

(2014) 04 AHC CK 0172

In the Allahabad High Court

Case No : Cr. Writ (PIL) No. 2357 of 1997 and Cr. Appeal No. 2773 of 2005

Bachchey Lal

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 21-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 433-A
Legal Services Authorities Act, 1987 — Section 2
Penal Code, 1860 (IPC) — Section 302

Citation : (2014) 86 ALLCC 6

Hon'ble Judges : Kalimullah Khan, J; Amar Saran, J

Bench : Division Bench

Advocate : P.K. Singh and Manish Chand Omaro, Advocate for the Appellant; Patanjali Misra (A.C.) and Sudhir Mehrotra, Advocate for the Respondent

Judgement

Amar Saran and Kalimullah Khan, JJ.—We have heard Shri Sudhir Mehrotra, learned Special Counsel for the High Court, Shri Akhilesh Singh, learned Government Advocate, Shri Vimlendu Tripathi, learned Additional Government Advocate and Shri Patanjali Mishra, learned Amicus Curiae appointed by this Court. Shri R.N. Pandey, Additional LR, Shri Tej Pratap Tiwari, Secretary, U.P. State Legal Services Authority (UP-SLSA), Shri Vireshwar Singh, Special Secretary, Home, Shri M.L. Prakash, ADG (Prison), Dr. R.M. Srivastava, Joint Director Personnel and Shri Ambrish Gaur, Senior Jail Superintendent, Central Jail, Naini, Allahabad are present.

2. A common affidavit of compliance on behalf of the Home Department/IG Prison, Government of UP has been filed pursuant to the order dated 26.3.2014.

Directions for convicts in jail for more than 14 years whose cases were to be considered for premature release.

3. We would like to record our appreciation of the fact that in respect of the directions on the aforesaid matter in the order dated 26.3.2014, the Home Secretary, Government of Uttar Pradesh has issued 3 Government Orders dated

7.4.2014 addressed to the IG (Prison), all the District Magistrates, all Senior Superintendents of Police/Superintendents of Police, all District Probation Officers, U.P. and all the Superintendents of Jails.

4. The First G.O. (Annexure 1) notes that so far as the 1157 convicted prisoners, whose Forms "A" and nominal roles for premature release are pending at various levels, regarding which this Court had expressed its disappointment that the earlier Government Order dated 6.9.2004 prescribing the time schedule in these matters was not being followed at various levels. For future non-compliance of the Government Order dated 6.9.2004 at any level, an explanation would be called for from the concerned functionaries regarding the delays at their level.

5. Regarding non-disposal of premature release matters due to non-availability of judgments/orders, which was noted in our previous order dated 26.3.2014, another Government Order dated 7.4.2014 (Annexure 2) has been issued, which mentions that so far as the 153 above 70 year old convicted prisoners, who have undergone more than 14 years imprisonment, their applications in Forms "A", nominal roles and mercy petitions for premature release, are to be considered within three months. In case refusal is ordered, then concrete reasons be furnished for the same. It was further clarified that in those cases where the Courts' orders/judgments were not available in the prisons delaying disposals of Forms A or nominal roles, the said judgments should be obtained from the Registrar General or the concerned District Judges within two weeks. All the required details and other formalities are to be completed and a joint meeting of the District Magistrates, SSP/SPs and Jail Superintendents be held in the jail or other premises within six weeks. In this context the Government Order directs that for compliance of the High Court's order 26.3.2014, the results of the proceedings for considering the Forms "A", nominal roles and mercy petitions be communicated to the Government within two months so that appropriate steps could be taken.

6. We would like to further direct here that after conviction whilst one free copy of the judgment is handed over to the convict who usually hurriedly hands it over to his Counsel for filing the appeal in the High Court, another photocopy or true copy be directly sent to the jail authorities for their record. All me District Judges, the Registry and the UPSLSA are to ensure compliance of this direction and to submit compliance reports on the next listing.

