
(2017) 03 BOM CK 0022

In the Bombay High Court

Case No : Criminal Writ Petition No. 150 of 2015

Neria Bendavid

APPELLANT

Vs

State of Goa

RESPONDENT

Date of Decision : 31-03-2017

Acts Referred:

Goa Prison Rules, 2006 — Rule 385, Rule 391

Citation : (2017) 2 MhLJCrI 503

Hon'ble Judges : F.M. Reis and Nutan D. Sardessai, JJ.

Bench : Division Bench

Advocate : Ms. Maria Collasso, Advocate, for the Petitioners; Shri S.R. Rivankar, Public Prosecutor, for the Respondents

Final Decision : Disposed Off

Judgement

Nutan D. Sardessai, J.—Heard Ms. Maria Collasso, learned Advocate for the petitioners and Shri S.R. Rivankar, learned Public Prosecutor for the respondents no.1, 2, 4 and 5.

2. Rule. Heard forthwith with the consent of the learned counsel for the parties. Shri S.R.Rivankar, learned Public Prosecutor waives service on behalf of the respondents no.1, 2, 4 and 5.

3. The petitioners seek relief against the barbaric acts of the Jail Authorities of the Modern Central Jail, Colvale as on 10th October, 2015 on the premise that several inmates were brutally assaulted by the various Jail Personnel and the IRB Personnel. The petitioners in that context seek certain reliefs to regulate the conditions of the lawfully detained inmates, for compensation to the inmates who had suffered injuries both physical and mental and to issue directions to the respondent no.2 to furnish a plan of action to prevent such incidents in future.

4. Ms. Collasso, learned Advocate for the petitioners came to be heard on their behalf who took us through the records, the suggestions made by her for improving the conditions prevailing in the Central Jail, Colvale, the comments of

the respondents and the rejoinder thereto and pressed for the reliefs. Shri S.R. Rivankar, learned Public Prosecutor on behalf of the respondents took us through the very same records and the suggestions of the respondent no.2 in particular along with the affidavit and made necessary suggestions qua the condition of the inmates of the Central Jail, Colvale.

5. This petition mainly stemmed out of the various complaints made by the inmates against the Jail Officials and seeking appropriate directions on account of the physical and mental assault and giving rise to the petition for appropriate directions to the concerned Authorities for improving the conditions in the Central Jail, Colvale. The main thrust of the complaints was that the inmates were subjected to humiliation, physical assault and inhuman treatment in the jail. Some of the inmates had alleged that they were brutally assaulted in and around October 2015 by the Jail Authorities and they were denied even the basic amenity of medical facility for appropriate treatment. Besides there were allegations of the Jail staff abusing them and taking away their personal items including clothes and causing harassment to them.

6. The petitioners in that context had come forth with the suggestions to improve the conditions prevailing at the Central Jail, Colvale by having visits to the Jail by the Human Rights Activists on a monthly basis, the use of the CCTV cameras at strategic locations and providing weekly backups, regular medical checkups in the prison and the Government Hospitals which included live recording of inmates medical checkups and storage in the context of the complaints of abuse, better training to prison guards in techniques to subdue the inmates and to prevent violence apart from better training for riot situations to subdue the inmates. A suggestion also came forth on behalf of the petitioners to have complaint boxes throughout the prison, regular interactive sessions by NGOs to inform the prisoners about their rights and mechanisms to make complaints, to ensure due record of the duty of the Jail Guards, strict Rules to deal with the erring Jail Guards, providing human living conditions and clean and safe drinking water in cells, easy accessibility to Advocates, provision of the Prison Manuals and other Criminal Laws to the prisoners free of costs and the due explanation for non-production at the time of remand before the concerned Court.

