



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR**

D.B. Criminal Writ Petition No. 466/2019

Manoj Yadav @ Rajesh Sharma @ Kuldeep Sharma @ Ajay
Sharma @ Gopal Sharma

-----Petitioner

Versus

State

-----Respondent

Connected With

D.B. Civil Writ Petition No. 17019/2018

Inderjeet Singh

-----Petitioner

Versus

State Of Rajasthan

-----Respondent



For Petitioner(s) : Mr. Kaluram Bhati, through VC
For Respondent(s) : Mr. Farzand Ali, G.A.-cum-A.A.G., with
Mr. Abhishek Purohit

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE DEVENDRA KACHHAWAHA**

Order

17/12/2020

Vide order dated 05.03.2020, we had formulated the following questions/issues to be answered by the State through Mr. Farzand Ali, learned G.A.-cum-A.A.G :-

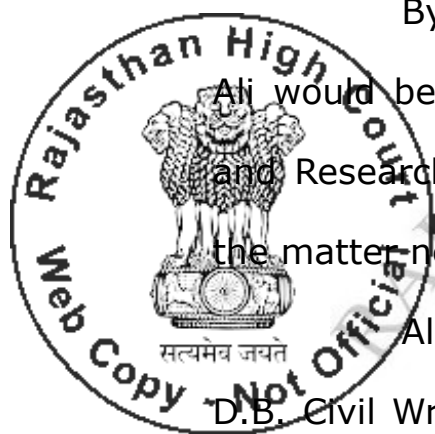
"1. Whether the authorities are holding the requisite number of meetings to consider the cases of the convicts for being sent to the Open Air Camp in accordance with the requirements of the statutes.

2. Whether suitable amendments have been entered in various prison rules so as to synchornize the same with the amendments brought around in the penal statutes viz. Penal Code & POCSO etc.



3. *Whether steps have been taken to enhance the available accommodation in the Open Air Camps for keeping pace with the increase in number of convicts.*

4. *Whether appropriate steps have been taken by the State Government for prison reforms in compliance of the Supreme Court judgment in the case of **In Re: Inhuman Conditions in 1382 Prisons : AIR 2016 SC 993.***



By the same order, we had observed that Mr. Farzand Ali would be at liberty to take assistance from the Criminologist and Researcher Ms. Smita Chakraborty. However, unfortunately, the matter never came to be listed thereafter.

Alongwith this matter, two more writ petitions, namely, D.B. Civil Writ Petition No.17019/2018 (Indrajeet Singh Vs. State of Rajasthan) and D.B. Civil Writ Petition No.98/2019 (Smt. Bhanwri Vs. State of Rajasthan), have been tagged, in which also the issues regarding prison reforms have been taken up.

Recently, we have come across a very disturbing report published on a website regarding existence of a caste based work assignment system in the prisons in Rajasthan. The report is based on a research paper of the Commonwealth Human Rights Initiative (CHRI). The researcher of the CHRI interviewed various prisoners (since released) from prisons in Rajasthan and a shocking finding came out that till date the archaic Prison Manual, which was a gift of the British Rule is prevalent in the prison system of the State. As per the report, every person, who enters a prison in the State, is asked about his caste and once identified, menial jobs like cleaning toilets, sweeping the prisons etc. are assigned to the persons from lowest echelons in the society irrespective of the nature of the offence committed.



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Some striking observations made in the report are reproduced hereinbelow for the sake of ready reference :-

"The arrangement was clear – those at the bottom of the caste pyramid did the cleaning work; those high above handled the kitchen or the legal documentation department. And the rich and influential did nothing; they only threw their weight around. These arrangements had nothing to do with the crime that one was arrested for or his conduct in prison. "Sab kuch jaati ke aadhar par tha (It was all based on caste)," he says.



Caste-based labour, in fact, is sanctioned in the prison manuals of many states. The colonial texts of the late 19th century have barely seen any amendments, and caste-based labour remains an untouched part of these manuals. While every state has its own unique prison manual, they are mostly based on The Prisons Act, 1894. These jail manuals mention every activity in detail – from the measurement of food and space per prisoner to punishments for the "disorderly ones".

The report also refers to the fact that the Prison Manuals of various states are still plagued by the archaic and derogatory caste system, which the Constitution of India pledged to eradicate.

We are of the firm view that no under trial prisoner can be assigned such duties in a prison.

We, therefore, direct the learned Additional Advocate General Mr. Farzand Ali to apprise the court regarding the proposed steps for complete overhauling of the Prison Manual and



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to ensure that the prisoners are not forced to indulge in menial jobs like cleaning toilets etc. merely on the basis of their caste and also that no under trial prisoner is forced to perform such jobs in the prison. Rather, considering the progressive democratic set up of our country and in order to ensure maintenance of proper hygiene in the prisons, it would be expedient in the interest of justice that the State Government considers installation of mechanized/automated cleaning facilities in all the prisons in the State of Rajasthan.

Mr. Farzand Ali shall file a detailed response to the aforesaid observations by the next date of hearing.

List both the cases on 04.02.2021.

(DEVENDRA KACHHAWAHA),J

(SANDEEP MEHTA),J

4-Pramod/-

