

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.6610 of 2006

Krushna Prasad Sahoo ***Petitioners***

Mr. Gautam Misra, Amicus Curiae

-versus-

State of Odisha and Others ***Opposite Parties***

Mr. M.S. Sahoo

Additional Government Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE S.K. PANIGRAHI

ORDER
16.07.2021

Order No.

29. 1. This matter is taken up by video conferencing mode.

Overcrowding in jails

2. The first issue that the Court wishes to address is that of overcrowding in the jails in Odisha.

3. Mr. Gautam Misra, learned Amicus Curiae (AC), has pointed out the Court that the figure of the present population in Odisha as available on the website of the Inspector General (I.G.), Prisons was last updated on 31st May, 2021. On that basis, he has placed before this Court statistics concerning one district jail at Phulbani, one Special Sub-Jail at Bhadrak and eleven sub-jails in each of which the overcrowding ranges between of 161 to 260%.

4. In response to the directions issued by the Court, two affidavits have been filed by the Opposite Parties. One of the affidavits is dated 22nd June, 2021 and is by the Principal Secretary to Government of Odisha in the Home Department and the Director General of Prisons. *Inter alia*, in this affidavit, it is stated that as of 3rd June 2021 737 convicted prisoners were released on Special Parole (furlough) for a period of 90 days each pursuant to the order dated 7th May 2021 passed by the Supreme Court of India in *Suo Motu W.P.(C) No.1 of 2020* and 89 convicted prisoners were released on furlough for a period of 14 days each during the months of April and May, 2021.

5. It is further stated that steps are being taken for release of 106 life convicts whose cases have been recommended by the State Sentence Review Board on different dates for premature release.

6. As regards to the overcrowding, it is stated that as of 3rd June, 2021, 1239 inmates have been shifted/being shifted from overcrowded jails to less populated jails.

7. In a subsequent affidavit filed by the same deponent on 13th July, 2021 it is stated that as on 7th July, 2021 the cases of 1376 prisoners have been considered for shifting. As regards the suggestion of the Court regarding “Temporary Prisons”, it is stated that the Superintendent of Police and District Magistrate of Bhadrak, Malkangiri, Kandhamal, Gajapati, Nayagarh and Jajpur districts have been requested to “select Government buildings with adequate security, secured boundary walls in order to

accommodate prisoners” and that the “feasibility reports are still awaited”.

8. In this context, it must be noted that as of 31st May, 2021 the excess present population in Bhadrak was 242%, in Malkangiri it was 214%, in Paralekhamundi it was 209%, in Nayagarh it was 163% and in Jajpur it was 220%.

9. The Court would also like to draw attention to the fact that at Kodala Sub-Jail as on 31st May, 2021 the present population is 237 where the scheduled accommodation is 93 and the excess is 255%. In Nuapada Sub-Jail there are 125 prisoners whereas the scheduled accommodation is 48, thereby having an excess of 260%.

10. It is not clear from the latest affidavits what the impact of shifting 1376 prisoners is on the inmate population in each of the other jails i.e. one District Jail, one Special Sub-Jail at Bhadrak and eleven sub-jails. It is expected that the status should be updated on the website of the IG Prisons as of 31st July, 2021 to reflect the above figures.

11. The Court accordingly directs that a further affidavit be filed by the IG Prisons updating the statistics and the exact numbers of prison inmates shifted from one jail to the other, or to some other suitable location. The Court also directs that on the next date the IG, Prisons shall remain present in virtual mode with the relevant records in his office as to answer any query concerning the said affidavit.

12. The Court would also like to emphasise that effective steps should be taken as regards the suggestion regarding decongestion of the present population in prisons in Odisha. The Court directs that rather than ad hoc measures which serve only the present needs, a long term plan to deal with the issue of overcrowding in prisons has to be drawn up on urgent basis and be placed before this Court before the next date. The plan be drawn up on a consultative basis involving all the important stakeholders and civil society groups actively engaged with these issues.

Female prisoners and Male prisoners above 60 years

13. It is seen from the affidavit dated 13th July, 2021 that the State Government has accepted the suggestions of the AC regarding special consideration for the female prisoners as well as male prisoners above the age of 60 years. In this context, the learned AC has drawn the attention of this Court to the order passed by the Madhya Pradesh High Court on 10th May, 2021 in W.P.(C) No.9320 of 2021 (*Suo Motu v. The State of Madhya Pradesh*).

14. Accordingly, a direction is issued to the State Government to place before the High Power Committee for the State of Odisha the suggestions of the AC contained in para 7 and 8 of the note submitted by him on 24th June, 2021 which has been accepted by the State in its affidavit dated 13th July, 2021.

15. The other issues will be considered on the next date.

16. List on 26th August, 2021. A copy of this order be delivered to the IG Prisons forthwith through a Special Messenger.

17. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021.

S.K. Jena/P.A.

