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(2016) 01 RAJ CK 0079

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 2808/2012

Suo Motu — APPELLANT

Vs

The State of Rajasthan and Others — RESPONDENT

Date of Decision : 27-01-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 19, Article 19(1)(d), Article 21, Article 23
Criminal Procedure Code, 1973 (CrPC) — Section 174

Citation : (2016) 01 RAJ CK 0079

Hon'ble Judges : Mohammad Rafiq and J.K. Ranka, JJ.

Bench : Division Bench

Advocate : Prateek Kasliwal, Amicus Curiae and Pushkar Taimni, for the Appellant; J.M. Saxena, AAG and Anurag Kalawatia, for the Respondent

Final Decision : Disposed Off

Judgement

Mohammad Rafiq, J.—1. Initiation of instant suo motu proceedings by this Court is aimed at improving the conditions of jails in the State of Rajasthan. Notices of the petition were ordered to be issued to as many as seven respondents namely; (1) The State of Rajasthan through its Additional Chief Secretary, Home Department, Government of Rajasthan, Government Secretariat, Jaipur; (2) The Principal Secretary to the Government, Finance Department, Government of Rajasthan, Government Secretariat, Jaipur; (3) The Principal Secretary to the Government, Medical and Health Department, Government of Rajasthan, Government Secretariat, Jaipur; (4) The Secretary to the Government, Department of Technical Education, Government of Rajasthan, Government Secretariat, Jaipur; (5) The Director General of Police (Prisons) State of Rajasthan, Jaipur; (6) The Director, Local Bodies and Local Self Department, Government of Rajasthan, Jaipur and (7) The Deputy Director General, National Informatics Center, Government Secretariat, Jaipur. We are informed that administrative department of I.T.I.''s is now named as Skill, Planning and Entrepreneur Department, Government of Rajasthan, Government Secretariat,

Jaipur. We, therefore, implead Secretary, Skill, Planning and Entrepreneur Department, Government of Rajasthan, Government Secretariat, Jaipur and Principal Secretary, Public Works Department, State of Rajasthan, Jaipur as party respondents No. 8 in this petition.

2. This Court by a detailed and comprehensive order passed on 14.03.2014 indicated specific areas, viz. Sanitation, Food, Health Care, Recreational Activities, Educational Activities, Vocational Activities, Infrastructure and Welfare, for improving the conditions of jails in the State of Rajasthan. In order to comprehend the magnitude of the problem and ascertain the situation prevalent in the Jails, this Court in the first instance, directed District and Sessions Judges as well as Chief Metropolitan/Judicial Magistrates posted at Divisional Headquarters of the State, viz. Jaipur, Jodhpur, Udaipur, Ajmer, Bikaner, Kota, Bharatpur, where the Central Jails are located, to make sudden inspection on any day within next six weeks and privately interview as many prisoners as they may consider necessary and submit their report to this Court. Reports of inspection carried out in all seven Central Jails indicate pathetic and sub-human conditions in which the prisoners are made to stay, especially in regard to sanitation, quality of food, infrastructure, vocational and recreational activities. When the matter was listed before the Court on 10.12.2014, copies of reports of inspection of various Central Jails carried out by District & Sessions Judges were ordered to be provided to learned Additional Advocate General with direction to file affidavit of Additional Chief Secretary, Home, Government of Rajasthan on all such aspects.

3. Various compliance reports supported by the affidavits have been filed even thereafter. Additional Chief Secretary, Home Department, State of Rajasthan in his detailed affidavit filed in response to the order dated 28.01.2015, produced on record several documents showing the steps taken by the State to improve the conditions of the jail in the State of Rajasthan. Another affidavit was filed by him on 12.03.2015. Thereafter, yet another affidavit was filed by the Additional Chief Secretary, Home Department, State of Rajasthan on 21.04.2015 detailing out further steps taken by the State to improve the conditions of the jails in the State of Rajasthan. Affidavit was also filed by Executive Engineer, Directorate, Local Bodies, Rajasthan, Jaipur on 07.07.2015 followed by his another affidavit filed on 20.11.2015 regarding cleanliness of the jails. Deputy Superintendent, Jail Headquarter, Jaipur has also filed one more affidavit on 21.11.2015 placing on record subsequent developments.

4. Additional Chief Secretary, Home Department, State of Rajasthan in his affidavit dated 28.01.2015 has placed on record detailed factual report showing the steps taken by the State in the light of various orders of this Court, according to which work order has been issued for construction of 747 new toilets and 689 bathrooms in different central jails and other jails of the State. Budget of Rs. 36,00,000/- has been provided for regular cleanliness of the toilets and bathrooms and other sanitation works of the jail. Contracts have been awarded for regular cleanliness of the toilets and bathrooms at Central Jail, Jaipur and