7. In its earlier order dated 26.3.14 this Court had noted with dismay, that the reason for the non-disposal of many applications in Forms A, was the death or non-availability of guardians of old prisoners, who had undergone over 14 years in prison, consequently resulting in the prolonged detention of the convict. In this context the third Government Order dated 7.4.2014 (Annexure 3) has been issued by the Home Department, which directs that the District Probation Officers or other functionaries are competent to be appointed the guardians who are required to be appointed under Rule 2(2) of the U.P. Prisoners Release on Probation Rules 1938.

8. We hope that necessary compliance of the High Court's orders and the aforesaid Government Orders which have appreciated the Court's concern, will be ensured by the concerned functionaries and that the Secretary (Home) and ADG (Prisons) shall obtain fortnightly updates for ensuring compliance of the Court's orders, and the consequent G.O.s and the compliance report in this respect be submitted on the next listing.

Preparation of circulars for prisoners having served more than 14 years.

9. In regard to the aforesaid directions in the order dated 26.3.2014 for issuance of a Circular on the lines of the Maharashtra Government Circular, an office order dated 16.4.2014 (Annexure 4), has been issued by the Prison Administration and Reforms section 2 of the Government constituting a committee consisting of the Home Secretary (Prison), Principal Secretary (Law) or his nominee, and DG (Prison) or his nominee to consider the Maharashtra Government Circular as well as other circulars issued by other States and to submit a report in this connection to the Government within a month.

10. Progress report regarding framing of an appropriate circular be furnished to the Court on the next listing.

Sentence remission benefits for prisoners serving fixed term sentences not covered by section 433-A, Cr.P.C. restrictions.

11. With respect to the directions in the order dated 26.3.2014, a D.O. letter dated 10.4.2014 has been issued by the Senior Superintendent, Jail Administration, Lucknow (Annexure 5) addressed to all the Senior Superintendents/Superintendents of Jails directing that all the prisoners who are serving limited term sentences, proceedings for their release may be taken under Rule 4(iii) of the U.P. Prisoners Release on Probation Rules, 1938 as was directed by the earlier order dated 11.3.2014, as no steps had been taken so far. Under Chapter X, U.P. Jail Manual paras. 233 to 250 for limited term convicted prisoners, the Revising Board shall take action for premature release under the relevant provisions and that information be immediately furnished to the ADG/IG Prison, in this connection. All these measures are necessary for reducing jail over-crowding, which results in rampant malpractices and even riots in jails.

12. By another letter issued by the Senior Superintendent, Prison Administration and Reform Services, U.P. Lucknow dated 11.4.2014, (Annexure 6) detailed information regarding 1965 prisoners eligible for release was sought, as only the number of such prisoners had been given, but no further details regarding progress of disposal of their Form A applications, nominal roles, infirmity roles etc. have been given. To us, this total figure of only 1965 such prisoners in the whole of U.P. appears to be an underestimate. We would like clarifications about the correct figure on the next listing. Also particulars mentioning the names with parentage, Case/S.T. Nos., sections, designation of trying Court, date of judgment, sentence awarded, period spent in jail, including dates of detention in tabular form be given of such fixed term prisoners who are eligible for premature

release either under the Prisoners Release on Probation Rules 1938, or under Chapter X of the Jail Manual, and the progress in consideration of their applications in Form A, nominal roles, mercy petitions or infirmity roles and other steps taken for their premature release be furnished in soft copy (on pen drive) to this Court. The said information, insofar as it relates to the prisoners housed in the prisons in particular districts be also furnished to the District Judges (DLSAs) both in soft copy and hard copy, for cross checking and necessary monitoring at their levels. Let a compliance report be submitted on the aforesaid directions on the next listing.

Prisoners suffering from mental ailments.

