

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P. (C). No.6610 of 2006**

***Krushna Prasad Sahoo*** ..... ***Petitioner***  
Mr. Gautam Mishra, Sr. Advocate,  
Amicus Curiae

-versus-

***State of Odisha & Others*** ..... ***Opp. Parties***  
Mr. S.N.Das, ASC

**CORAM:**  
**THE CHIEF JUSTICE**  
**JUSTICE R.K.PATTANAİK**

**Order No.**

**ORDER**  
**28.07.2022**

***Doctors and nurses***

41.

1. A detailed affidavit has been filed by the Deputy Inspector General of Prisons enclosing the minutes of the 1st meeting of the Prisons Development Board (PDB) which was held on 25<sup>th</sup> July, 2022 under the Chairmanship of Chief Secretary to Government of Odisha with the participation of other bureaucrats including Dr. Manoj Kumar Chhabra, the Director General Prisons (DG of Prisons) as Member-Convener, who is present at today's hearing in virtual mode.

2. The Minutes of the Meeting of the PDB reflect the issues addressed which include the issue of shortage of Doctors, Psychiatrists and Nursing Orderlies. Dr. Chhabra informs the Court that he has been conveyed the decision of the Finance Department permitting the engagement of Doctors on contractual basis on a fixed remuneration of Rs. 25,000/- per

month. He states that steps shall be taken soon to operationize this proposal. On female and male nursing orderlies permission has been granted for hiring on outsourcing basis.

***Manpower shortage***

3. As far as the manpower shortage is concerned, the minutes of the PDB notes that while the prescribed norm is one Warder for every six inmates in prisons, the national norm is 1:9 whereas in Odisha it is at present 1:11 with the number of posts of Warders remaining stagnant since 2010. While it has been decided that the PDB will hold a separate meeting for creation of additional posts of Wardens and Ministerial staff, the Court is of the view that a decision in this regard must be taken not later than three months from today. Further, the next meeting of PDB itself should be convened for a date before the end of October, 2022.

4. Likewise, the decision of the State government regarding permitting the hiring of Psychiatrists on contractual basis to address the severe shortage experienced by the prisons in Orissa, where the number of visits made either by Psychiatrists or Medical Officers is woefully inadequate, should be taken and conveyed to the DG of Prisons within a period of three months from today. The Court would like to emphasize the timeliness of these decisions to address the urgent need for quality medical services in the jails in Orissa. In this context, reference may be

made to Rule 797 of the Orissa Prison Rules, 2020 which reads as under :

“797. Counseling- Counseling facilities shall be extended to the prisoners as follows:-

- (a) The mental health status of a prisoner shall be studied before his classification at the time of admission in the prison and prisoners certified as mentally ill shall not be confined in prisons and instead appropriate measures shall be taken for their transfer to special institutions;
- (b) Professionally qualified counselors shall be engaged by the prison department to provide counseling to the needy prisoners, particularly those suffering from substance-related addictive disorders and victims of abuse;
- (c) Proper and regular evaluation of prisoner’s mental health shall be done to enable the requisite psycho social support services by the Prison Department;
- (d) Severe mental disorders shall require appropriate psychiatric treatment and dealt under the provisions of the Mental Health Act, 1987.

330. Prisoners requiring mental health care.-(1) Female prisoners needing treatment for mental diseases shall not be admitted in prison.

(2) Female prisoners as mentioned in sub-rule(1) shall be kept in separate enclosures for female patients at the mental health hospital, or in other hospitals having mental health facilities, under the supervision of a lady Medical Officer.

(3)

320..... Notes:

(i) No prisoner or under-trial prisoner, mentally ill shall be kept in the prison;

(ii) If any such prisoners are there, they shall be immediately transferred to appropriate mental health institutions.

(iii) No classification of prisoners shall be allowed on grounds of socio-economic status, caste or class.”

***Emergency response facility***

5. Mr. Goutam Mishra, learned Amicus Curiae has also submitted a convenience note for today’s hearing in which he points out that apart from the above issue of manpower shortage there are two items which for discussed the meeting of the PDB which require early resolution, one is the provision of emergency response facilities. In this context it is pointed out that for the 87 Prisons in Odisha there are just 21 Ambulance vehicles available of which only six have been provided by the Government. This is woefully inadequate by any standard.

6. It is directed that in a phased manner it must be ensured that there is one Ambulance per jail provided in Odisha and to begin with within the next three months at least 20 vehicles be provided to the Prisons Department to meet the contingency.