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Ajmer. It was given out that garbage boxes have been placed in all seven Central Jails of the State, both within and outside the jail, and regular lifting of the garbage has been ensured. Instructions have been issued for providing regular medicare facility to the jail inmates and Medical & Health Department has been requested to depute doctors and para medical staff for that purpose, especially for the diseases relating to psychiatry, tuberculosis, eyes, dental and skin etc. of the prisoners. Budget has been provided to jails and sub jails for procuring magazines, books and library and also for sports activities. Centers of Indira Gandhi National Open University have been established in Central Jails at Bharatpur, Kota and Women Jail, Jaipur and steps are being taken to establish such centers at Bikaner, Sri Ganganagar, Udaipur, Bhilwara, Jhalawar and Alwar. Vocational activities are being diversified. Most significantly, it was informed that to take care of the problem of overcrowding in prisons, new buildings are proposed to be constructed in jails at Bikaner, Jaipur, Ajmer and Kota for under trial prisoners and at Dausa and Kota for convicted prisoners. Besides, wherever there is availability of space, the prisoners are being relocated to sub jails. Video conferencing facilities are said to be available at Central Jails at Jaipur and Jodhpur, but such facility is out of order at Jodhpur, which would be soon restored. Such facility is being provided each at Ajmer and Udaipur. New visiting rooms were being constructed for meeting of prisoners with their relatives and other visitors. The State Government was being approached for allocation of budget for establishing facility of video conferencing in jails at Kota, Bikaner, Bharatpur and Sri Ganganagar. Work order has been issued for purchase of 320 binoculars. Eight 2G network jammers have been established at Central Jail, Jodhpur and budget has been provided for establishing 4G network jammers in Central Jails at Ajmer, Kota, Bikaner, Udaipur, Jaipur, Bharatpur, Sri Ganganagar, and High Security Jail at Ajmer and work orders in that respect have been issued.

5. Thereafter, when the matter was listed before this Court on 06.02.2015, Additional Chief Secretary, Home Department, State of Rajasthan filed further affidavit on various aspects, especially about ratio of functional toilets and bathrooms in proportion to inmates, problem of over crowding of jails, unfilled vacancies of regular staff, posting of medical officers, para medical staff and nursing staff in various dispensaries against unfilled posts, steps taken by the State to take care of the major health problems of prisoners such as skin, psychological disorder, tuberculosis, HIV Positive, creation of video conferencing facilities in all central jails, improving quality of food and breakfast making, provision of sweet to prisoners at least once in a week, revising the wages payable to the prisoners and also about farming of new Jail Manual. This Court on that day observed that the steps taken by the State for improving the conditions of the jails are highly insignificant and a lot more needs to be done. Additional Chief Secretary, Home Department, Government of Rajasthan was asked to file specific affidavit on ten aspects detailed out in that order, most important of which was regarding payment of meagre sum of Rs. 10/- per day to the prisoners for their working of eight hours, in breach of Article 23 of the

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Constitution of India. Affidavit which was filed by the Additional Chief Secretary, Home Department, Government of Rajasthan on 12.03.2015 indicated that ratio of available bathrooms vis-?-vis number of prisoners was quite alarming. And for this, the affidavit also indicated that administrative sanction has been issued on 02.01.2015 for construction of 930 toilets and 901 bathrooms where for budget of Rs. 10 crores has also been sanctioned. Affidavit also indicated that formation of new jail manuals was in the process, for which Shri Shyam Sunder Bissa, retired IAS Officer and Former Jail Officer has been assigned the task. Three new Open Air Jails have been established, thus, raising number of such jails to 26. Proposals have been sent to the State Government to fill up 845 vacant posts of jail staff. Requisition has been sent to Rajasthan Public Service Commission to fill up 3 posts of Deputy Superintendent of Jail and 48 posts of Assistant Jailors. Selection list of six Assistant Jailors has been received, whose appointment orders are in the process of being issued. Letters have been written to the Medical & Health Department for filling up the vacant posts of Medical Officers and Para Medical Staff in the dispensaries attached to the jails. Special camps are being organized in jails for treatment of inmates of jails, who are suffering from skin diseases. Budget has been provided for establishing of video conferencing facility in the jails at Sri Ganganagar, Bikaner, Kota and Bharatpur and such facility has already been established in the jails at Ajmer and Udaipur. As regard quantity and quality of food given to the prisoners, it was given out that opinion of Nutritionist is being obtained and accordingly, decision to increase quantity of Dal, Kadi and Vegetables would be taken. Proposals have been mooted for changing the menu of the breakfast of prisoners, so as to include dalia, poha, khichadi, bread and biscuits, in addition to sprouted green gram (moong) and roasted gram(chana).

6. Further order was passed on 23.02.2015, requiring affidavit of Additional Chief Secretary, Home Department, State of Rajasthan. Thereafter, further details were requisitioned by order dated 12.03.2015, 08.04.2015 and 22.04.2015, on last of which dates, Additional Chief Secretary, Home Department, State of Rajasthan appeared in person and assured that priority would be given to the areas of concern shown by the Court. When the matter was listed before this Court on 08.04.2015, the Director, Department of Local Bodies, Government of Rajasthan, Jaipur appraised the Court of the steps taken for ensuring cleanliness and sanitation of the jail premises. The Court on that day required the Additional Chief Secretary, Home Department, State of Rajasthan to file affidavit giving pointed parawise response of the State on the questionnaire framed by the Court in its orders dated 06.02.2015 and 23.02.2015. The Additional Chief Secretary, Home Department, State of Rajasthan in his affidavit dated 21.04.2015 again produced on record several documents to show the compliance of the earlier orders passed by this Court. This affidavit again indicated that work order has been issued to Public Works Department, State of Rajasthan for construction of 747 toilets and 689 bathrooms in Central Jails and other jails of the State. 20% of the aforesaid toilets shall be constructed on European style. Affidavit again