13. Regarding this point also the Senior Superintendent, Prison Administration and Reform Services, U.P. Lucknow has sought reports from all district jails regarding prisoners suffering from mental ailments and whether appropriate medical facilities are being provided to them. As per the earlier information dated 31.1.2014 there were 247 such convicted/under trial prisoners regarding which this Court had observed that mentally ill prisoners should be admitted to mental hospitals and to the extent that they cannot be admitted in the mental hospitals proper facilities for treatment of such prisoners be provided in the jails. As no proper response has been given, we Would like a report from the DG/ADG (Prisons) and concerned Secretary regarding (i) the reasons for detention of such a large number of mentally ailing prisoners in jails, (ii) the shortfalls in capacity of the mental hospital in Varanasi, and whether such prisoners are being shifted to other mental hospitals such as in Bareilly or Agra and the shortfall in total capacity to accommodate these prisoners, (iii) the steps contemplated to increase the capacity of such mental hospitals, (iv) whether there are any systems and therapies and availability of trained care givers in place for dealing with, treating and rehabilitating prisoners suffering from mental problems, in the jails. The latter systems are necessary because mentally ill prisoners run the risk of being cruelly treated in bodies like jails, which do not have a track record of sensitivity, humane treatment or transparency.

Problems of women prisoners, their wards in jails and young prisoners.

14. The information regarding medical facilities for female prisoners and children residing with them and whether specialized doctors for female ailments are being provided, and the extent to which they are visiting jails on a monthly, half-monthly or weekly basis, and the time required for calling the doctors on an emergency in different jails, be furnished to the Court by the next listing. The DLSAs must verify these facts from female jail inmates and not just submit their reports merely on the basis of information received from jail authorities.

15. We also think that some programme for education, skill development and counselling be carried out for female inmates and we would like information from the DG/ADG (Prisons) on the programmes presently in place for women jail inmates and the steps planned for improving these programmes on the next

listing.

16. We would also like to be informed on the next listing whether there are any education and skill training programmes for the young prisoners between 18 to 21 years who are to be housed in separate barracks in the jails, and the plans for ensuring rehabilitation of such prisoners.

Direction for permitting consideration of Form A and nominal roles even when appeal pending after 14 years incarceration.

17. It has also been pointed out that an earlier direction given in the present writ petition on 19.4.2004 directing that even where the appeals were pending, applications in Forms "A" could be considered if the prisoners had undergone 14 years actual imprisonment, or the necessary period which would make them eligible for consideration of their Forms A.

18. However, another Division Bench in Criminal Appeal No. 209 of 1993 (Mewa Lal v. State of U.P.) passed a contradictory order on 5.2.2014 wherein it was directed that till a final decision was taken in case an appeal was pending, no decision could be taken on the applications in Forms "A" and the prisoners could not be finally released on probation.

19. In view of the conflict of the two orders, the State of U.P. has preferred a SLP (Criminal) No. 2829 of 2014 against the order dated 5.2.2014 passed by the subsequent Division Bench. It is pointed out that the Apex Court by its order dated 2.4.2014 has been pleased to stay the order dated 5.2.2014.

Make the jailbandi.com website or other website operational.

20. It was admitted that the jailbandi.com website has not yet been made operational. However, a statement was made by the learned Additional Government Advocate on the basis of instructions that by the next listing another website www.upprison.up.nic.in which has been put in place for recording information regarding disposal of applications in Forms "A" and nominal roles at various stages and other aspects is likely to be upgraded. As this information is crucial for monitoring of the disposal of applications in Form "A" and nominal roles at various stages by the U.P. State Legal Services Authority and other concerned persons and officials, we hope that the same would be operational and information provided to this Court on the next listing by the ADG (Prisons) and the UPSLSA.

Directions to CJMs to take steps for release of prisoners, who are in jail for periods over 2 months after bail order.

21. We have again not received any satisfactory information regarding this direction about which we had made critical comments in the order dated 26.3.2014 and noted with dismay that the figures of such prisoners had even increased from 155 as was mentioned in the tabular chart supplied in October, 2013 to 168.

