

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 Orissa and others ***Opposite Parties***

Mr. Debakanta Mohanty, Additional Government Advocate,
Mr. S. N. Das, Additional Standing Counsel and Mr. Biswajit
Mohanty, Member Secretary, Odisha State Legal Services
Authority (OSLSA) and Mr. Sitaram Patel,
Additional IG of Prisons, Odisha

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK

ORDER
05.05.2022

Order No.

39. 1. Pursuant to the order passed by this Court on 20th April, 2022, reports have been received from several of the District Legal Services Authorities (DLSAs). The Court expresses its appreciation of the promptness with which the DLSAs have swung into action, visited all the jails and sub-jails in Odisha and submitted their photographs/video clips along with their reports.
2. These reports have been analyzed by the learned Amicus Curiae, Mr. Gautam Misra, learned Senior Counsel and a convenience note has been placed before the Court.

3. While there is significant progress in improving the facilities, the hygiene of the jails and the living conditions of the prisoners and this is evident from the photographs/video clips sent to the Court, much more still required to be done.

4. The learned Amicus Curiae has highlighted how despite the orders of this Court, no steps whatsoever have been taken to improve the conditions in the Sub-Jail, Baliguda and the Sub-Jail, Nayagarh. A specific direction is issued to the concerned Prison Officials to immediately take steps to rectify the defects pointed out in the video clips/photographs and the reports. The Non-Official Visitors (NOVs) of these two sub-jails will immediately undertake a visit along with the District Judges in both these places to ensure that the living conditions, the hygiene, the sanitation, the quality of food and other issues pointed out are attended to immediately. The Secretary, Odisha State Legal Services Authority (OSLSA) will co-ordinate with the concerned two District Judges and place a compliance report before the Court on the next date.

5. From the convenience note, it transpires that the condition in the District Jail in Puri is still poor. In particular, the issues concerning this jail are the insufficient water supply, the repairs and improvements needed urgently to the toilets, the improvement needed to the wards, the kitchen and drinking water facilities, the quantity and nutrition of food.

6. The convenience note points out that apart from the District Jail at Puri the Sub-Jails at Malkangiri and Digapahandi have insufficient water supply. The toilets and rest rooms in the Special Jail, Rourkela have not undergone any improvements. The photographs of the Model Convict Prison, Athgarh show that the toilets and rest room there still require improvement as do those at the Sub-Jail, Pallahara, the Sub-Jail, Malkangiri, the District Jail, Angul, the Sub-Jail, Talcher, the Sub-Jails at Narasinghpur, Baramba, R. Udayagiri, Paralakhemundi, Jharsuguda, Kujanga and Ranpur.

7. The Court on viewing the photographs of the Circle Jail, Choudwar notices that the toilets, the rest rooms and the drains there are to say the least in a pathetic condition as are the conditions in the Wards. Being the Circle Jail and located so close to Cuttack, there can be no excuse for the poor condition in which the Circle Jail is.

8. The Court is informed that Mr. Manoj Chhabra will be soon taking over as the Director General of Prisons, Odisha. The Court requests Mr. Chhabra to undertake a personal visit to the Circle Jail at Choudwar as one of the first tasks and ensure that on a war footing the conditions in the Circle Jail are considerably improved. He may also look through the photographs and video clips sent by the Secretaries of the DLSAs to this Court, copies of which have been provided to Mr. Debakanta Mohanty, learned Additional

Government Advocate (AGA). He will notice that the wards in the Sub-Jails at Jagatsinghpur, Talcher, Pallahara, Jharsuguda, Kuchinda, Kujanga, Nayagarh and Khandapara require improvement.

9. The Court requests Mr. Chhabbra to also undertake a personal visit both to the District Jail at Puri and the District Jail at Angul since the reports point out to be poor conditions of the drinking water facilities, the cooking area, the food and nutrition in these jails.

10. Mr. Chhabbra is requested to go through the convenience note submitted by the leaned Amicus Curiae, which points out that as many as 16 Sub-Jails in Odisha need considerable improvement as regards the medical facilities available. The deficiencies are either due to absence of a full-time medical officer within the jail premises or insufficient hospital beds in proportion to the prison population.

11. Likewise, mental health professional care and facilities are not available in the District Jail, Angul, Sub-Jail, Balliguda and the Sub-Jail G. Udayagiri. The visits of psychiatrists and counselors to the Sub-Jail at R.Udayagiri are stated to be very irregular. The Sub-Jails at Dasapalla, Ranpur and Khandapara have to depend on outside hospitals or healthcare hospitals for mental healthcare support. It appears that in this regard, instructions have been issued

on 4th May, 2022 to the Chief District Medical Officers at Balasore, Kandhamal and Kendrapara for taking appropriate action. Similar instructions are required to be issued in regard to the other jails and sub-jails as well.

12. Mr. Mohanty, learned AGA, has drawn attention of this Court to the Home Department's letter dated 29th March, 2022 creating posts of 18 regular medical officers in different jails. The DG will have to take personal effort to ensure the filling up of all the vacant posts at the earliest.

13. The affidavit filed today on behalf of the State by the Deputy Inspector General of Prisons, Sri Subhakanta Mishra, states that disciplinary action has been taken against the jail officials in Puri and Khandapada, and an explanation has been sought from Superintendents of several other jails including the jails at Soro, Jajpur, Jharsuguda, G. Udayagiri, Phulbani, Balliguda, Puri, Balasore and Nilgiri.

14. Mr. Mohanty, learned AGA, has drawn attention to the fact that by Circular No.7 of 2022 issued by the Directorate of Prisons and Correctional Services, Odisha on 20th April 2022, an Implementation Committee has been constituted. The Court notes that at today's hearing, Mr. Sitaram Patel, the Additional IG of Prisons and the Chairman of the said Committee was present in virtual mode.

15. One disturbing aspect that has been brought to the attention of the Court involves the Sub-Jail at Athamallik. The report of the Secretary, DLSA, Angul states how inmates recently transferred from the Sub-Jail at Athamallik to the Angul District Jail informed the Secretary, DSLA how brutally they were tortured at the Sub-Jail Athamallik, which according to them, is under the control of the convicts instead of jail officials. The Court directs the District Judge, Angul to immediately visit both the District Jail at Angul as well as the Sub-Jail at Athamallik, to conduct an enquiry into the above complaint and submit a report to this Court before the next date.

16. On the issue of under trial prisoners (UTPs), who were unable to be released despite being granted bail, the Secretary, OLSA, Mr. Biswajit Mohanty has reported that of the 381 UTPs in this category, all barring 3 have been released on bail. The 3 remaining have been charged for sessions triable offences. Mr. Mohanty is requested to continue monitoring the instances of UTPs who may not be able to obtain release despite grant of bail on account of their inability to furnish the bail bond and take effective steps in that regard.

17. Since the intervention by the Court is ensuring improvements to the facilities, it is important to keep the monitoring of the directions of the Court continued. For this purpose, the Court proposes to hear

this petition at a special sitting at 10.30 AM on Saturday i.e. on 21st May, 2022. The new DG Mr. Chhabra is requested to remain present for the hearing in virtual mode.

18. A certified copy of this order be delivered forthwith to the Secretary, OSLSA who in turn will transmit copies thereof to the concerned district Judges to whom specific directions have been issued in this order.

M. Panda