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stated about proposed construction of additional buildings for under trial prisoners in jails with capacity of 400 at Bikaner, 500 at Jaipur and 1000 at Kota and for convicted prisoners with capacity of 1000 each at Dausa and Kota. Affidavit repeated the fact of requisition sent to Rajasthan Public Service Commission for filling up 3 posts of Deputy Superintendent of Jail and 48 posts of Assistant Jailor and further stated that appointment of six Assistant Jailors was under way. Reference was made to the letter written to the Government on 17.03.2015 for relaxing the rules for filling up 1089 posts of Guards at departmental level. Again, it was mentioned that with regard to vacancies of Medical Officers and Para Medical Staff sanctioned in the various dispensaries attached to Central Jails and for providing services of experts in the field of psychiatric, Tuberculosis, eyes, dental and skin diseases. Again, letter was written to the Medical and Health Department of the State thereabout. It was further mentioned that steps are being taken to establish video conferencing facilities in all Central Jails referred to above. As regards the question why the Government does not add one vegetable or dal to the meals of the prisoners at the time of lunch and dinner and why one sweet is not provided to them on weekly basis, it was given out that matter was being examined to suitably amend the Rajasthan Prisoners Rules in this behalf. Further, with regard to payment of wages to the prisoners working in Udyogshala, it was given out that wages payable to unskilled and skilled prisoners have been enhanced to Rs. 189/- and Rs. 209/- respectively, out of which 25% is deducted for being paid to the victim, thus making payment of Rs. 130/- and 150/- respectively.

7. Executive Engineer, Directorate of Local Bodies, Rajasthan, Jaipur filed an affidavit on 07.07.2015 placing on record copy of order dated 29.06.2015 addressed to all the Commissioners, Nagar Nigam/Parishad where the Central Jails are located to place the garbage boxes inside and outside the jail premises. Executive Engineer, Directorate of Local Bodies, Rajasthan, Jaipur filed another affidavit on 20.11.2015 again placing on record subsequent letter/order dated 28.10.2015 addressed to respective Nagar Palikas/Nagar Nigam at, Jaipur, Bikaner, Ajmer, Bharatpur, Kota, Sri Ganganagar, Udaipur and Jodhpur to ensure regular cleanliness of the jails.

8. It was thereafter when the matter was listed on 28.10.2015, this Court reiterated the earlier orders and again required the respondents to clarify as to why compliance of earlier orders has actually not been made on ground and also clarify as to how many visits have been made by ex-officio visitors detailed out in the Rajasthan Prisoners Rules, 1951 in the jails of Rajasthan, especially the Central Jails, during past six months and whether non-official visitors have been appointed for the State of Rajasthan and if not appointed, to immediately pass appropriate order for appointing non-official visitors in compliance of the aforesaid rules. In response thereto, affidavit was filed by Deputy Superintendent, Jail Headquarter, Jaipur on 21.11.2015 stating on oath that as against work order for construction of 747 new toilets in 52 jails, 123 toilets have been constructed and completed till 08.11.2015, out of which 20 toilets have

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been constructed in Women Reformatory, Jaipur and 2 toilets have been constructed in Women Reformatory, Jodhpur and 576 toilets are under construction and tender process is underway for construction of 48 toilets. As against work order for construction of 689 bathrooms in 49 jails, as on 08.11.2015, 109 bathrooms have been completely constructed, out of which 6 bathrooms have been constructed in Women Reformatory, Jaipur and 10 bathrooms have been constructed in Women Reformatory, Jodhpur and 385 bathrooms are in the process of construction and tender process for construction of 195 bathrooms is underway. An amount of Rs. 12,16,000/- was sanctioned vide order dated 02.07.2015 to provide standard kit of medical equipments to different jails in the State. Ambulance services have been provided in all Central Jails, 18 District Jails and Women Reformatory, Jaipur. Steps are being taken to improve the structure of Industrial Training Institutes at Central Jails, Jaipur and Bikaner and details of appointments of Instructors in various trades were also submitted. Various trades i.e. Horticulture, House Wiring, Wormy Compost, Agriculture know how, Painting etc. are being done with active assistance of NGO ''PRAYAS'' in Central Jail, Jaipur. Training and work in trades like Stitching, Grinding of Spices, Making of Quilts is also being given in Women Jail, Jaipur. Five new open air camps are proposed to be established at Sikar, Hanumangarh and Sri Ganganagar. Sanction of Rs. 1040 Lacs has been issued for construction of 29 barracks as per order issued by the State Government dated 03.06.2015 and work order has already been issued on 15.06.2015 by Public Works Department. The Department of Home issued orders dated 07.04.2015 and 14.08.2015 to make changes in the food menu in jails, according to which green vegetables, pulses, sweets, poha etc. have been added in the food. Arrangements have been made by Director, Local Bodies, Rajasthan for regular collection of garbage from Central Jails at different places. New Rajasthan Prison Bill, 2015 has been prepared by Shri Shyam Sunder Bissa, I.A.S.(Retd.), which is being examined by a committee of five members chaired by the Special Secretary(Home)(Law). List of the visitors and inspection carried out by ex-officio visitors was provided, according to which no visit was made by anyone during last six months to any jail whatsoever. Non-official visitors have been appointed for all the jails vide order dated 23.10.2015. Director, Technical Education has issued orders for appointment of Instructors at I.T.I. Jail, Jaipur and I.T.I. Jail Ajmer, copy of which was placed on record. Director, Medical and Health has issued orders dated 18.11.2015 directing that the Medical Officers, earlier assigned working arrangement by order dated 20.01.2015, shall be absorbed in the Jail Dispensaries and all CMHOs and Principal Medical Officer have been directed to provide with the facility of specialist of Skin Disease, Psychiatry, Tuberculosis etc.