22. We would like a response from the registry of the High Court and the U.P. Legal Services Authority and from all the District Legal Services Authorities as to what steps are being taken for ensuring that all the prisoners who had been granted bail and who continue to languish in jail for over two months after the bail orders, should be released in accordance with the directions in our order dated 25.9.2013 in Criminal Appeal No. 2773 of 2005 (Moti Ram and Others Vs. State of Madhya Pradesh, and Hussainara Khatoon and Others Vs. Home Secretary, State of Bihar, Patna, and also in our earlier order dated 26.3.2014 in this writ petition, by reducing the bond amount, or doing away with the need for sureties, or insisting on only a single surety, where there were low probabilities of escape as in the case of old, or female or young prisoners with fixed abodes or occupations, or the release could be ordered on the condition of their repeated reporting to police stations or Courts, (which requirement could be given up once the prisoners produced his sureties on the reduced bail bonds). Courts must come up with creative solutions for releasing a prisoner who continues to languish in jails after bail, because he is poor and unable to provide sureties on the high bail bonds usually demanded in 302 IPC and other serious matters.

23. We would also like information from the District Judges (DLSAs) and other jail visitors as to how and why these prisoners, (which include prisoners who are in jail for 9, 10 and 11 years) after the bail order continue to be in jail for inadequate sureties and why alternative suggestions for dealing with such prisoners are not being followed. Now we would like the response from the concerned District Judges in every individual case from each of the districts (of the 168 or more cases) where according to the report of the Jail administration prisoners continue to languish in jail, regarding the reasons for their detention and the steps taken for their release as per the directions in the Supreme Court decisions and our orders. The JR (Inspection) (who has been assigned the work of ensuring compliance of orders in this on-going PIL pursuant to our previous order dated 26.3.14 and for presentation of responses received from the Courts directly sent to the registry or to the UPSLSA in a systematic form), is to communicate with DJs of the individual defaulting districts and to ensure compliance of these directions.

24. As reports from jail superintendents show that information on prisoners who have obtained bail but continue to remain in jail was cursorily obtained from the prisoners, and hence it could be an under-estimate, we would like the District Judges to direct the judicial officers and DLSAs and other jail visitors to directly inquire from the prisoners in each of the barracks whether any of them continue to languish in jail after the bail orders, and their period of detention after grant of bail. Henceforth we direct that immediately after passage of the order of bail, the District Judges shall require each Court to maintain a record of the prisoner who has been granted bail, including the date of bail order. The record shall also enter details of date of release order on providing bonds and sureties, or without/ or on reduced sureties, with or without conditions for periodical attendance before the Courts/police stations till some sureties are provided. Appropriate

registers be maintained in the District Courts and the jails for this purpose. We would like a compliance report of all the aforesaid directions on the next listing from all the District Judges.

Report in connected Criminal Appeal No. 2773 of 2005 Gobardhan Singh and another v. State of U.P., regarding old, ailing or long confined prisoners-Streamlining legal aid systems.

25. In our order dated 26.3.2014, we had noted to our dismay that as per the tabular chart furnished by the jail authorities between the ages 70-75 there were 935 such prisoners and above 75 years, there were 620 such prisoners, most of whom had been in jail for at least 10 years and in most cases the appeals and bail applications are pending in the High Court. Finding the figures unacceptably high and the fact that only about 42 prisoners whose jail appeals had been pending in the High Court had sought legal aid, (which reflects the absence of confidence in the legal aid system to deliver), we had expressed our concern that genuine efforts are not made to contact the prisoners who were languishing in jail for such a long time either by the jail authorities who appear to have routinely stated that the prisoners were not seeking legal aid or it was not applicable to the case, as also by complacent District Legal Services Authorities. We had further directed the District Legal Services Authorities to contact the old and ailing prisoners, whose appeal and bail application are pending in the High Court and appropriate cases be forwarded to the Court after vetting by the District Legal Services Authorities. However, there does not appear to have been any significant pro-active effort by the U.P. State Legal Services Authority or the District Legal Services Authorities to contact the prisoners and with regret we reiterate our disappointment with the virtual non-functionality of the legal aid mechanisms in most districts, which is causative of prisoners not being contacted or refusing to ask for legal aid, even when their lawyers are not appearing before the Trial or Appellate Courts where their bails are pending.

