

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

Krushna Prasad Sahoo

....

Petitioner

Mr. Gautam Misra, Senior Advocate
Amicus Curiae

-versus-

State of Odisha and Others

....

Opposite Parties

Mr. Debakanta Mohanty, Addl. Govt. Advocate
Mr. S.N. Das, Addl. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

Order No.

ORDER
20.04.2022

38. 1. Pursuant to the order passed by this Court on 11th April, 2022 this Court has received the reports from the Secretaries of the District Legal Services Authorities (DLSAs) after their visits to many of the jails in Odisha, including Districts Jails, Circle Jails, Sub-Jails, Special Sub-Jails and so on. The Court appreciates the promptitude with which the Secretaries, DLSAs have carried out the task entrusted to them by the Court. Videographs and photographs have also been submitted in a pen drive to the Court. This will be preserved as a part of the case records. In some of the visits, the DLSAs were accompanied by the non-official visitors (NoVs).

2. With the help of the learned Amicus Curiae Mr. Gautam Misra, Senior Advocate, the Court has examined in some detail the reports submitted. Broadly the jails visited have been categorised by learned Amicus Curiae in terms of those that require substantial

improvement and those that require improvement. On the issue of kitchens and toilets in as many as 18 District Jails, Sub-Jails etc. substantial improvements are needed and in 16 District Jails, Sub-Jails and Special Jails including the Model Convict Prison, Athagarh, improvements are needed. Some of the photographs presented to the Court bear out the dismal condition of the toilets. Many of the female toilets in the Sub-Jails including those at Ranpur and Daspalla do not even have doors and none of them has a flush facility.

3. As regards the conditions of the prison wards, substantial improvements or repair work are called for in at least 13 District Jails and Sub-Jails and 6 Sub-Jails require improvements in terms of hygiene and repair work. The note of the Amicus Curie also points out that the in the following 12 Sub-Jails, District Jails kitchens are to be repaired and drinking water facilities immediately installed:

1. Sub- jail, Soro, Balasore
2. Sub- jail, Jajpur
3. Sub-jail, Aska
4. Sub-jail, Jharsuguda
5. Sub- jail, Baragarh
6. Sub-jail, Bissam, Cuttack
7. Sub- jail, G. Udayagiri
8. District jail, Phulbani
9. Sub- jail, Balliguda
10. District jail, Puri
11. District jail, Balasore
12. Sub-jail, Nilgiri, Balasore

4. In the following 6 jails, food and nutrition standards were not adhered to and require “massive improvement”:

1. Sub-jail, Sorada
2. Sub-jail, Bargarh
3. Sub-jail, Daspalla, Nayagarh
4. District jail, Puri
5. Sub-jail, Kendrapara
6. Sub-Jail, Khandapada

5. The following 10 jails which do not have adequate medical facilities in terms of hospital beds, minimum equipment and full time medical officers need ‘substantial improvement’:

1. Sub-jail, Jaleswar, Balasore
2. Sub-jail, Soro, Balasore
3. Sub-jail, Jharsuguda
4. Sub-jail, Daspalla, Nayagarh
5. Sub-jail, Bissam, Cuttack
6. Sub-jail, Malkangiri
7. Sub-jail, Deogarh
8. Sub-jail, Salipur
9. Sub-jail, Kendrapara
10. Dist-Jail, Sundargarh

6. The following 13 jails which do not have adequate medical facilities in terms of hospital beds, minimum equipment and full-time medical officers need upgradation:

1. District jail, Balasore
2. Sub-jail, Nilgiri, Balasore
3. Sub-jail, Bhanjanagar
4. Sub-jail, Barbil
5. Sub-jail, Rayagada
6. Circle Jail, Baripada
7. Sub-jail, Udala

8. Sub-jail, Rairangpur
9. Sub-jail, Karanjia
10. Sub-jail, Kantabanji
11. Sub-jail, Patnagarh
12. Special Sub-Jail, Boudh
13. Sub Jail, Birmaharajpur

7. The following 4 Sub-Jails have a shortage of mental healthcare personnel and counsellors for rendering proper care and attention:

1. Sub-jail, Jaleswar, Balasore
2. Sub-jail, G. Udayagiri
3. Sub-jail, Balliguda
4. Sub-jail, Kendrapara

8. In addition it is pointed out that the visit to the Special Jail at Rourkela revealed that there were as many as 54 inmates who required psychiatric care; there is only one Psychiatric Specialist visiting the jail and that too only once in a month. The inmates are having to be taken all the way to Veer Surendera Sai (VSS) Medical College, Burla for check up and regular medicines. The learned Amicus Curiae urges that the visit of the Psychiatric Specialist should be more frequent perhaps once in a week considering the large number of inmates requiring care and attention.

9. Mr. Upadhaya, learned Director General (DG) of Prisons, who was present in virtual mode today, has been fully apprised of the above summary of the report. He expressed his readiness to implement all the directions of this Court in a time-bound manner.

10. The following directions are issued for immediate implementation:

(i) The Board of Visitors (BoVs) of every jail, including the District Jail, Sub-Jail, Central Jail etc. will immediately convene in the next three days to take stock of all that has been pointed out in the report of the DLSAs submitted vis-à-vis that jail.