9. It was thereafter that this Court required the Amicus Curiae and the learned Additional Advocate General to pay a visit to Central Jail, Jaipur so as to find out whether the facilities, as are being claimed, have actually been provided on ground.

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10. Mr. Prateek Kasliwal, learned Amicus Curiae has filed inspection report, which is eye opening. According to his report, what has been repeatedly stated in above referred to affidavits filed on behalf of the State is mere eyewash and does not represent the correct picture. His observation of inspection carried out in Central Jail, Jaipur can be summarized as follows:

1. SANITATION:

(i) Neither any new toilet, nor new bathroom has been built nor constructed despite claim to the contrary by the respondents. The barracks, toilets and bathing facilities in the jail are not cleaned. Liquid filth from the toilets would seep out of the toilet and form a puddle near the barracks, which is one of the sources for mosquitoes to breed which might cause several treacherous diseases. The existing toilets are in dilapidated condition and are unhygienic, dirty and not being cleaned.

(ii) Filth and garbage system is not in place. The jail premises remain filthy and littered. No efforts have been made to clean the filth and garbage.

(iii) The ratio of toilets per inmate is humongous. There is absolute dearth of toilets for inmates. For example, in Barrack 4A, there are four toilets for around 200-250 inmates and that too without water supply. There are no gates on the toilets, thus, making the inmates devoid of basis privacy. Despite assurance by Additional Chief Secretary, Home, there is no sign of construction of new toilets. Rather as per the office order dated 09.01.2015 issued from the office of Director General at page 3 of the Affidavit filed in compliance of order dated 08.04.2015, it was ordered to construct 747 toilets and 689 bathrooms and for Jaipur Central Jail, 110 toilets and 180 bathrooms were supposed to be constructed and as per Affidavit in pursuance of order dated 28.10.2015, it has been mentioned that the work is in progress, which is false.

(iv) The prisoners have to bath out in open and there are no bathrooms for bathing and despite specific query by this court in its order dated 14.03.2014, there has been no categorical reply.

(v) Affidavit filed on behalf of Director, Local Bodies, Rajasthan is false as the garbage is not being collected on daily basis.

2. FOOD & WATER:

(i) Food provided to the prisoners is of the worst quality that can be given to any human being. The ''dal'' is watery and the ''chapattis'' are not well cooked. Nothing new has been added to the heartiest and the healthiest meal of the day, i.e., breakfast. This is despite order dated 14.03.2014 in response to which the State filed affidavit stating that it has decided to include ''mithi thuli, poha, namkeen khichdi'' and ''kala chana'' in the breakfast. Allegation of the Amicus Curiae is that false statement was made before the Court, as no such items have been added to the breakfast. No weekly sweet has been added to their food. Although affidavit earlier filed on 21.04.2015 stated that both these issues would

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be examined while amending jail manual and the Rajasthan Prison Rules, 1951.

(ii) The utensils are old and worn out and need replacement.

(iii) There is no variety in food that is provided to inmates.

(iv) The jail lacks trained cooks. The prisoners have to cook their own meals. One batch of prisoners prepares food for all the prisoners.

(v) The water provided for drinking, bathing and cleaning is same. The quality of the water is severally compromised, which lead to various water borne diseases.

3. HEALTH CARE:

(i) Medical conditions in the jail are worst. There is shortage/absence of trained medical staff. Enquiry from the prisoners revealed that one medicine named ''Paracetamol'' is prescribed to all the prisoners for all diseases. While the affidavit filed by the State in pursuance of order dated 28.10.2015 passed by this Court reveals that there are doctors for the prisoners and that the doctors will be deputed once in a week, but as on date, there are no sign of such deputation also. The Jail Dispensary lacks proper infrastructure and cannot cater for any emergent situation.

(ii) There are no specialist doctors for treatment of skin diseases, depression, tuberculosis, piles etc. There are no sanctioned posts of Psychologist, Psychiatrists, Pharmacists and nursing staff.

(iii) No diagnosis facilities such as X-Ray, Sonography etc. is in place in the jail. No budget has been sanctioned for the medicines and medical equipment required in the jail.

4. RECREATIONAL ACTIVITIES:

(i) Library, books, magazines and other reading material are not present in the jail. There are very few books in book rack, which was also locked.

(ii) No newspaper, magazines are provided in the jail for the inmates to read. No movies are shown.

(iii) An art teacher was newly appointed by the jail authorities, who seemed like a sham and an eye wash. The teacher was appointed just a few days before the visit as informed.

(iv) There were no sport equipments and no provision for games and sport activities.

5. EDUCATIONAL ACTIVITIES:

(i) At the time of inspection, there was only one instructor/trainer in the ITI whereas the prisoners were sitting in all four classes. The laboratories seemed like that it had never been used. The equipment laid there were rusting in the laboratories.

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6. VOCATIONAL ACTIVITIES:

(i) There was no vocational activity except painting classes and some cloth/rug making classes. There were only three machines in working condition out of 14 machines and they were too obsolete.

(ii) No consumer product was being made.

7. INFRASTRUCTURE:

(i) The ratio of prisoners per barrack is disproportionate. Around 150 inmates are stuffed in a barrack in which about 50 people can reside. There is separate barrack, i.e. Barrack No. 12, where the so called VIP prisoners have been kept, Where they have a gala good time in the prison with all good facilities provided to them. This barrack is having proper toilet and separate bathrooms.

