions may be issued by this Hon'ble court to the concerned authorities to provide proper and regular information of the prisoners to their relatives in any circumstances.
34. That, the petitioner has no other alternative or efficacious remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India, 1950 inter alia on the following and amongst several other grounds.

GROUND

- A.** Because, the state of the prisons in the state are dismal as shown in the aforesaid data.
- B.** Because, the rate of occupancy of 178% in the state prisons are concerning in view of the communicable pandemic.
- C.** Because, despite of the monitoring of the Hon'ble Supreme Court and the High Powered Committee the occupancy have not fallen to the optimum standards.
- D.** Because, the rate of high occupancy in the prisons is invitation to the risk of vulnerability to mass infection for Coronavirus contagion.
- E.** Because, the rate of coronavirus infection has been increasingly spreading in the country and there is no cogent medicines to counter the virus.
- F.** Because, several applications for bail and appeal is pending before this Hon'ble court for the prisoners who are inhabitants of those high rate occupancy prisons.
- G.** Because, due to limited work flow of this Hon'ble Court the applications for those prisoners cannot be disposed of efficiently in this highly extraordinary conditions.
- H.** Because, it is cardinal for this Hon'ble court to efficaciously dispose of bail and appeal matters in order to decongest over occupying prisons in the state.

P R A Y E R

It is, therefore, Most Respectfully prayed that this Hon'ble court may graciously be pleased to:

1. Issue writ, order or direction in the nature of mandamus commanding the respondent nos. 3 and 4 to consider the release of prisoners who are above the age of 65 years old or suffering from co morbidities in view of the Guidelines issued by the Ministry of Home Affairs on 29.07.2020;
2. Issue writ, order or direction in the nature of mandamus commanding the respondent no. 1 to take effective measures to ensure expeditious disposal of the anticipatory bail applications, bail applications, parole applications, etc. pending before the Courts across the State of Uttar Pradesh so as to decongest the overly populated prisons keeping in mind the suggestions made in paragraph no. 31 of this petition;
3. Issue writ, order or direction in the nature of mandamus commanding the respondent no. 2 to provide proper status and communication of the prisoner to their concerned relatives in any circumstances;
4. Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the present case.

(RAJRSHI GUPTA)

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(91 No. Lawyers Chamber High Court Allahabad)

Note: Senior Advocate Shri Dileep Kumar Gupta may appear on behalf of the petitioner