26. Regarding the above 70 year old prisoners whose trials or appeals are pending and who are in jail for more than 5 or more years and who are desirous of legal aid, who have no Counsel or their Counsel are not appearing before the Subordinate Courts or the High Court, jail authorities as well as district legal services authorities and jail visitor Counsel are directed to identify such prisoners and to provide them legal aid by moving bail applications or getting their cases disposed of before the subordinate Courts or the High Court in case no pairokars are coming forward to assist such prisoners.

27. We direct the U.P. State Legal Services Authority and District Legal Services Authorities to ensue that public notaries or oath commissioners and legal service lawyers are provided for preparing and swearing such bail applications and affidavits for prisoners in the jails on state expense (in case the prisoners are unable to afford the expenses) for presentation of their bail applications before the High Court (or even the Subordinate Courts where necessary) and that dates be fixed in each month for such exercises. The said papers shall then be

forwarded by the Jail Superintendents and the jail visiting judicial officers to the Lower Courts or the High Court as the case may be. Honest, competent, hard working and regular Legal Aid Counsel be chosen for arguing the briefs of such prisoners before the High Court and Lower Courts, and the State, District and High Court Legal Services Authorities facilitate this exercise, including by enhancing and ensuring payments for their assistance. Good performing legal aid lawyers be honored for their work, whereas the dishonest or non-performers be removed.

28. We also think that days be earmarked for the jail visiting judicial authorities when they may be exempted from giving their regular quota, so that they could give more time for identifying prisoners in distress and for providing legal aid. Also feedback be sought from the Counsel and the jail visiting judicial authorities regarding the problems faced in carrying out this work.

29. The problems relating to jails, prisoners, and legal aid work be also taken up in the monthly meetings of the monitoring committees of the D.J.s, D.M.s, and S.S.P.s/S.P.s.

30. The U.P. State and District Legal Services Authorities are required to furnish information on the compliance of all the aforesaid directions to this Court on the next listing.

Information sought about prisoners confined in jail for more than 5 years-providing legal aid.

31. We have not been furnished with proper information regarding this direction either from the Jails administration or the Legal Services Authorities about prisoners who are in jail for more than 5 years.

We would therefore like to be informed about the total numbers of such prisoners who have undergone over 5 years either as under trials or as convicts in each jail.

32. We would also like to be informed about the actual number of prisoners in each jail and the capacities of the particular jails.

We further direct that separate tabular charts be prepared of under trial prisoners in different U.P. jails (with names of jails) who have undergone over 5 years, mentioning: names with father's name; Jail period in years (in numerics); additional period in months (in numerics from 1 to 12); dates of detention; age in years (in numerics); additional months (in numerics); Crime No., Case/S.T. No., Court designation, with district; date since when bail pending (if any); Court before which pending with bail application No.; reason for long detention in jail and delay in disposal of trial or bail; latest jail health report; jail conduct of the prisoner; whether the prisoner agrees to taking legal aid.

33. Likewise separate tables need to be prepared of convict prisoners having undergone 5 years who have been convicted by the Trial Court and whose appeals are pending before the High Court, mentioning: names with father's

name; Jail period in years (in numerics); additional period in months (in numerics from 1 to 12); dates of detention; age in years (in numerics); additional months (in numerics); Crime No. case/S.T. No./Court designation, with district; date of judgment of Trial Court; sentence awarded; date of filing of appeal before High Court or other Superior Court; date since which bail pending (if any); Court before which pending with bail application No.; reason for long detention in jail; latest jail health report; conduct of prisoner; whether prisoner agrees to taking legal aid.

34. This table is not to include information of prisoners who are serving out sentences whose appeals have been finally disposed of by the Higher Courts (as information about a category of such prisoners, viz. lifers who have been undergone 14 years, and prisoners whose term convictions have been confirmed and who are serving out sentences have been separately sought for).

35. This information should be sent in soft copy (on pen drives) to this Court and to the UPSLSA, to check the records from becoming bulky. (Note: We have been insisting on numerics for period spent in jail or for age of prisoners as these figures would help "sorting" prisoners and putting them in descending order when we prioritize applications for consideration of bails etc. on the basis of period spent in jail, or age of prisoner).

