

(2023) 03 OHC CK 0051

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 : 09-03-2023

Acts Referred:

Citation : (2023) 03 OHC CK 0051

Hon'ble Judges : Dr S Muralidhar, CJ;G. Satapathy, J

Bench : Division Bench

Advocate : Gautam Misra, Santosh Kumar Nanda, Debakanta Mohanty, Ishwar Mohanty, Manoj Kumar Chhabra, Shalini Pandit

Final Decision : Disposed Of

Judgement

1. An affidavit dated 6th March, 2023 has been filed by Mr. Subhakanta Mishra, Deputy Inspector General of Prisons dealing with the issues highlighted in the order dated 9th January, 2023 passed by this Court.

2. This Court has had the benefit of the online participation of Mr. Manoj Kumar Chhabra, the DG of Prisons and Ms. Shalini Pandit, the Commissioner-cum-Secretary, Health and Family Welfare Department, Government of Odisha. This Court has also heard the submissions of Mr. Gautam Misra, learned Amicus Curiae and Mr. Debakanta Mohanty, learned Additional Government Advocate and Mr. Ishwar Mohnaty, learned Additional Standing Counsel for the State.

Overcrowding of Prisons

3. The affidavit of the Prisons Department indicates that in Jajpur sub-jail, the extent of overcrowding has been reduced from 77% to 48% as of 22nd February, 2023 with the shifting of some of the prisoners to the nearby jails. As regards the site for a new sub-jail in Jajpur, Mr. Chhabra informs the Court that land to an extent of 20 acres has been identified and the Collector and District Magistrate, Jajpur has been requested to alienate the said land in favour of the Home (Jails) Department and to handover advance possession thereof so that

construction of a new building for the sub-jail in Jajpur can be commenced.

4. A direction is issued to the Collector and District Magistrate, Jajpur to take the necessary steps for alienating the said land in favour of the Home (Jails) Department and hand over advance possession. These steps positively be concluded by 1st May, 2023.

5. The Court takes note of the reduction of the overcrowding percentage in most sub-jails except the sub-jail, Malkangiri where it is gone up from 37% to 45%. Mr. Chhabra stated that the construction of the boundary wall of the new sub-jail at Malkangiri is in progress and is expected to be completed by the end of April, 2023. The Court takes note of the above submissions and expects that the as a result, the overcrowding in the Malkangiri sub-jail should reduce considerably by the next date.

Furnishing of bail bonds by prisoners

6. The note of the learned Amicus Curiae points out that from the reports submitted by the District Legal Services Authorities (DLSAs) it is seen that there are as many as 45 prisoners who are unable to exit from the respective prisons on bail because they have been unable to furnish bail bonds. The detail of 22 such prisoners has been set out in the note submitted by the learned Amicus Curiae.

7. The Court reiterates the directions already issued by the Supreme Court of India in *Moti Ram v. State of Madhya Pradesh* (1978) 4 SCC 47 and the recent order dated 31st January, 2023 of the Supreme Court of India in *Suo Motu WP (Criminal) No.4 of 2021*. Copies of the said orders shall be made available to all the DLSAs if not already done. The Secretaries of the DLSAs of Kalahandi, Kandhamal, Balasore, Bargarh, Jharsuguda, Sambalpur, Keonjhar, Nabarangpur shall take immediate steps to file appropriate applications in the respective criminal Courts to facilitate the early release of such prisoners by modification of the bail orders passed to bring it in line with the directions of the Supreme Court in the above two cases. These steps positively be completed by 10th April, 2023. The Secretary, Orissa State Legal Services Authority is requested to coordinate with the Secretaries of the aforementioned DLSAs so that these steps can be taken in a time-bound manner and completed by 10th April, 2023. A compliance report be placed before the Court by the Secretary, Orissa State Legal Services Authority by the next date.

Mental Health of Prisoners

8. As regards filling of the posts of Psychiatric Social Workers (PSWs) and Clinical Psychologists, Mr. Chhabra informs the Court that advertisement will be issued very soon for filling up of such posts. The Court has been shown the statistics of the visits made by Doctors, Psychiatrists and Psychologists in the months of January and February, 2023 to the various jails and sub-jails as well as the services provided under the scheme of "Tele Manas" and "e-Sanjeevani".

9. Ms. Shalini Pandit, Commissioner-cum-Secretary, Health and Family Welfare Department, Government of Odisha informs the Court that the vacancies in the post of Jail Medical Officers are expected to be filled up by the end of May, 2023. An updated status report in this regard be placed on record by the next date.

Emergency response facility

10. As regards the provision of ambulance services, the Court notes that this was discussed in the meeting of the Prison Development Board (PDB) Committee held on 3rd March, 2023 where it was decided that apart from the ambulance services available on dialing '108', ambulances available with the nearest Community Health Centers will be shared on priority basis with the concerned jails for shifting of prisoners in need of emergency health care.

11. The Court notes that the 20 ambulances provided thus far have already been allocated to the most crowded jails and sub-jails. Considering that there are 87 jails and sub-jails in Odisha, a direction is issued to the Home Department to ensure that at least 10 more ambulances are provided to the Prisons Department for use in the jails and sub-jails. This must be done by the end of May, 2023.

Reports of DLSAs

12. The note of the learned Amicus Curiae highlights the reports received from two DLSAs, i.e., Khurda and Angul. The report of the DLSA, Khurda refers to an application concerning the pre- mature release of one convict which has been pending since 23rd July, 2021. The Additional Chief Secretary, Home Department is directed to have the said proposal examined and a decision thereon conveyed to the jail authority concerned as well as the convict in question not later than 31st May, 2023.

13. The report of the DLSA, Angul refers to the complaint of one inmate alleging that he has been assaulted and tortured by another convict and certain UTPs in the Special jail, Talcher. Mr. Chhabra, who has been served a copy of the note of the learned Amicus Curiae, states that he will have this immediately examined and corrective action taken within the next week. On the next date, the action taken on the said two reports of the DLSAs of Khurda and Angul shall be placed before the Court.

14. As regards the allocation of corpus fund of the PDB as well as funds for Prison Modernization, Mr. Chhabra informs the Court that provision has been made in the Annual Budget for 2023-24 and it is expected that the funds will be released soon. The Court will be informed on the next date of the actual release of the funds for the above purposes.

15. The Court is also informed that the proposal for restructuring of the prisons is under 'active consideration of the Government'. Here, again a direction is issued to the Additional Chief Secretary, Home Department to place before the Court by the next date the decision of the Government on the restructuring proposal.

16. All the Secretaries of the DLSAs are directed to undertake within the next two months unannounced visits to the respective jails and sub-jails in their jurisdiction and submit reports to this Court with a copy to the learned Amicus Curiae. These reports positively be filed before 31st May, 2023.

17. List on 28th June, 2023 at 10.30 am.

18. A copy of this order be communicated to the Additional Chief Secretary, Home Department, the Commissioner-cum-Secretary, Health Department, the DG of Prisons, the Secretary, OSLSA, all the Secretaries, DLSAs and the Collector and District Magistrate, Jajpur by the Registry, by e-mail, forthwith.

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