

(1971) 03 AP CK 0011

In the Andhra Pradesh High Court

Case No : Writ Petition No. 780 of 1971

T. Nagireddi and K. Ramakrishnareddi, Undertrial Prisoners,
District Jail, Secunderabad

APPELLANT

Vs

The State of Andhra Pradesh, Hyderabad and Others

RESPONDENT

Date of Decision : 22-03-1971

Acts Referred:

Andhra Pradesh Prisons Rules, 1979 — Rule 605, 610, 683, 684
Hyderabad Prisons Act, 1954 — Section 31

Citation : AIR 1971 AP 405

Hon'ble Judges : A. Kuppuswami, J

Bench : Single Bench

Advocate : Party in person, for the Appellant; S. Ramachandrareddi, for Government Pleader, for the Respondent

Judgement

A. Kuppuswami, J.—This is an application by two under trial prisoners in the District Jail, Secunderabad, for the issue of directions or orders or any other form of writ in regard to the following matters.

(a) to supply to the petitioners and others and jail manual:

(b) to allow all the news papers, periodicals and books which are not proscribed by the Government to its citizens;

(c) not to resort to any sort of censorship of newspapers,. periodicals and other books;

(d) to allow the petitioners and others to have a transistor radio and typewriter for use in the jail.

It is stated that no allowing books, censoring all the newspapers; not allowing transistor radio and typewriter and non-supply of Jail Manual are unreasonable restrictions which are against the fundamental rights of the petitioners and also opposed to natural justice and the spirit of the Constitution.

2. These request have to be considered in the light of the relevant provisions of the Hyderabad Prisons Act 1954 (Act 29 of 1954) and the rules framed thereunder.

3. Section 31 of the Act provides, inter ail, that an unconnected criminal prisoner shall be permitted to maintain himself, and to purchase or receive from private sources at proper hours, writing material. books, newspaper or other necessities, but subject to examined and to such rules as may be approved by the Inspector General.

4. Section 59 of the Act provides for making of rules by the Government consistent with the Act in regard to the several matters, Sub-section (13) provides for rules for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited.

5. Sub-section (28) provides for making rules generally for carrying into effect the purpose of the Act.

6. Section 60 states that copies of rules u/s 59 so far as they affect the Government of prisons, shall be exhibited, both in English and in the regional language, in some place to which all persons employed within a person have access.

7. u/s 5 the general control and superintendent of all prisons is vested in the Inspector General of Prisons.

8. u/s 11, subject to the orders of the Inspector General, the Superintendent shall manage the prison in all matters relating to discipline, labour expenditure, punishment and control.

9. The relevant rules among the Hyderabad Prisons Rules framed u/s 59 of the are as follows:

Chapter XXVII deals with undertrial prisoners. Rule 605 in that chapter states that undertrial prisoners shall be permitted to purchase foods, books or newspapers at their own expense or obtain such from private sources. It also states that a reasonable supply of stationery and writing material may be purchased at the prisoner's own expense.

10-11. Rule 610 states that incentive criminal prisoners shall be allowed all reasonable facilities, at proper time and under proper restriction, for interviewing or otherwise communicating either orally or in writing with their relatives, friends and legal advisers.

12. Apart from the chapter dealing with under trial prisoners, there are other rules applicable to all prisoners. Under Rule 683 no private books other than religious ones are allowed and if any such are brought in by a prisoner or sent in to him they shall be kept in the library at the owner's risk and given back to him when he is released. Slates, pencils and other writing materials may be supplied to prisoners at the Superintendent's discretion either at government or the

prisoner's expenses as may be considered proper in each case.

13. Under Rule 684 dealing with the supply of newspapers, the Superintendent of Prison is authorised to censor any newspaper supplied to or obtained by the prisoners and cut out any portion deemed objectionable.

14. The requests of the prisoners in regard to the various matters mentioned in the Writ Petition will have to be considered in the light of the above provisions.

15. The first request relates to the supply of Jail manual. There is no express provisions entitling the petitioners to a copy of the Jail Manual. The petitioners are justified in submitting that in order to enable the prisoners to conform to the rules and regulations of the Jail. it is necessary that they should become acquainted with all the rules and regulations. In the counter affidavit it I stated that they have no objection if the prisoners purchased the Hyderabad Prisons Manual which is a Government publication. I am, however, informed that the Hyderabad Prison Manual is out of the print and only one copy is available for the Jail. The respondents stated whenever the petitioners want they can peruse the jail manual, which is with the Jail Officer, In the circumstances. it is not possible for this court. having regard to the fact that the Jail Manual is out of print, to give any direction to supply a copy of the jail manual, even if they are prepared to pay for it. It is a sorry state of affairs that such an important publication is not available for purchase by the doubt, that steps will be adequate copies of the jail manual are printed and are made available.

16. The next request relates to the supply of newspapers, periodicals and books. As far as news papers are concerned. three is G.O. Ms. 1298 dated 6-7-1963 in which nearly 18 dailies, 15 weeklies and 15 periodicals have been approved by the Government and they have been directed to be supplied to the prisoners at their own cost or at Government, expenses, as prescribed under the rules in force. In another G. O Rt. 3146 dated 7-10-1970 it is stated that such of the newspapers and periodicals other than those approved in the previous G. O according to the choice of the prisoner may be supplied to all classes of prisoners which include "B" class, under trail prisoners, or special class prisoners at their own cost subject to the censorship by the C.I.D. as prescribed under the rules in force.