(ii) There are no lockers in the barracks, rather all the belongings of the prisoners are laid on the floor or on the hook on the wall. The barracks are clustered and in a shabby condition.

(iii) The inmates are forced to sleep practically in shifts and on the passage of the barrack.

(iv) There is no facility of intercoms.

(v) There is no facility for video conferencing installed for a conference between central jail and courts.

(vi) There is no nucleus maintenance staff available for regular repair works.

(vii) The jail administration revealed about the insufficient staff and also about the fact that their salaries are not at par with that of Police despite of the Government order and order passed by this Court.

8. WELFARE:

(i) The families of the prisoners informed that in order to meet their relative, they have to pay a price as the meeting time is limited and the space becomes over crowded. There is no proper mechanism and at the time of meeting, there is a complete chaos and cacophonic sound.

(ii) There is no proper segregation between convicts and under trial prisoners.

(iii) Meeting of the Parole Advisory Committee does not take place regularly.

(iv) There has been no visit by the non-official visitors in last six months and the appointments of non-official visitors have been made recently, after a gap of two years and that too after the order passed by this Court. Board of Prisoners has not been constituted so far."

11. The Supreme Court of India way back in 1997, in Rama Murthy v. State of Karnataka, , (1997) 2 SCC 642 observed that prison system in India is afflicted

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by nine major problems viz. overcrowding, delay in trial, torture and ill-treatment, neglect of health and hygiene, insubstantial food and inadequate clothing, prison vices, deficiency in communication, streamlining of jail visits and management of open air prisons. It was observed that overcrowding in jail affects health and hygiene and therefore, must be taken care of. Recommendations of Mulla Committee made in Chapter 29 on the subject of giving proper medical facilities and maintaining appropriate hygiene conditions should be considered and needed steps should be taken. Persons authorised should inspect the standard of food and clothing and need of complaint box in all jails should be considered. In the aforesaid case, their Lordships further observed that for taking care of the prison vices, something should be done to keep the thread of conjugal life unbroken. Introduction of liberalised communication facilities is also required. Needful steps should be taken for streamlining jail visits and question of introduction of open air prisons at least in District Headquarters of the country should be considered.

12. In Mohammad Giasuddin v. State of Andhra Pradesh, , (1977) 3 SCC 287, the Supreme Court speaking through Hon''ble Justice V.R. Krishna Iyer, recommended for introduction of transcendental meditation courses in jails for those who slips into crime for want of moral fibre and also recommended sports, games and artistic activities for self expression. In Hiralal Mallick v. State of Bihar, , (1977) 4 SCC 44, His Lordship of the Supreme Court, Hon''ble Justice V.R. Krishna Iyer observed that there is room for reform of the prisoners'' progress within the limits of the Prison Act and Rules and the Court, whose authority to sentence deprives the sentence of his constitutional freedoms to a degree, has the power and indeed the duty to invigorate the intra-mural man-management so that the citizen inside has spacious opportunity to unfold his potential without over much inhibition or sadistic overseeing. In Sunil Batra(II) v. Delhi Admn., , (1978) 4 SCC 494, the Supreme Court again speaking through the Legendary Hon''ble Justice V.R. Krishna Iyer gave whole new dimension to the prison reforms jurisprudence in this country by observing that all action against and treatment of the prisoner must be commensurate with his sentence and satisfy the test of Articles 14, 19 and 21 of the Constitution of India. The Supreme Court in that case laid down detailed guidelines for securing basic human rights of the prisoners. In that case, their Lordships observed that it is imperative, as implicit in Article 21 of the Constitution, that life and liberty of a prisoner shall not be kept in suspended animation or congealed into animal existence without the freshening flow of fair procedure. Fair procedure in dealing with the prisoners calls for another dimension of access to law-provision, within easy reach, of the law which limits liberty to persons, who are prevented from moving out of prison gates. No prisoner can be personally subjected to deprivations not necessitated by the fact of incarceration and the sentence of court. All other freedoms belong to him-to read and write, to exercise and recreation, to meditation and chart, to creative comforts like protection from extreme cold and heat, to freedom from indignities like compulsory nudity, forced

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sodomy and other unbearable vulgarity, to movement within the prison campus subject to requirements of discipline and security, to the minimal joys of self-expression, to acquire skills and techniques and all other fundamental rights tailored to the limitations of imprisonment. Their Lordships in that case further observed that District Magistrates and Sessions Judges shall personally or through surrogates, visit prisons in their jurisdictions and afford effective opportunities for ventilating legal grievances and shall make expeditious enquiries thereinto and take suitable remedial action. The State shall take steps to keep up to the Standard Minimum Rules for Treatment of Prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact and correctional strategies.

13. The Supreme Court in T.K. Gopal v. State of Karnataka, , (2000) 6 SCC 168, referring to punitive, preventive and therapeutic approach of sentencing observed that the therapeutic approach aims at curing the criminal tendencies, which are the product of a diseased psychology. This has since been treated as an effective method of punishment, which not only satisfies the requirements of law that a criminal should be punished and the punishment prescribed must be meted out to him, but also reforms the criminal through various processes, the most fundamental of which is that in spite of having committed a crime, may be a heinous crime, he should be treated as a human being entitled to all the basic human rights, human dignity and human sympathy.