(ii) The DG, Prisons will constitute a special “implementation committee” to ensure that each of the deficiencies pointed out in the reports of the Secretaries of the DLSAs and in the detailed note of the Amicus Curiae submitted today, is immediately rectified on an urgent basis.

(iii) The Secretaries, DLSAs will undertake one more visit with the NoVs on 30th April and 1st May, 2022 by which time all the repairs to the toilets, the kitchens, the wards shall have been carried out and the deficiencies pointed out in the reports removed. One or two members of the BoVs should accompany the Secretary, DLSA apart from the NoVs to the concerned jail during the follow up visit on 30th April and 1st May, 2022.

(iv) The Secretaries, DLSAs are requested to submit a follow up report again accompanied by the photographs to this Court in this regard. It is made clear that if there is any breach of the directions in this order, the jailor of the concerned Sub-Jail, District Jail and Special Jail etc. will be liable for disobedience of the directions of this Court and can be proceeded against for contempt of Court.

(v) The Court urges the Sub-Collector and the Superintendents of the Jails to act on coordination to ensure that all the repairs including major and minor repairs are attended to immediately.

11. The quality of food served in the jail is a matter of concern. Mr. Upadhaya, DG of Prisons points out the current system involves the culprits themselves preparing the food in the jail both for themselves as well as for the under trial prisoners. This is not a satisfactory arrangement at all. Mr. Upadhaya refers to the practice in the State of Tamil Nadu, where better quality food is ensured by the State Government itself deploying cooks to prepare the food for all the jails.

12. A long term plan be drawn up by the DG, Prisons in consultation with the experts, some of whom have appeared in these proceedings earlier, and wherever the Court's directions are required to seek such directions for implementation so that the quality of food served in the jails in Odisha is nutritious, of the desirable standard in terms of taste and calories.

13. Likewise, agencies may have to be deployed for the upkeep of the jails including hygiene, cleanliness of the wards and toilets in all the jails in Odisha. This task should not be left to the inmates themselves. There has also to be a close supervision of this task of maintaining cleanness. Again a plan be drawn up and wherever required, directions of this Court be sought. This should be done by the next date of hearing so that directions can be issued by the Court in that regard.

14. The Court would once again like to emphasize that this is not to be treated as an adversarial litigation but of coming together of the Jail Administration, the civil society, the Judiciary and the Bar in seeking to improve the conditions in the jails in Odisha.

15. As regards the female inmates in jails, it is stated by Mr. Debakanta Mohanty, learned Additional Government that as of date there is no single female inmate in any jail in Odisha and that strict instructions have been issued in this regard. He refers to the circulars and communications addressed by the DG, Prisons to all the Sub-Jails.

16. In addition the DG, Prisons has also apprised the Court of the memos issued to and disciplinary action taken against some of the jailors, who were found to have been remiss in the discharge of their duties.

17. The Court would like to emphasize the Committee that is to be set up by the DG, Prisons for overseeing the implementation of this Court's directions should continue to function for a period well beyond the next two months to ensure that all the improvements that have been carried out are allowed to continue as such and there is no slipping back in the overall conditions in the jails including sanitization, hygiene, quality of food etc.

18. Learned Amicus Curiae has drawn attention of this Court the directions issued in *T.N. Mathur v. State of Uttar Pradesh 1993 Supp (1) SCC 722* wherein the context of a court lock up, it has been stated that a person detained there should be provided “at least 40 sq. ft per person with minimal facilities of furniture such as a cot for each of the detailed persons and supply of potable water.” It is further stated that it should provide for an electric fan and there must be hygienic arrangements for a toilet. Clearly, what can apply to a lock up should apply in a greater measure to a prison cell. The said requirement would be kept in view by the Committee constituted by the DG to advise him on how to improve the condition of the jail to ensure their decongestion and to ensure some minimum standard as pointed out by the Supreme Court in the above decision.

19. A general direction is also issued by this Court to the SDJMs in various District Courts to promptly act on the requests made by the jail officials for shifting of the prisoners subject of course to the conditions that such prisoners will be produced as and when required, when the matter is listed in the Court. This is issued particularly in the context of the over-crowded jails like Bhadrak. The photographs which have been shown to this Court today clearly reveal that the male wards housing undertrial prisoners are over crowded.

20. Learned Amicus Curiae has also drawn our attention to the directions issued by the Supreme Court in *R.D. Upadhayay v. State of Andhra Pradesh (2017) 15 SCC 337* as regards women

prisoners whose children live along with them in the prisons. A direction issued there to the Odisha State Legal Services Authority (OSLSA) to take “necessary measures to periodically inspect the jails to ensure that the directions regarding children and mother are complied with” in letter and spirit. The said direction is reiterated by this Court.

21. In addition, the Member Secretary, OSLSA who is present in virtual mode is requested to ensure with reference to a communication dated 22nd March, 2021 addressed to him by the DIG, Prisons of Odisha that there is no prisoner in any of the Jails, Sub-Jails etc. who is unable to be released despite being granted bail on account of their inability to furnish the bail bonds. All possible assistance will be extended to such prisoner by the concerned Secretary of the DLSA by moving appropriate applications for acceptance of personal recognizance bonds.

22. List this case for reporting compliance of the above directions on 5th May, 2022 at 10.30 am.

23. A copy of this order be communicated to the Chief Secretary, Government of Odisha and the DG, Prisons by the Registry of this Court forthwith.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge