

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. No. _____ of 2020

IN

SUO MOTU WRIT PETITION (CIVIL) NO.1/2020

IN THE MATTER OF: -

IN RE: CONTAGION OF COVID 19 VIRUS IN PRISONS

AND IN THE MATTER OF:-

NATIONAL FORUM ON PRISON REFORMS

THROUGH ITS CONVENOR

PT-62/26, Kalkaji

New Delhi – 110019

..APPLICANT/INTERVENOR

PAPER BOOK

I.A. No of 2020: Application for Intervention

I.A. No of 2020: Application for Directions

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ADVOCATE FOR THE APPLICANT/ INTERVENOR:

SATYA MITRA

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APPLICATION FOR INTERVENTION

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA

AND COMPANION JUSTICES OF THE HON'BLE

SUPREME COURT OF INDIA

THE APPLICATION OF THE

APPLICANT/ INTERVENOR ABOVE NAMED

MOST RESPECTFULLY SHOWETH THAT:

1. The above Petition is a suo-motu writ petition under Article 32 of the Constitution of India taken up by this Hon'ble Court in view of the Corona Virus Pandemic that has gripped the world and is likely to affect the prison population, as the virus is highly contagious.
2. That this Hon'ble Court has passed certain directions in the present case dated 23.3.2020 to *inter alia* constitute a High Powered Committee at State/UT level comprising of (i) Chairperson of State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, and (iii) Director General of Prison(s), to determine which class of prisoners can be released on parole or interim bail for such period as may be thought appropriate. Further, the Undertrial Review Committees (UTRCs) contemplated by this court in Re Inhuman Conditions in 1382 Prisons, WP(C) 406 of 2013, were directed to meet every week and take such decisions in consultation with the concerned authority.
3. That since these directions were passed, there have been further orders issued by the Central and State Governments extending the lockdown period from a week to 21 days in the entire w.e.f. midnight of 24.3.2020. That as a result, no public transportation is currently available in any part of the country for people to travel to and from their homes.
4. That in view of the prevailing circumstances, and further keeping in mind that it is critical to decongest the prisons keeping in view the threat to the lives of the inmates in case the virus spreads, as well as maintaining proper

hygiene, sanitation, social distancing, etc., the Applicant herein prays that this Hon'ble Court consider the additional suggestions being put forth by the Applicant.

5. That the Applicant, i.e. the 'National Forum on Prison Reforms' is a non-registered forum of 6 organisations,
 - a. Human Rights Law Network (HRLN),
 - b. Tata Institute of Social Sciences (TISS),
 - c. Commonwealth Human Rights Initiative (CHRI),
 - d. International Bridges to Justice India (IBJ India),
 - e. Multiple Action Research Group (MARG)
 - f. Lawyers for Human Rights International (LFHRI)

which have agreed to work collectively on prison reforms in the country.

6. That the Applicant, National Forum on Prison Reforms (NFPR) was also an intervenor in the case Re-Inhuman Conditions in 1382 Prisons, WP(C) 406 of 2013, and its members have worked closely with the Amicus Curiae in the above case, in order to assist this Hon'ble Court in contemplating the various measures to address various issues including overcrowding, medical negligence, and custodial deaths in prisons.

7. ANTECEDENTS OF THE APPLICANT

Brief background of the organizations who are member organisations of the Applicant Forum are as follows:-

- a. **Human Rights Law Network** - Human Rights Law Network (HRLN), a division of the Socio-Legal Information Centre (SLIC), is a collective of

lawyers and social activists dedicated to the use of the legal system to advance human rights in India. HRLN through its Prisoners' Rights Initiative has been providing pro bono legal services in prisons in Delhi, West Bengal, Maharashtra, Chhattisgarh, Assam, Manipur, Odisha, Bihar, Andhra Pradesh, Jammu & Kashmir, among other states, and has helped thousands of indigent prisoners. HRLN has also held several regional and National level Consultations and workshops for advocates and social activists, across the country.

b. Commonwealth Human Rights Initiative (CHRI)

- Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, non-profit, international non-governmental organization, engaged in issues related to access to justice and access to information. Through its Prison Reforms Programme, in the last two decades, it has focused on improving prison monitoring through the strengthening of undertrial review mechanisms and prison visiting system, ensuring early safeguards against unnecessary pre-trial detentions, improving prison conditions, ensuring access to legal aid for persons in custody and facilitating repatriation of foreign national prisoners. It seeks to achieve its goals through research, legal analysis and advice, advocacy, capacity building and network building.