14. The Supreme Court in Charles Sobrai v. Supdt. Central Jail, Tihar, New Delhi, , AIR 1978 SC 1514 held that imprisonment does not spell farewell to fundamental rights although, by a realistic re-appraisal, courts will refuse to recognise the full panoply of Part III enjoyed by a free citizen. Article 21 read with Article 19(1)(d) and (5) of the Constitution of India is capable of wider application than the imperial mischief which gave it birth and must draw its meaning from the evolving standards of decency and dignity that mark the progress of a mature society. There must be some correlation between deprivation of freedom and the legitimate functions of a correctional system. It is now well settled that deterrence, both specific and general rehabilitation and institutional security are vital considerations. Moreover, the rights enjoyed by prisoners under Articles 14, 19 and 21 of the Constitution of India, though limited, are not static and will rise to human heights when challenging situations arise.

15. In a recently delivered judgment in the case of Shabnam v. Union of India & Others, , (2015) 6 SCC 702, the Supreme Court observed that, "even after conviction, when a person is spending prison life, allowing humane conditions in jail is part of human dignity. Prisons reforms or Jail reforms measures to make convicts a reformed person so that they are able to lead normal life and assimilate in the society, after serving the jail term, are motivated by human dignity jurisprudence."

16. As has been noted above, State Government, when this matter was taken up

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by the Court on different dates, has been assuring that all positive steps to improve the conditions of prisoners in various jails of the State and cited number of orders/work orders to claim improvement in the prevalent conditions, but we are at pains to note that except on the aspect of wages of skilled prisoners working in Udyogshala, who were paid @ Rs. 40, has been increased to Rs. 150/- and unskilled prisoners, who were paid @ 20/- per day, are being paid Rs. 130/- per day by completely omitting the category of semi-skilled prisoners, who were being paid @ Rs. 30/- per day earlier and appointment of non-official visitors, no satisfactory progress has taken place despite repeated persuasion/imploration. All what has been stated in different affidavits filed on various dates does no more than lip service to securing basis bare minimum amenities and conjugal atmosphere to the jail inmates. We are, therefore, now inclined to pass following positive directions to improve the conditions of the jails in the State aimed at securing basic human rights of the prisoners:

"(1) The Government shall ensure construction of the toilets and bathrooms in terms of the sanction already issued and the contract awarded, within a maximum period of four months in the first phase. Keeping in view Rule 17 of the Standard Minimum Rules, recommendations of Mulla Committee Report, 1983, All India Committee on Jail Reforms, 1980-83 and Model Prison Manual, 2003, the Government shall also ensure construction of minimum one unit of the toilet fitted with flush typed latrine and cubical for bathing, for every batch of 10 prisoners, with provision of adequate water and proper arrangements to secure privacy of both by affixation of gates.

(2) The Government shall also ensure regular cleaning of the toilets and bathrooms with continued supply of water through taps and shall ensure that sewer lines do not get chocked and hygiene is regularly maintained.

(3) The State Government shall also ensure regular lifting of garbage from all the Central Jails, Mahila Jails, District Jails and Sub Jails through Municipal Corporation/Municipal Council/Municipal Board of the city concerned, as the case may be, in terms of direction already issued by the Director, Local Bodies, Government of Rajasthan.

(4) In the present system, food is prepared in bulk. For example, in Jaipur Central Jail, if there are more than 1500/2000 prisoners, ''Dal'' and ''Green Vegetable'' etc. are cooked in huge quantity at one go, without any regard to hygiene and quality. Although as per Chapter 24.41 of the Model Prison Manual, 2003, there should be separate kitchen for every 100 prisoners, but the Mulla Committee Report, 1983 has recommended(Recommendation No. 56 and 62) that each of the kitchen should cater a maximum number of 200 prisoners. We direct the Government to set up requisite number of kitchens in every jail of the State as may be necessary and each of the kitchen should cater a maximum number of 200 prisoners and no more. Necessary utensils and other infrastructure for this purpose shall also be provided to the jails by the Government.

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(5) The Government shall procure requisite number of Roti Maker(s) on the pattern of Central Jail, Sri Ganganager for each of the Central Jails of the State to ensure supply of healthy and properly cooked rotis to the prisoners.

(6) Despite order dated 14.08.2015 issued by the Government for revision of menu of the breakfast, till date, the prisoners are not being provided with the breakfast in conformity therewith, for the technical reason of not amending the rules in this regard. It is directed that breakfast as per the revised menu shall be provided to the prisoners with effect from the month of April, 2016, regardless of any amendment in the rules thereabout.

(7) Despite orders passed by this Court to provide one sweet item to the prisoners once in a week, the prisoners are still not being provided one sweet item on the premise that as per the existing provision, they are entitled to get one sweet item each only on Holi, Diwali, Eid and Independence Day. We direct that one sweet item be provided to the prisoners in their food at least once in a week, preferably on Sunday, during lunch hours from the month of April, 2016 onwards.

(8) The Government, on the pattern of Central Jail, Mysore, shall explore the possibility of entering into a memorandum of understanding with Akshay Patra, so as to provide quality food to the prisoners.

(9) The Jail administration shall get the prisoners, working in kitchens of different jails of the State, trained as Cooks.

(10) Since it has been reported that the quality of water in the prisons is severally compromised, which lead to various water borne diseases, the Government is directed to establish/set up in each of the jails of the State a filtering unit of water to provide potable water to the inmates.

(11) The Government is directed to keep all the posts of Medical Officers, Para Medical Staff and Nursing Staff filled in the jails on regular basis at all times and not by way of additional charge or stop gap arrangement. Keeping in view the rise in the number of psychiatric patients in the jails, leading to increase in the number of suicides, the Government is directed to post a regular psychiatrist in dispensaries attached to each of the Central Jails.