***Corpus Fund of the PDB***

7. The other issue discussed is the corpus fund of the PDB, the Court notes of the minutes do not actually set out any road map for achieving the minimal corpus fund necessary. This too be

addressed immediately and the decision in this regard be taken within a period of three months from today.

***Overcrowding***

8. The issue of overcrowding appears to have improved considerably. At present overcrowding beyond 50% is experienced in four sub-jails. However, in the sub-jail in Jajpur it is more than 105 % . Dr. Chhabra nevertheless assures in the Court that this is receiving the highest priority and concerted efforts will be made to bring down the overcrowding percentages even in these jails.

9. Dr. Chhabra says that meetings are going to be held with the Orissa Police Housing Corporation which is undertaking the task of building additional capacities for the jails, for completion of all the ongoing projects in a time bound manner.

***Segregation of prisoners***

10. The convenience note of the AC highlights the issue of segregation of under trial prisoners from convicted inmates and refers to Rule 320 of the Odisha Prisons Rules 2020 which reads as under :

“320. Classification and separation- As far as possible women prisoners shall be classified and kept separately as mentioned below:-

- (a) the under-trial prisoners shall be kept completely separated from convicted offenders, even when their number is small'
- (b) the habitual prisoners shall be separated from casual offenders;
- (c) habitual offenders, prostitutes and brothel keepers must also be confined separately;
- (d) Adolescent girls should not be confined with adult women prisoners;
- (e) Political and civil prisoners shall be kept separately from convicts and under-trial prisoners."

11. On the next date the Court will be informed of the steps taken to achieve the actual segregation of young adult inmates from the adults particularly those in the age group of 18 to 21 in the jails and Sub-jails. This is already been highlighted by this Court in its order dated 21<sup>st</sup> May, 2022.

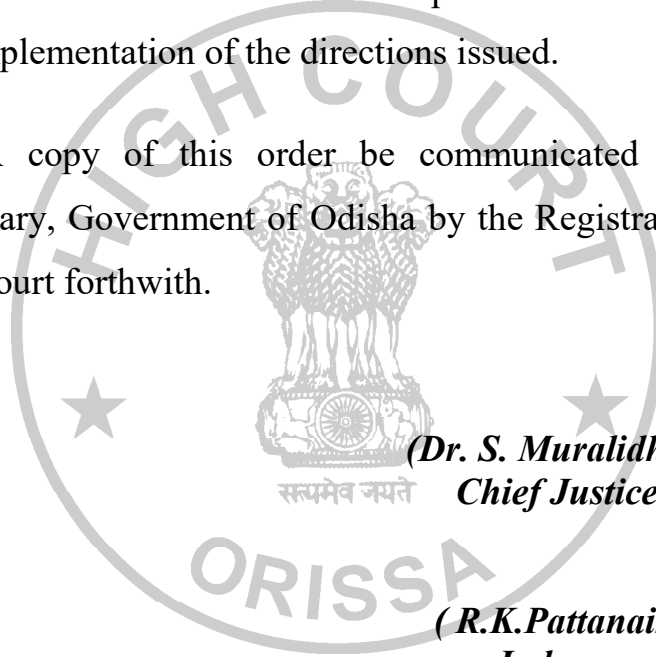
12. The affidavit filed today refers to the steps taken for installing the e-kiosk system in the jails. To begin with 56 e-kiosk systems have been procured for 33 jails and in a phased manner it is proposed to be provided in every jail.

13. Learned Amicus Curiae Mr. Mishra also draws attention of the Court to recent judgment of the Supreme Court in *Satender Kumar Antil v. Central Bureau of Investigation 2022 SCC*

*online SC 825* and in particular the detailed directions issued therein in para 73. The Court would expect the authorities including the DG Prisons and the Odisha State Legal Services Authority to ensure that the awareness of these directions is properly disseminated amongst all concerned.

14. List this matter on 9<sup>th</sup> November, 2022 at 2 pm. In the meanwhile, the Implementation Committee already constituted by the Court will continue to hold periodic meetings to monitor the implementation of the directions issued.

15. A copy of this order be communicated to the Chief Secretary, Government of Odisha by the Registrar (Judicial) of this Court forthwith.



**(Dr. S. Muralidhar)**  
**Chief Justice**

**(R.K.Pattanaik)**  
**Judge**