36. However the specific prisoner related information of prisoners having undergone over 5 years pertaining to different jails be sent to the District Judges (DLSAs) of the districts where the trials have been held, both in soft and hard copies by the jail authorities.

37. The District Judges (DLSAs) are expected to cross-check these figures and to give their reasons for the prisoners being in jail for such a long time, and for non-disposal of the trials (in the case of under trials), or for non-disposal of the bails or any other reasons why the prisoner has to remain in jail for such a long time, and also to take steps to redress this matter, by getting the trials and bail disposals speeded up, and also by providing legal aid in a proactive manner where necessary, and referring matters to the High Court where the bail, appeal or matter is pending at the High Court, or where the High Court has stayed the trial. The High Court registry shall then look into the matter and provide appropriate redress.

38. The procedure for legal aid as mentioned under the heading hereinabove: "Report in connected Criminal Appeal No. 2773 of 2005 Gobardhan Singh and another v. State of U.P., regarding old, ailing or long confined prisoners. Streamlining legal aid systems." be applied for this class of prisoners who have undergone over 5 years. However the priority for providing legal aid or for disposal of bail applications should be as already held in Gobardhan Singh and another v. State of U.P., CrI. Appeal No. 2773 of 2005, in the order dated 25.9.13, based on the prisoner's age, time spent in jail, less serious offences where a large part of the fixed sentence has already been undergone, ailing

prisoners, women prisoners, indigent prisoners, Scheduled Castes and Tribes and other preferential categories eligible for legal aid under the Legal Services Authorities Act. Lower priority in referring of cases for legal aid or in bail consideration could be accorded to cases of repeat offenders with criminal antecedents, or professional criminals, economic offenders or persons committing brutal crimes, or crimes against vulnerable women or children, or terror crimes, or diabolically planned and executed crimes.

39. The success of the legal aid system cannot be measured simply by conferences or legal aid publicity and awareness campaigns, but ultimately it can only be measured by the number of persons applying for legal aid, which yields positive results, and in that sphere we still have a long road to cover.

40. We would also like a response from the District Judges (DLSAs) and UPSLSA and ADG (Prisoners) about selection, appointment and training of educated (and socially sensitive) prisoners to be paralegals as per the National Legal Services Authority (NALSA's) scheme who could draft applications and provide legal aid to other prisoners. We would like information about the prisons and the number of paralegals therein, and concrete examples of legal aid provided by them. We would also like to know whether the paralegals function in conjunction with the jail visiting Judicial Officers and legal aid lawyers, and the problems highlighted by the paralegals.

41. We would also like to have information from the UPSLSA and the ADG (Prisons) about the jails where Lok Adalats have been held, the legal framework for this work, the class of cases which could be taken up in Lok Adalats, and the number of cases disposed of on particular dates.

42. We would also like a response from the Home and Jail Administration and the UPSLSA regarding the possibilities of setting up legal aid clinics in jails and whether they are functioning in any jail.

Involve Tata Institute for Social Sciences in studying jail conditions and making suggestions for jail reform.

43. Tata Institute for Social Sciences, Mumbai has been doing pioneering work for the past over two decades for studying and improving conditions in jails in Maharashtra through its unit "Prayas". We would like to involve the Institute for visiting some Central and District Jails in U.P., noting the conditions and problems such as overcrowding, non-transparent or discriminatory functioning, absence of rehabilitation efforts or effective legal aid, and for making suggestions on addressing the jail problems, and on measures for checking recidivism in prisoners. The Home Secretary and the DG/ADG (Prisons) may contact the Director of the Institute and also the Professor and Chairperson, Centre for Criminology and Justice, School of Social Work, Tata Institute of Social Sciences, (TISS) Deonar, Mumbai within two weeks for conducting a study of some Central and District jails in U.P., and inviting their feedback and suggestions, for which complete access to the prisons be provided to the visiting TISS team and

arrangements be made for their stay in Government or other accommodations in the places of visit and for transport to the jails etc. The UPSLSA is to coordinate this work. Feedback on this effort may be furnished on the next listing.

Computerization.