(12) Considering that several kinds of diseases are prevalent amongst the prisoners in the jails, it is directed that day-wise weekly camp be held in each of the jails in which availability of specialist of diseases; such as skin, psychological problems, tuberculosis, dental, eyes, be made. Such specialist should be invited from leading medical colleges or hospitals situated at the divisional headquarter or government hospital in other districts for the purpose of regular check up of the prisoners. Diagnostic tests, as advised, should be immediately arranged and medicines be provided then and there.

(13) A separate Dental Care Unit in each Central Jail of the State be also established with periodical availability of a dentist in each such unit.

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(14) Basic diagnosis facilities such as X-Ray, Sonography, ECG, nebulizer, basic blood tests etc. with trained staff, if not already provided, be provided in each of the dispensaries of the central jails.

(15) At least one functional ambulances be provided to each central jail and if the old ambulance cannot be made functional, the same be replaced by new ones.

(16) The Government is directed to provide minimum four daily newspapers and four monthly magazines in Hindi language in each barrack of the Central Jails. An English daily newspaper be also provided on demand by any of the prisoners.

(17) The Government is directed to procure and make available minimum 100 novels, preferably in Hindi language, on annual basis, in the library of each Central Jail, first lot of which may be provided within next three months. A minimum budget of Rs. 1 Lakh per annum for purchase of books be provided to the library of each Central Jail.

(18) The Government is also directed to show one movie to the prisoners in the jails every fortnight by shift arrangement.

(19) The prisoners should be involved in regular sports and gaming activities, in order to channelise and ventilate their anger, aggression and sense of helplessness, hopelessness and emotional problems. Sports material in this regard be provided making provision of Rs. 50,000/- per annum for each of seven Central Jails.

(20) Regular Yoga and Meditation classes be also held in the jails with the help of individuals/NGOs working in this field for improving the mental health of the prisoners.

(21) The Government is directed to establish one Industrial Training Institute with minimum two trades in each of the Central Jails of the State, with special emphasis on information and technology and computer related subjects from next academic session. At the same time, the Government shall also introduce two additional trades in existing two Industrial Training Institutes at Central Jails Jaipur and Bikaner, also from next academic session.

(22) The Government is directed to collaborate with Indira Gandhi National Open University and such other educational institutions for arranging regular educational facilities for inmates. Highly and well educated prisoners be identified and involved in educating the illiterate/semi literate prisoners.

(23) As per the reports of inspection received from District and Sessions Judges, several manual looms and weaving machines/other machines are lying out of order in Udhyogshalas of different Central Jails. Such looms and weaving machines/other machines be either immediately got repaired, so as to put them to effective use or replaced by new machines to carry on the activities of Udhyogshalas. Necessary provision for budget shall be made by the Government

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in this behalf.

(24) The Government, in its Department of Skill Development, is directed to prepare a comprehensive scheme, so as to introduce new vocational activities like pen manufacturing, book binding, manure making, screen printing, envelope making, tailoring, zari making and cutting, shoe making and other leather items, candle/agarbatti making, broom making, jewellery making, handloom, weaving, tailoring, carpeting, soap, diamond polishing and preparing bakery items and also food items like pickles, bhujia, snacks, pakoda, samosa, kachori etc. in the jails of the State. The State Government in this behalf should consider setting up a permanent State Level Jail Industrial Board and should also consider providing tax incentives to entrepreneurs, who invest in setting up cottage industry in and for the jails, to provide employment to prisoners.

(25) The concerned officials may in this regard jointly visit Central Jail, Tihar and also jails of other adjoining States to decide as to what new and additional vocational activities can be introduced in the jails of the State. They may in this behalf also involve the nongovernment organizations in the field as to in what best possible manner work force available in various jails can be utilised for the advantage of both the prisoners and the society. Possibility of setting up retail outlets for sale of the consumer items manufactured by the prisoners in different court premises of the State and at other prominent places may also be explored.

(26) The prisoners be encouraged to involve in recreational activities like drama, singing, debates, painting etc., wherefore necessary infrastructure be provided to the jail administration with provision of at least Rs. 25,000/- per annum for every central jail.

(27) In order to take care of problem of over crowding, sufficient number of barracks/dormitories/cells in the jails of the State be constructed keeping in view the provisions of Rajasthan Prisoners Manual, 1951(Part VI, Section II Rule 6 and 16), according to which, for superficial of area, 36 sq. meters, space area of 500 cubic meters per prisoner should be made available in each barrack and superficial area of 75 sq. meters, space area of 1000 cubic meters area per prisoner should be provided in each cell. The Government is, therefore, directed to evaluate, on the basis of prevalent over crowding in all the Central Jails of the State taking 1st January, 2016 as the basis, especially Central Jail at Jaipur, and decide number of barracks/dormitories/cells, which are required to be constructed within a period of one month. Necessary budgetary provisions for construction of such barracks/dormitories/cells on priority basis be procured in the ensuing budget, so as to get them constructed within next financial year and such construction at any rate be completed by 31st March, 2017.

(28) The Government is further directed to construct adequate number of visiting rooms and provide proper facilities therein for meeting of the prisoners with their relatives in peace, so as to be audible to each other and in such a way that space does not become over crowded. Evaluation of such construction be made within

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three months and required construction be carried out within six months thereafter. Alleged corruption in securing visits with the prisoners by their relatives should be completely rooted out.

