

07.01.2021

Item no. 47

Dd/aloke

(Through Video Conference)

WPA 22311 of 2019

Nur Mahammad & Ors.

Vs.

Union of India & Ors.

WWW.LIVELAW.IN

Mr. S. G. Chowdhury, adv.

Mr. Argha Das, adv.

... .. For the Petitioners

Mr. Amitesh Banerjee, sr. standing counsel

Mr. Biswabrata Basu Mallick, adv.

Mr. Suddhadev Adak, adv.

... ..For the State

Mr. Partha Ghosh

Mr. Tarunjyoti Tewari

.. ...For the UOI

This writ petition is filed seeking issuance of a writ in the nature of habeas corpus in relation to four persons who are not Indian nationals.

It is submitted by the learned counsel for the petitioners that the petitioners hail from Myanmar and had slipped into India. This resulted in their facing prosecution for offences punishable under the Foreigners Act. They have undergone the sentence imposed on them. There is no other count of criminal law under which they have been convicted and sentenced. After suffering out the entire sentence, they continue to be housed in the Dum Dum correctional home. Their plea is that they may be moved to an open jail or be provided some modalities to be saved from continued incarceration.

WWW.LIVELAW.IN

are not residents of West Bengal cannot be housed in open jails. This has been brought on record through a report in the form of an affidavit on behalf of the OSD & Ex-Officio DG & IG, Correctional Services, West Bengal.

Learned counsel for the petitioners relies upon the order dated 21.02.1997 of the Punjab and Haryana High Court in the case of **Shah Ghazai & Anr. vs. Union of India & Ors. (Criminal Writ Petition No. 499 of 1996)** and the order dated 04.12.1997 of Delhi High Court in the case of **Mst. Khadija vs. Union of India & Ors. (CWP No. 658 of 1997)**.

In the aforesaid facts and circumstances, noticing in particular that the petitioners have not been found guilty or sentenced on any other count except under the Foreigners Act, we are of the view that it is for the Government of the State of West Bengal and the Government of the Union of India to take requisite steps to move the United Nations High Commissioner for Refugees (UNHCR) to consider the cases of the four petitioners for appropriate ameliorative action at that end.

In the result, we dispose of this writ petition directing the authorities of the Government of the State of West Bengal and the authorities of the Government of Union of India to take requisite earnest action to have the case of the petitioners brought to the attention of the UNHCR at the earliest. We are sure that the Governments will take up the matter with due earnestness.

WWW.LIVELAW.IN

different representations from the different ends moving through the State and the Union as well.

The writ petition is disposed of leaving open all the contentions.

[Thottathil B. Radhakrishnan, C.J]

[Arijit Banerjee, J.]

WWW.LIVELAW.IN