17. Thus, it is clear that the petitioners are permitted to get these various newspapers at their own costs. But, their grievance is that the newspapers are being censored. It is submitted that large parts of the newspapers are blackened or cut out on the pretext of censorship and there are no guide lines prescribed as to the manner or principles under which the censorship is to be effected. It is true. that under Rule 684 the superintendent of prison is authorised to censor any newspaper supplied to or obtained by prisoners and cut out any portion deemed objectionable. Under this rule, it is left to the Superintendent to decide which portion he deems objectionable. Though on the face of this rule it confers an absolute discretion on the Superintendent. I am of the view that such

discretion is not absolute. but has to be exercised with reference to the object and purpose of the Prisons Act and the Rules made thereunder. The Superintendent has to take into account the jail discipline and administration and matters of security and will have to decided the portions to be censored. It is stated in the counter affidavit that the interest of security and administration of jail are taken into account while censoring the newspapers. In the absence of any material placed before me that this censorship has been used arbitrarily or capriciously without reference to the object and purpose of the Act. I am not in a position to hold that the censorship is not proper. Some samples of newspapers in which this censorship has been effected were produced before me. It is stated by the authorities that the portions cut out relate to instances of clashes of prisoners with Jail wardens, escape from jail, indiscipline in jail and similar such instances. I cannot say that they have been improperly excluded having regard to security jail administration and discipline in jail.

18. Regarding books, it is stated that there is no reason why the prisoners should not be supplied why the prisoners should not be supplied with all books at their costs which are not proscribed by the Government. As instances of refusal of such books it is stated that the petitioners applied for a copy of the life of Mao Tung published by the Penguins and a telugu poetical work called "Jhan Jha". No reasons have been given why they were not supplied to them. Rule 683 which refers to books states that no pirate books other than religious ones are allowed. It cannot therefore, be said that there is any contravention of any rule in refusing permission to the petitioners to buy certain books.

19. The next request is to permit them to use a transistor radio. There is no rule compelling the authorities to permit the petitioners to use a transistor radio. It is stated in the counter affidavit that there is a community radio set in the jail and the permission to use a transistor radio would be detrimental to the discipline in the jail. u/s 31 an unconnected criminal prisoner is to be permitted to purchaser or receive from private sources books, newspapers and other necessities, but subject to examination and to such rules. It cannot be said that the transistor radio comes within the meaning of expression "necessaries".

20. The last request is for the use of a typewriter. The petitioners stated that they have to prepare for their defence . It is stated that the records are voluminous and copies have to be prepared for the use of their lawyers. I think, in view of this the request for permission to use a typewriter is justified. It is argued by the learned Government Pleader that under Rule 605 they can be supplied only and writing materiel and typewriter cannot be included in the expression "writing material or stationery". I think in the context of the present day, when the typewriter is freely used for correspondence, a broad meaning has to be given to the expression "stationery" so as to include a typewriter. Apart from this Rule 610 says that unconnected criminal prisoners shall be allowed all reasonable facilities, at proper times and under proper restrictions, for interviewing or otherwise communicating either orally or in writing with their

relatives friends and legal advisers. In view of the large volume of the record and necessity for getting the documents typed, it can be said that permission to use a typewriter would be a reasonable facility for communicating with their legal advisers and conducting the defence.

21. It is however, submitted by the respondents that use of typewriter may result in passing out or circulating inside the jail unauthorised or provocative communications which may undermine the security in the jail. This difficulty can be avoided by allowing the use of the Typewriter only for the purpose of communicating with their lawyers. The petitioners maybe asked to use the typewriter in the presence of the jail officers at the office or any other place convenient.

22. In this connection reference may be made to the decision of Bench of this court in W.P. No. 4732 of 1970. D/- 13-12-1970 (Andh. Pra.) In that case a request by an undertrial prisoner was made among other things for permission to passes and use their own radio sets, book and all unprescribed literature. papers and periodicals. It was held that the petitioners are not entitled to claim amenities or other requirements independent of the rules and regulations or in consistent with them as they would that amount to defeat the disciplinary provisions which have to be followed by the jail authorities in the interest of the jail administration and the petitioner's request was negative.

23. In the result there will be a direction in regard to the permission to use a typewriter on the lines indicated above. In other respect the petition is dismissed.

24. Before concluding it is desirable to point out that it is high time that the Hyderabad Prisons Rule are amended. They were made in 1954 before the formation of the Andhra Pradesh. More than fifteen years have elapsed and ideas regarding amenities and facilities for the prisoner, especially for the undertrial prisoners have undergone a radical change. It is recognised by every civilised community that there should be more amenities and more freedom to the prisoners within the prison. In the case of undertrial prisoners, it is just possible that they may be ultimately acquitted by a court of law. Without prejudice to jail discipline and administration and to be security of the State and bearing in mind that the main purpose of confining undertrial prisoners in jail is that they do not tamper with evidence and they do not abscond, every effort should be made to increase their amenities. It is to be hoped that steps will be taken to suitably amend as early as possible the existing person rules., especially in regard to the supply of books so as to bring them in conformity with the changed attitude to prisoners and the present ideal on prison reforms.

25. Order accordingly.