

**MINUTES OF THE MEETING OF THE HIGH POWER**  
**COMMITTEE HELD ON 22-05-2021**

1. **Consideration of the action taken report action take report submitted by D.G. (Prisons) in pursuance to the meeting of High Powered Committee dated 12.05.2021.**

The action taken report was perused. Hon'ble the Chairman was pleased to observe that health camps have been organized in only 19 jails whereas the number of Jails including sub-jails is around 131. Therefore, it was directed that D.G. (Prisons) shall coordinate with the Health Department to ensure that regular health camps are conducted as resolved in the last meeting dated 12.05.2021.

It was observed that 3927 prisoners have been released on emergency parole while the matters pertaining to prisoners above the age of 60 years and female prisoners above the age 45 years, female prisoners lodged in jail along with their minor children, pregnant female prisoners and those prisoners suffering from serious illnesses are in the pipeline. Accordingly, it was directed that steps be taken to expedite all such matters as resolved in the meeting dated 12.05.2021.

The report of DG Prisons reflects that out of 4874 under trials forwarded for consideration to the trial Courts, 1219 under trials have been released on interim bail while the matter of prisoners

incarcerated on account of non-payment of fine are very few. The prison occupancy is reported to be uploaded on the website of the Prison and 7787 convicts have been vaccinated while the vaccination for the remaining prisoners is in process. Accordingly, the Committee was pleased to approve the Action Taken Report submitted by the office of D.G. (Prisons).

**2. Consideration of the suggestions of the Ld. Senior Counsel and Amicus Curie in WP No. 9320/21 with WP No. 8391/2020 as mentioned in order dated 17.05.2021**

**a) Consideration of data of D.G. (Prisons) regarding number of prisoners lodged in different jails of Madhya Pradesh, who have either served out 1/3<sup>rd</sup> of the substantive sentence awarded to them or if sentenced to life have completed incarceration of 7 years or more.**

As per the data submitted by the D.G. (Prisons) there are **2719** convicts who have already served out 1/3<sup>rd</sup> of the substantive sentence awarded to them. While there are **6047** convicts who have been sentenced to life and have completed incarceration of 7 years or more.

The Committee was pleased to observe that the release of convicts in the above category who fulfill the conditions for grant of parole may be expedited to ensure decongestion of jails. In this

regard, the D.G. (Prisons) apprised that several jail inmates are unable to furnish requisite security of Rs. 50,000/- while some of them have not filed an application for parole despite being informed of their eligibility for parole. He also brought to notice that this condition is particularly prevalent in those jails which have large number of convicts from tribal areas. He also informed that the process for grant of parole is long winding and cumbersome and requires satisfactory field reports from the revenue authorities.

The Committee resolved that Legal Services Institutions across the State shall assist such prisoners in filing their applications for parole. It was also directed that the whole process be expedited so that prisoners desirous of being granted the facility of release on emergency parole be considered at the earliest.

Accordingly, the Committee directed that on fulfilling of the requisite conditions for grant of parole all such convicts be granted parole who have either served of  $1/3^{\text{rd}}$  of the sentence awarded to them or if sentenced to life imprisonment have completed sentence of 7 years or more.

- b) Consideration of release of all under trial prisoners on interim bail facing trial for offences exclusively triable by the Court of Magistrate regardless of the outer limit of the sentence**

As per the data given by the D.G. (Prisons) the number of jail inmates falling in the category of under trial prisoners facing trial for offences triable by the court of Magistrate is **8781**. Further, the data reflects that applications of 4874 prisoners have been forwarded to the trial court and after due consideration the trial courts have granted bail in 1219 matters till date. The data also reflects that out of 3179 under trial prisoners who were released in 2020 on interim bail, 1536 inmates have not returned to jail either on account of having been granted regular bail or having absconded and the exact reasons need to be duly verified.

The Director (Prosecution) brought to kind notice that any blanket recommendation for release of all under trial prisoners facing trial for offences exclusively triable by the Court of Magistrate regardless of the outer limit of sentence on interim bail may be counterproductive to the needs of social order.

Keeping in view the above facts, it was resolved that the matters of under trial prisoners who are facing trials exclusively triable by the court of Magistrate be considered by the concerned courts on case to case basis.

c) **Release of all women prisoners both convicts and under trials regardless of the offence for which they have been convicted**

The data shared by D.G. (Prisons) reflects that the number of women under trial prisoners is 1144 while the convict women

prisoners is 577 and 133 convict women prisoners have been released on emergency parole. The D.G. (Prisons) submitted that any blanket recommendations for release of all women prisoners would not be congenial to the criminal justice system. Further, he responded that outbreak of Covid has substantially reduced in the jails and therefore such matters regarding parole may be considered as per the Prison Manual and provisions for emergency parole.

