

(2020) 03 CAL CK 0109

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 4510 Of 1997, 7252, 8573 (W) Of 2018

In Re Overcrowding In Prison Vs

Date of Decision : 24-03-2020

Acts Referred:

Citation : (2020) 03 CAL CK 0109

Hon'ble Judges : Thottathil B. Radhakrishnan, CJ;Arijit Banerjee, J

Bench : Division Bench

Advocate : Raghunath Chakraborty

Judgement

These matters are listed today following submissions on the previous day that in view of measures being taken to contain spread of COVID-19, the situation in the jails and correctional homes requires to be addressed.

It is pointed out that it is a matter of record that the correctional homes and jails are over-crowded. We are told by the Intervenor that the Hon'ble Supreme Court of India had issued directions through order dated 23rd March, 2020 in suo motu Writ Petition 1 of 2020, inter alia, requiring the State Governments to take immediate steps to consider all precautionary measures within the correctional homes and jails and also to take adequate steps to enable release of convicts and undertrials particularly those who are in the zone of punishments which have been awarded or which may be awarded to the range of seven years of imprisonment as the maximum. It is also indicated that consideration of parole, remission or release on bail, even temporary, could be effected by extending facilities of bail on self-bond as may be found appropriate on case to case basis.

We are clear in our minds that there cannot be any general direction by this Court which would apply to all undertrial prisoners or convicts since such matters have to be dealt with on case to case basis by the Government and the Court concerned with the assistance of the State Government and/or the State Legal Services Authority/District Legal Services Authority/Taluk Legal Service Committee, etc. These mechanisms can be appropriately carried forward by the Government forthwith constituting a Committee of an Officer not below the rank

of Chief Secretary/Principal Secretary to the Government and with the involvement of other institutions as indicated above. The requisite departments will be brought within that Committee. It is further directed that the Chairman of the West Bengal State Legal Services Committee shall also be a member of that Committee.

Let requisite action follow in this matter having regard to the contents of the directions of the Hon'ble Supreme Court as noted above as well as other binding directions.

We clarify that it will be open to the Government to mould the request for relief for the prisoners in such manner as may be appropriate having regard to the applicable provisions of law.

The report regarding the action taken in this regard shall be communicated by the Government to the Registrar General of this Court by E-mail by 31st March, 2020.

The Registrar General will place that report before the Chief Justice on the Administrative Side for consideration.

It will be open to the Chairman of WBSLSA to nominate the Member Secretary or any other Officer of SLSA to represent the Chairman in any meeting of the Committee.

We also clarify that it will be open to the persons who would be involved in the Committee to adopt E-mode of communication and telecon for the purpose of achieving the requisite measures.

Office is directed to send a copy of this order to the Intervenor who appears in person today.