c. Prayas, Tata Institute of Social Sciences (TISS) -

Tata Institute for Social Sciences (TISS) under its project PRAYAS has been working with prisons and

prisoners for the past three decades through its social workers. For the last several years, the TISS School of Social Work through the Centre for Criminology and Justice and the School of Law have been placing its MA in Social Work and LLM students for field work in prisons and legal services authorities. The TISS also has implemented a Criminal Justice Fellowship Programme through which its alumni from Criminology and Law have been given Fellowships and the Fellows have worked with under trial prisoners in Maharashtra, Bihar, Odisha and Uttar Pradesh between the period 2015 - 2018. The schools of Law and the Centre for Criminology and Justice has also been organizing trainings for prison officers and undertaking studies on prison reforms.

d. **International bridges to Justice India (IBJ India)**

- International Bridges to Justice India (IBJ) works to guarantee all citizens the right to competent legal representation, the right to be protected from cruel and unusual punishment, and the right to a fair trial. To achieve its goal IBJ closely works with the Governments Authorities and NGOs to ensure that trained legal aid lawyers are available to provide every marginalized person access to legal aid at the earliest. IBJ India has been working in India since 2008 and has worked in partnerships with various Legal Services Authorities and prison administration on capacity building of legal aid lawyers and prison staff. IBJ India has also been working closely with

Delhi Prisons from the last number of years and have provided Legal Aid to many jail inmates. It has also established a skill development program in coordination with Gems and Jewellery Skill Council of India (GJSCI) for women and young prisoners lodged in Tihar Jail.

- e. **Lawyers for Human Rights International (LFHRI)** – The organization has membership throughout the world. Its units of Punjab, Haryana and Chandigarh are actively involved in upholding Human Rights and rule of law through Public Interest Litigations and by providing free legal aid to the persons who are unable to afford litigation. The organization also trains and disseminates Human Rights knowledge through seminars and workshops. The organization is also part of the International Campaign against Death Penalty.
- f. **Multiple Action Research Group (MARG)** - Multiple Action Research Group (MARG) has been engaging with the State Legal Service Authorities on training lawyers and has prepared modules for training SLSA lawyers. It has also conducted needs assessment studies for 7 State Legal Service Authorities including in prisons.

8. That the Applicant wishes to put forth certain guidelines and mechanisms besides some recommendation which the High Powered Committee (HPCs), UT/State Governments may be directed to follow while releasing the prisoners in view of the current lockdown, which has brought the

whole country to a standstill. This is further in view of the fact that the relatives or lawyers of the released convicts may not be able to come and help with their immediate needs, and further considering the fact that prisoners who have been released after many years may also be disoriented to find their own way to their homes. Such a problem is further exacerbated in view of all the transport facilities being unavailable.

9. Further, there may be a need to orient the inmates with regard to their health, safety and the current circumstances prevailing in the country, as well as providing them with a safe passage home. That since such a situation has arisen due to the current circumstances, it is therefore requested that suitable directions be therefore passed in order to circumvent any untoward situation.
10. It may also be brought to the notice of the Hon'ble Court that apart from prisoners, there are other groups of custodial populations like women and children's institutions and shelter homes and beggars' homes where thousands of vulnerable women, children, destitute, disabled and mentally ill persons are housed and are in danger of being exposed to the COVID 19 infection, and hence urgent necessary steps may need to be taken to prevent the spread of this pandemic in these institutions.
11. The applicant further wishes to bring to the notice of this hon'ble court that due to the lockdown many High Courts and lower courts have suspended their work and the prisoners not falling in the categories as decided by HPC or UTRC in view of the order dated 23.3.2020 are unable

to get the hearings on emergent/ medical grounds, this issue is also require consideration by this Hon'ble Court so that appropriate orders may be passed directing the Ld. High Courts or Trial Courts for hearing through video conferencing or any other mode as deem fit by them on the basis of urgency in the interest of justice.

12. The hearing of this application is sought on an urgent basis during lockdown and the applicant is unable to file a signed affidavit, court fee and vakalatnama besides the attestation of affidavit however the same has been forwarded by the authorized person from his email, the applicant undertakes to file the same immediately after the lockdown is over.

P R A Y E R

It is thus prayed that this Hon'ble Court may be pleased:

- a. To permit the applicant herein to intervene in Suo Motu Writ Petition (Civil) 1 of 2020;
- b. To pass any other order/s as this Hon'ble Court may deem fit in the facts and circumstances of the case.

Filed by:

Satya Mitra

Advocate for the Applicant/ Intervenor

Drawn by:

Ritu Kumar

Dated: 28th March 2020

Place: New Delhi