The Members of the Committee recommended that the release of women prisoners on parole be considered as per the existing provisions in the Jail Manual and the norms for grant of emergency parole. It was also directed that the matters for under trial women prisoners may be considered sympathetically on case to case basis.

**3. Consideration on implementation of the directions for moving appropriate applications before the Juvenile Justice Board**

It was brought to kind notice that in accordance with the directions issued by the Division Bench in W.P. No.9320/2021 with W.P. No.8391/2020, bail applications are being moved by the Secretaries of the respective District Legal Services through the legal aid counsels before the respective Juvenile Justice Boards on behalf of the children in conflict with law. As per the current

update Principal Secretary (WCD) apprised that out of 218 children lodged in observation homes, 192 children have been released on bail and the applications on behalf of the remaining children are under consideration. It was also informed that the appointment order of Principal Magistrate, Juvenile Justice Board against 20 vacant posts has been issued and facilities for hearing through Video Conferencing in 14 Homes have also been installed while measures are being taken for installing video conference facility in remaining homes shall also be accordingly upgraded.

The Members of the Committee were pleased to resolve that matters pertaining to release of juveniles and final disposal of their cases be expedited. Accordingly, the requisite information be placed before the Hon'ble Bench at the time of hearing.

**4. Consideration of the communication of the Principal Registrar, Bench at Gwalior annexed with the note of Hon'ble the Administrative Judge, High Court of M.P. Bench at Gwalior**

The Committee considered the note of Hon'ble the Administrative Judge Bench at Gwalior dated 19.5.2021 based on the apprehension of the concerned District and Sessions Judges on the following grounds:-

- a) *The expression “orders to be passed on case to case basis” contained in the SOP notified by the High Powered*

*Committee gives an impression that merits of each case need to be considered or not?*

- b) In case bail application u/S 439 CrPC has been rejected on merits by the High Court in the recent past, then can such order passed on merits be ignored by the District & Sessions Judge while executing the SOP notified by the High Powered Committee?*
- c) Can an application for release of an under trial prisoner be rejected, despite the said under trial prisoner satisfying all the prerequisites laid down in the orders of the Apex Court passed in **Suo Motu Writ Petition (Civil) No. 01/2020**, orders of Division Bench of this Court passed in **WP 9320/2021** and the SOP issued by the High Powered Committee in its meeting dated 12.05.2021?*

With regard to each of the above, the members of the Committee observed that while disposing of interim bail applications, overcrowding of prisons, termed by the Apex Court as a matter of “serious concern” in the context of the present pandemic be viewed in totality with the other circumstances of that particular case, and if no pressing negative conditions exist, then the Court may pass appropriate orders for consideration of interim bail.

Further it was observed, that where a bail application has been rejected on merits by the High Court, such order cannot be ignored in totality by the District and Sessions Judge while executing the SOP notified by the High Powered Committee. However, the case of the applicant for interim bail may be considered in the backdrop of the directions of Hon'ble the Supreme Court and the Division Bench of the Hon'ble High Court with regard to safeguard the health of prisoners in the existing circumstances.

With regard to question of rejection of an application for release of an under trial prisoner despite the said under trial prisoner satisfying the pre-requisite conditions laid down in the orders of the Hon'ble Apex Court in **Suo Motu Writ Petition (Civil) No. 01/2020**, orders of Division Bench of this Court passed in **WP 9320/2021** and the SOP issued by the High Powered Committee in its meeting dated 12.05.2021, it was observed that the application can be rejected if there existed strong and compelling reasons to the detriment of social order.

5. **Consideration of the suggestions of counsel for the petitioners in Madhuri Krishnaswami Vs. State of M.P. and others, W.P. No.8391/2020 (PIL) submitted to the Chairperson and Members High Power Committee**



The Committee was pleased to observe that the suggestions e-mailed by the counsel on 21.5.2021 have been substantially considered and are being processed. With regard to the suggestion for release of gender minorities, the D.G. (Prisons) apprised that the percentage of gender minorities is around 0.1 % of the total jail population and they have not been discriminated on any of the grounds for release of other class of prisoners. Therefore, it was resolved that no further directions, need to be passed with regard to the suggestions forwarded by the counsel for the petitioner in **Madhuri Krishnaswami** (supra).

**6. Other directions-**

In response to an observation regarding the appropriate quarantine measures for incoming prisoners and children who shall return after the period of emergency parole or interim bail as the case may be, the D.G. (Prisons) apprised that appropriate measures have been taken for quarantine and immediate RT-PCR test of incumbents. Principal Secretary (WCD) also responded on a similar note and apprised that partitions have been setup within the existing infrastructure so that the advent of returning inmates in duly taken care of keeping in view the Covid protocol.

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