(29) The Government is directed to provide lockers and shelves to the prisoners in the jails within six months to keep their belongings.

(30) Despite repeated orders of this Court, video conferencing facility has not been made available in all the Central Jails of the State and most of the times, such facility at Central Jail, Jaipur, i.e. Capital of the State, remains out of order. The Government is directed to make video conferencing facility effectively functional and available in all seven Central Jails of the State, within three months positively. This is necessary for the purpose of remand proceedings so as to ease the pressure of providing challan guards on jail administration and to have video conferencing between prisoners and their lawyers at the High Court and District Courts in the first phase and with their relatives, in the second phase.

(31) Guidelines be framed by the Government for segregation of political prisoners. In the absence of clearly laid down criteria, the system of keeping the so-called VIP prisoners, most of whom are ex-ministers and senior bureaucrats, away from ordinary prisoners be abandoned and the general prisoners be also provided similar facilities to avoid discrimination with the ordinary prisoners as not to invite any criticism.

(32) The Government is further directed to make nucleus regular staff of Public Works Department available in the Central Jails for day to day/regular repair works with required equipments/material within a period of two months.

(33) Each of the District Collectors in the State shall constitute Board of Visitors from amongst official and non-official visitors, as per mandate of Rule 7, Part XXIII of the Rajasthan Prison Rules, 1951 immediately, but not later than a period of 15 days, who will inspect the prisons/jails twice in a year and take the meeting once in a quarter and at first such meeting, they must prepare a roster of visits to be made by both official and non-official visitors for the coming twelve months. As per Rule 12 of the Rules, they should write date and time of their visit, their remarks and suggestions with regard to internal arrangements of the jails or the state of discipline maintained therein in the Visitors Book and refer their opinion separately to the Inspector General of Prisons.

(34) District Collectors/Additional District Collectors and Sessions Judges/Chief Judicial Magistrates of each district in this behalf are directed to visit and inspect the Central Jails/Mahila Jails/District Jails/Sub Jails situated in their area once in a month.

(35) Process for setting up of five new Open Air Camps at Sikar, Hanumangarh and Sri Ganganagar, as disclosed in the affidavit filed on behalf of the State on 21.11.2015, shall be completed within next six months and efforts shall be made to identify and set up five more such open air camps within six months thereafter.

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(36) The process for finalization of new Jail Manual as per draft prepared by one member committee of Shri Shyam Sunder Bissa, IAS Officer(Retd.) on the pattern of Model Jail Manual proposed by Government of India, be expedited and efforts be made to rationalize existing Rajasthan Prison Rules, and the rules relating to release on parole, shortening/remission of sentence and open air camps etc. Such exercise be also completed within one year.

(37) CCTV Cameras be installed at strategic locations in all Central Jails immediately. Such Cameras be also installed at important points outside the jails. If such Cameras are already installed, but the same are not in working condition, the same be repaired and made functional immediately.

(38) 4G network jammers, wherefor budget has been provided as per affidavit filed on 28.01.2015, be installed in all Central Jails and made functional within next three months.

(39) The Government is directed to take steps to fill up all the unfilled vacancies in the Jail Department of the State within next six months.

(40) The Government is directed to set up a High Level Committee to examine grievances of the jail staff with regard to conditions of their services and emoluments payable to them.

(41) That respondents shall ensure segregation of under trial prisoners from convicted prisoners.

(42) The Government shall make special provisions for healthy diets to be provided to the infants and children staying with women prisoners in Mahila Jails and also set up creche for them and provide them with toys and other sports equipments.

(43) The regular/periodical visits of the Gynecologists and psychiatrists and other specialist shall also be ensured in the Mahila Jails.

(44) This Court vide order dated 14.03.2014 required the District Judges of the places where the Central Jails are located to enquire and submit report as to how many prisoners died in the jails while serving sentence during last ten years and what was the cause of their death. It is quite unfortunate to note that the reports submitted by different seven District Judges indicate that in all 514 prisoners died in the Central Jails of the State while serving sentence during last ten years, out of which 178 prisoners alone have died in Central Jail, Jaipur. It is also disturbing note that in many of the aforesaid reports cause of death of the prisoners has not been indicated on the premise that their post mortem reports have not been received. The respondents are directed to update their records about each one of the deaths and submit their report. In future, concerned Chief Judicial Magistrate shall be responsible for conducting proceedings under Section 174 Cr.P.C., so as to ascertain the cause of death of the prisoners.

(45) All the facilities provided in the Central Jails of the State, as referred to

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above, should also, as far as possible, be provided in all Mahila Jails, district jails or sub jails of the State."

17. The Chief Secretary, Government of Rajasthan and other officials impleaded as respondents to this petition shall be responsible for compliance of this order and implementation of the directions issued by this order shall be monitored by the Chief Secretary, Government of Rajasthan, Jaipur, who shall once in every month evaluate the implementation of various directives and file action taken report/progress report before this Court at the beginning of every succeeding month starting from April, 2016.

18. Let a copy of this order be endorsed to the Chief Secretary and Additional Chief Secretary, Home Department, Director General(Prisons) and Additional Advocate General, Government of Rajasthan, Jaipur, all District Collectors and District and Sessions Judges, for compliance and be also provided to the learned Amicus Curiae.

19. List this matter on 20.04.2016 to consider progress report filed by the State Government and to pass appropriate order, as may be deemed necessary.

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