44. To ensure fairness, non-harassment, transparency, monitoring, and speed in providing services and performing its tasks, as far as possible, the process of computerization of the prison administration be effectively put in place. We can see the virtues of this approach for ensuring that the Forms A and nominal roles are dealt with in the times prescribed at various levels, which could then be checked out by the UPSLSA or other authorities or persons. In the not too distant future we can visualize intending jail visitors to possibly apply on-line in the village computer kiosks and to take a time slot to visit the prison, instead of standing in line for hours waiting for their turns, with all the perils of having to ingratiate personnel for breaking the queue. There could be innumerable benefits for computerization and the Jharkhand and other models be examined in this connection. In regard to the progress and further plan for computerization we would like to have the report of the Home and Prison Department on the next listing.

Responses and feed back from District Judges and DLSAs.

45. We must note with regret that we are not satisfied by the responses to our directions by most of the DLSAs. Inspite of repeated letters from the registry and the UPSLSA pursuant to our orders responses have not been received from the District Judges and DLSAs at 23 districts viz. Agra, Allahabad, Auraiya, Baghpat, Barabanki, Bareilly, Basti, Bhadohi, Gyanpur, Deoria, Farrukhabad, G.B. Nagar, Gonda, Hardoi, Kanshiram Nagar, Kushinagar, Mahrajgunj, Siddharthnagar, Sonbhadra, Sultanpur, Unnao, C.S.M. Nagar, Hapur and Shamli.

46. We also note that in many districts except a few such as Muzaffarnagar, Shravasti and Pratapgarh the responses have been cryptic and ritualistic in nature. Some districts have not cared to cross-check the data received from the jails, and to work out ways for reducing jail overcrowding and proactively providing legal aid, but have simply forwarded the papers received from the jail authorities, which we had already directly received. Some have only come up with excuses in defence of their inaction, or have taken the bureaucratic "blame game" route of blaming some other body for the failures.

47. The UPSLSA though it has done some work, also needs to make a significant proactive effort so that people begin to seek legal aid. Failure of people to seek legal aid, suggests that the legal aid system does not inspire the confidence of the people or its intended beneficiaries, and asking for legal aid is the true criteria by which the success of the legal aid programme can be measured.

48. On the next listing the UPSLSA shall furnish data on the number of jail inmates who have sought legal aid, in the past 3 months, 6 months and 1 year,

with their names and the legal aid furnished, and the result of the provision of the legal aid. The UPSLSA is to refrain from simply forwarding papers received from the districts, but to make a systematic note of the suggestions, point out failures in compliance by particular DLSAs and also inform this Court about the positive steps taken by the UPSLSA other DLSAs, in compliance with the suggestions and directions of this Court.

49. Let copies of this order be forwarded or placed before Hon''ble the Chief Justice, Hon''ble Chairman, U.P. State Legal Services Authority, Member Secretary, UPSLSA, all District Judges for communicating to members of DLSAs, CJMs, Civil Judge, (Senior Division) and other concerned judicial officers, District Legal Aid Counsel, D.G./A.D.G./I.G. (Prisons), U.P. for communication to all Jail Superintendents, Law Secretary and LR, Home Secretary, U.P., Director General (Medical and Health), U.P., Chairpersons and Secretaries of National Human Rights Commission and State Human Rights Commission, Director and Chairperson and Professor, Centre for Criminology and Justice, Tata Institute of Social Sciences, Deonar, Mumbai, Director JTRI, Director, NJA, learned Government Advocate, learned AGA Sri Vimlendu Tripathi, Special Counsel for High Court, Sri Sudhir Mehrotra, learned Amicus Curiae, Sri Patanjali Mishra, and also to place the same before the R.G. High Court for compliance and submission of feedback on next listing. We hope that the responding authorities or at least high level representatives on their behalf who are capable of taking decisions in the matters and answering the queries that may be raised by the Court shall attend the hearing on the next listing. The responding authorities are directed to contact the GA/AGA and the Registry (i.e. the R.G. or the JR Inspections) at least about a week prior to the hearing of the case so that a proper counter-affidavit could be prepared and other assistance rendered to the Court at the time of hearing.