7. The respondents had offered their comments pursuant to which it was brought forth that in terms of the Goa Prison Rules, 2006, there was due provision for the "Board of Visitors" which was manned by the District & Sessions Judge, the District Magistrate, the Director General of Police and such other officials who had to make periodic visits to the Jail and acquaint themselves with the conditions of the inmates. Rule 385 of the Goa Prison Rules, 2006 empowered the Chairperson to convene quarterly meetings of the Board and to carry out the duties as contained in Rule 391. It was however brought on record that CCTV cameras were installed in the sensitive areas of the Prison which were monitored by the Superintendent though occasional breakdowns due to the technical fault was not ruled out as remote. There was adequate medical facility for the

treatment of the inmates inasmuch as there was a full time Doctor posted from the Directorate of Health Services and there was a provision for a fifteen Bedded Hospital. Besides, the inmates were referred to the District Hospitals at Mapusa or the Goa Medical College, Bambolim to attend to their medical emergencies.

8. There was fair concession that the prison officials lacked the training but nonetheless corrective measures were taken to start training programmes for the in-service Jail Officers at the Academy of Prisons and Correctional Administration, Vellore, Tamil Nadu. Complaint boxes had been installed in the Central Jail, Colvale which were opened on behalf of the District & Sessions Court and processed appropriately. Legal literacy programmes were conducted in the Jail for the inmates at regular intervals where they were apprised of their legal rights and besides the students of the Law Colleges had been requested to take up sessions on the prisoners rights in jail. The biometric attendance system had been installed and its functioning would be monitored regularly. Action was contemplated against the erring officials in terms of the CCS (CCA) Conduct Rules and guidelines issued from time to time. The Central Jail, Colvale was equipped with most of the facilities required for human living conditions.

9. Various Legal Books were made available to the inmates in the Prison Library and there was an initiative to provide assistance to the inmates who did not understand the English language. There was a Memorandum of Understanding of the Prison Department with V.M.Salgaocar College of Law, Miramar pursuant to which special attention was given to legal literacy, legal aid, assessment of cases for conditional release of prisoners, remission, plea bargaining, research based work, framing of guidelines work so as to help them with the prison administration. Besides other welfare measures were undertaken by the Prison Department in the matter of Water Harvesting Technology, Solar Energy Harnessing and Bio-waste disposal facility.

10. Having considered the suggestions on behalf of the petitioners and the respondents and to avoid any untoward incidents as reported in the Jail causing physical and mental harassment to the inmates, we hereby issue the following directions:

i) We hereby direct the Board of Visitors manned by the District & Sessions Judges in both the districts shall visit the jails preferably every month to hear the grievances of the prisoners along with the Members of the Board and resolve the issues relating to the under-trial prisoners.

ii) CCTV cameras be installed at vantage points to monitor the conduct inside the Jail to serve as a system of checks and balances on the conduct of the Jail Officials and the inmates and backup be maintained for necessary course of action.

iii) A Resident Medical Officer be appointed at the Jail to provide due medical attention to the inmates and in emergent cases to refer the inmates to the Government Hospitals for further evaluation and management;

iv) Proper training be imparted to the Jail Officials for handling the inmates particularly when they get violent or do not observe prison discipline but without resorting to any sort of violence to bring them under control.

v) Visits of the NGOs to the Jails for interacting with the inmates to hear about their grievances, if any, and to ventilate their grievances generally.

vi) Installation of the Complaint Box and the regular processing of the contents thereof by the Principal District and Sessions Judge, and

vii) Sensitization of the Jail Administration Officials that subjecting the inmates to inhuman treatment would entail action in terms of the Central Civil Service and CCS (CCA) Rules.

11. The case of the respondents that the Jail Officials involved in the alleged incident of assault on the inmates being issued charge-sheets and subjected to the inquiry in terms of the CCS (CCA) Rules was not rebutted on behalf of the petitioners and which would adequately meet the redressal of their grievances in that context. Hence, the question of compensating the inmates for the alleged injuries pending such inquiry would be premature.

12. With the above directions, we dispose off the petition. Rule is made absolute in the above terms.