
(2016) 06 JH CK 0085
In the Jharkhand High Court
Case No : W.P. (PIL) No. 2774 of 2013

Court on its Own Motion

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 15-06-2016

Acts Referred:

Citation : (2016) 3 AIRJharR 372 : (2016) 3 JLJR 143

Hon'ble Judges : Mr. Virender Singh, C.J. and Shree Chandrashekhar, J.

Bench : Division Bench

Advocate : Mr. Manoj Tandon, Amicus Curiae, for the Appellant; Mr. Jai Prakash, AAG Mr. Binod Singh, SC (L and C) Mr. Rishi Pallava, JC to AAG Mr. Pravin Kr. Rana, JC to (L and C), for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Virender Singh, C.J.—Today, once again we have felt the necessity of advertng to order no. 2 dated 10.05.2013 passed by the Court when the instant matter was treated as Public Interest Litigation by the Court on its own Motion after the Coordinate Bench dealing with Criminal Appeal (DB) No. 1088 of 2012 had received the report of the committees which were constituted to visit jails to verify the various aspects of the matter with a view to grant legal aid so as to achieve the goal of access to justice to the prisoners languishing in different jails of the State of Jharkhand. Looking at the report of the five committees, the Court in its order dated 10.05.2013 noticed issues on as many as 26 points which were in larger public interest, wherein the fact of deficiency of staff in the jails of the State were also taken note of. At this juncture, it would be apt to refer to point nos. 7, 8, 12, 13, 17, 23, 25 and 28 which read :

"(vii) Medical clinics require lot of improvement and they are in their poorest condition in the Central Jails. There is no pathological laboratories. For smallest thing either convicts have to go out or their blood/urine samples has to go out.

(viii) There must be a separate website of each and every Central Jail giving the

particulars about the total number of convicts, male, female, senior citizens, ailing persons etc.

(xii) It has been observed by these Committees that there are total sixty one children below the age of six years and they are staying in these five Central Jails with their mothers and therefore, it is suggested by the Committees that a separate provisions may be made where these female convicts with the children may be kept so that all proper care may be taken about the health of the children with a Paediatrics Doctor with such other requirements which are needed for a child below the age of six years. There are grandmothers also who are having their grand children with them. These sixty one children are not in Jail because of their own fault. They are either with their mother or with their grandmother and therefore, it is suggested by the Committees that the best available facilities for the rearing of the children should be provided by the State.

(xiii) There are approximately 409 senior citizens in these Central Jails. Several of them are ailing and few of them are even unable to walk; even few of them are unable to hear and in one Jail, namely Birsa Munda Central Jail, Ranchi one convict is aged about 103 years and therefore, it is suggested by these committee members that appeal of these senior citizens, if pending before any Court must be disposed of at the earliest and it may also be verified by the State for their premature release.

(xvii) It is suggested by the Committee members that there ought to be separate kitchen facilities for female convicts. Their ward is not hygienic and female ward is in very pathetic condition in Central Jail, Hazaribagh.

(xxiii) It is observed by the committee members that mobile jammers were not working and the mobiles of committee members were ringing during their visit in the Jail. Likewise Close Circuit Television (CC TV) Cameras which are usually installed to verify the movement, were not working properly. In the Central Jail, at Ranchi, out of sixteen CC TV Cameras only two were working. In Jamshedpur, out of 22 CCTV Cameras, only four were working.

(xxv) It is observed by the Committee Members that there are approximately 117 mentally ill prisoners in the Central Jails, which have been mentioned separately in the reports for each and every Central Jails. They are also not getting proper treatment and they are not being provided adequate and bare necessary facilities. It is also observed by the Committee Members that in a Jail there is separate medical ward for this type of persons. The prisoners who are healthy are also staying in the Jail Hospital and actually those who are ill are in their respective wards. This situation could have been avoided by the Central Jail Superintendent. The Jail Doctors should be transferred frequently. There are several jail doctors who are in Jail for several years. This is a very alarming situation.

(xxviii) There is suggestion of the Committee Members that there is dire need of female doctors in all the Central Jails with female nurses, compounders, etc.

There is also paucity of adequate tablets and medicines."

2. The said order reflects that at that time the total sanctioned posts were 2667, out of which 2130 posts were lying vacant therefore, it was taken up seriously. More than three years have gone by and the latest position as on date as informed by Mr. Jai Prakash, the learned Additional Advocate General assisting the Court on behalf of the State is that the total sanctioned post for 24 jails of State of Jharkhand are 2329 and the working strength is 399 thus, there is deficiency of 1930. What disturbs us most is that there are only 8 posts for Female Nurses (efgyk ulZ) and till date not even one post is filled. Similarly, there are 35 posts of Male Nurses (iq:"k ulZ) and not even one post is filled. There are 28 sanctioned posts for Computer Operators and all are unfilled. There are 30 posts of Video Conference Operators and not even one post is filled.

3. There are about 900 female inmates in 24 jails of the State, out of which 784 are under trial prisoners and the others are convicts. We are surprised that how 8 Female Nurses can cater to the need of 900 female inmates. On specific query put to Mr. Jai Prakash about the number of female inmates who are pregnant or otherwise ailing or suffering from any gynaecological problem(s), he states that such information has to be gathered. How many male jail inmates (under trial/ convicts) need medical care, the reply tendered by Mr. Jai Prakash is in the same manner.

4. Be that as it may, the fact of the matter is that there is neither any Male Nurse nor any Female Nurse available in any of 24 jails of the State of Jharkhand. There are 4 posts of Pharmacist and the State has not filled even one post till date. There are 11 posts of X-Ray Technician and not even one post is filled till date. This is how the State of Jharkhand is taking care of jail inmates, especially from their health point of view. What a pathetic condition ? The state should be really shameful of its inaction which is in the teeth of latest decision of Hon"ble Supreme Court dated 5th February 2016 "In Re, Inhuman Conditions In 1382 Prisons" reported in (2016) 3 SCC 700 wherein beside other issues relating to jails in the country, living conditions of the prisoners vis-a-vis health, hygiene, food, clothing etc. have also been discussed and certain directions issued.

5. We thus, direct the State to fill up all the posts mentioned herein above within four weeks from today, may be by making ad hoc arrangements, failing which Chief Secretary of the State, Home Secretary and I.G. (Prison) shall appear in person to explain their position or the difficulty being faced by them in not complying with the order. We could have imposed heavy cost for this inaction of the State which is sleeping over the matter for long 3 years, but thought of giving some reasonable time before we take any harsh view.

6. The Court has been otherwise informed by Mr. Jai Prakash that 5 posts of Jail Superintendents have been recommended by the JPSC and appointment has been made.

7. There are as many as 1394 vacancies of Warders in all the jails of the State

and for that process has already started in which regard the Staff Service Selection Board has conducted the Preliminary Test and result has been published and the Main Examination is likely to be held in the month of July. Mr. Anwar, learned Senior Advocate appearing for the JSSC states that priority is being given by the Service Selection Board for completing the process of appointment of Jail Warders. So far so good, but other vacancies are also to be filled up without any waste of time. The State is thus directed to send the requisition for filling up other posts also without any delay.

8. We defer further consideration of the instant petition for four weeks. List again on 20.07.2016 at the top of the list.

9. Copy of the order dated 10.05.2013 and the present order shall be provided to assisting counsel to Mr. Jai Prakash and assisting counsel to Mr. Manoj Tandon under the signature and seal of the Court Master today itself.