

(2023) 01 OHC CK 0014

In the Orissa High Court

Case No : Writ Petition (C) No. 6610 Of 2006, 3368 Of 2014

Krushna Prasad Sahoo

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 09-01-2023

Acts Referred:

Mental Health Care Act, 2017 — Section 2(x)

Citation : (2023) 01 OHC CK 0014

Hon'ble Judges : Dr. S. Muralidhar, CJ; M.S.Raman, J

Bench : Division Bench

Advocate : Gautam Misra, Debakanta Mohanty, Ishwar Mohanty

Judgement

Over crowding in jails:

1. In the convenience note submitted today by Mr. Gautam Misra, learned Amicus Curiae, it is stated that there is excess inmate population to the extent of 77% in the Sub-Jail in Jajpur and 67% in the Sub-Jail at Athamallik. Mr. Manoj Kumar Chhabra, DG of Prisons who appeared online stated that as regards the overcrowding in Jajpur, a new site is being identified and a fresh proposal will to be sent for construction of an additional jail to enhance the jail capacity. In the meanwhile, steps will be taken to re-locate some of the inmates to other nearby prisons.

2. As regards the sub-jail at Athamallik, Mr. Sanjeev Panda, CMD, Odisha Police Housing and Welfare Corporation (OPHWC) who also appeared online stated that an additional jail capacity of 35 would be made available by the end of March, 2023.

3. On the issue of overcrowding of jails, the Court in its previous order had noted the position in Malkanagiri, where the inmate population is 582 which is 37% in excess of the scheduled capacity of 424. It appears that although the additional building with the capacity of 200 is ready, the compound wall is not. In effect, therefore, the additional capacity cannot be used till such time the boundary wall

is not in place.

4. Mr. Chhabra informs the Court that the proposal for the boundary wall is pending before the Home Department. The Court fails to appreciate how a project for enhancing the prison capacity can be sanctioned without approval for the construction of a boundary wall. Consequently, the Court directs that without waiting for the formal sanctioning of the plan for construction of the boundary wall for the additional building of the Malkangiri sub-jail, the OPHWC will commence the construction of the boundary wall for the said facility forthwith. In the meanwhile, the formal sanction be accorded not later than four weeks from today by the Home Department. This is only to avoid any further delay in completion of the construction of the boundary wall.

5. The Court further directs that if there are any other capacity enhancement projects of prisons being undertaken by the OPHWC elsewhere, then the construction of the boundary wall for each such additional capacity prison must be undertaken simultaneously with the construction of the building and the sanction for such construction of boundary wall should be accorded within a period of four weeks by the Home Department.

Mental Health of prisoners

6. On the issue of mental health of prisoners, the Court was addressed by Ms. Shalini Pandit, the Commissioner-cum-Secretary to Government, Health and Family Welfare Department, who drew the attention of the Court to two recent notifications issued. One is a notification No.291 dated 4th January 2023 whereby the list of Psychiatric Specialists and Clinical Psychologists to be deployed in the various Districts to visit prisons at least four days in a month, has been indicated. This is pending the filling up of the posts of Psychiatric Specialists and Clinical Psychologists on regular basis. Another notification No.296 dated 4th January, 2023 directs the Chief District Medical Officers and Public Health Officers to prominently display the helpline number of the 'Tele Manas Cell' for prison inmates to seek help regarding mental health issues.

7. Mr. Chhabra has proposed that the prison department could also engage on contractual basis the services of psychiatric social workers as defined under Section 2 (x) of the Mental Health Care Act, 2017. He has also proposed that the services of holders of Post Graduate degree in Clinical Psychology could also be utilized on similar basis. Thirdly, he has proposed that the regular medical practitioners holding an MBBS Degree could be trained in the provision of basic mental health care services by experts from NIMHANS, Bangalore. He states that he will be submitting a detailed note to the Home Department for its approval to the above proposals. The Court directs that the note/request be sent to the Home Department, Odisha by the DG Prisons not later than four weeks from today and the Home Department will convey to him its orders thereon within a further period of six weeks.

8. The Commissioner-cum-Secretary to Government, Health and Family Welfare

Department, Odisha inform the Court that the visiting Clinical Psychologists, and Psychiatrists who have been assigned duties of visiting the prisons would also be extending de-addiction services in the prisons.

Other proposals

9. As regards the recommendations of the Prison Development Board at its previous meeting regarding creation of corpus funds, restructuring of the prisons and prisons modernization; it is stated by Mr. Chhabra that the proposal has been submitted to the Home Department in December, 2022. The Court directs that the response of the Government on the said proposal be conveyed to the DG Prisons not later than 1st March, 2023.

10. As regards shifting of Bhubaneswar Jail, the CMD of the OPHWC states that the detailed estimates in this regard will be submitted to the Government within a month from today.

11. It must be mentioned here that an affidavit dated 6th January, 2023 has been filed by the Deputy Inspector General of Prisons giving the details of the present inmate population and the steps taken for construction of additional ward capacity in various jails and sub-jails in Odisha. The OPHWC has also submitted a note giving the timelines within which these projects will be completed. Both the affidavit and the note are placed on record.

12. The Court directs that the State Level Prison Committee should hold a meeting at least once in a month and the Prison Development Board should hold its meeting positively before the next date of hearing of this case.

13. List on 9th March, 2023 at 10.30 am.

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