

Minutes of Meeting dated 7th April, 2020 At 5:30 PM through Video Conferencing Under The Chairpersonship of Hon'ble Ms. Justice Hima Kohli, Judge, High Court of Delhi And Executive Chairperson, Delhi State Legal Services Authority

The Meeting was attended by following Officers/Members of High Powered Committee through Video Conferencing:

1. Sh. Satya Gopal, Principal Secretary (Home)/Additional Chief Secretary, Government. of NCT of Delhi Member
2. Sh. Sandeep Goel, Director General (Prisons), Delhi Member
3. Sh. Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLISA).

ITEM NO.1:- FOLLOW UP PREVENTION, SCREENING, IDENTIFICATION, TREATMENT, MITIGATION AND TRANSFER OF PRISONERS ;

Feedback was sought pertaining to the resolutions adopted in the last meeting dated 28.03.2020 with respect to **prevention, screening, identification, treatment, mitigation and transfer of prisoners**, so as to prevent the outbreak of **Covid-19 (Novel Corona virus)** and also to achieve **social distancing** amongst the prisoners within the jail premises.

Sh. Sandeep Goel, DG (Prisons) informed the Chair that all resolutions adopted in the previous meeting are being followed **scrupulously**. He further apprised the Chair that the prisoners, jail staff and other persons working in jails are taking necessary precautions and are adhering to the call of social distancing. He apprised the Chair that Bathing area, Kitchen Area and Jail Telephone Area are being cleaned and sanitised on regular basis. He further informed that inmates are being apprised about the necessary precautions i.e. Do's and Don'ts through **"Public Address System"** installed in Jails.

D.G. (Prisons) informed the Chair that the measures like **isolation wards, Quarantine of New Prisoners** as well as **preliminary examination** of the prisoners for Covid-19 are being regularly followed as

per the resolution adopted in the last meeting. D.G. (Prisons) further informed the Chair that on an average, 25-30 fresh inmates are being sent to Jail these days. D.G (Prisons) further informed that a separate ward in Jail Number 2 at Tihar and in Jail Number 13 at Mandoli have been carved out for the fresh male inmates above 21 years of age. He informed that all such fresh inmates shall be kept only in these two wards of Jail Number 2 and 13 at Tihar and Mandoli, respectively. Whereas, for fresh women inmates, separate isolation wards have been created in Jail Number 6 while fresh male inmates between the age of 18 to 21 years would be kept at Jail number 5, Tihar. This is done in order to make sure that the fresh inmates **do not intermingle** with those already inside.

DG (Prisons) has further informed that in terms of the resolutions adopted in the previous meeting, out of the in-house manufacturing of soap cakes, liquid soaps, phenyl, masks, and sanitizers, adequate number of these materials have been sent to JJBs/ Observation Homes, as per the requirement received from them, besides the same being put to use in all the Jails.

DG (Prisons) has **assured** that the jail administration shall continue following these precautions and resolutions, so as to prevent the outbreak of Covid-19 (Novel Corona Virus) in the jail premises.

Committee is **satisfied** with the steps being taken by D.G. (Prisons) and directed him to continue doing the same.

ITEM NO.2:- TAKING STOCK OF EFFECT OF CRITERION EARLIER ADOPTED TOWARDS DECONGESTION OF JAILS ;

Number of inmates released pursuant to the criteria earlier adopted in terms of the orders passed by the Division Bench of High Court of Delhi dated 23.03.2020 headed by Hon'ble Chairperson as well as on the basis of criteria adopted by High Powered Committee vide meeting dated 28.03.2020, is put up before the Committee. The same was perused by the Committee, which is as under:-

ITEM NO.2 (A):- WITH RESPECT TO PAROLE OF THE CONVICTS

A. With respect to parole of convicts	
Total Number of orders issued	686
Convicts released	650
Cases under process	261
<i>Note :Though, orders have been issued with respect to 686 convicts for their release on “<u>emergency parole</u>” but some of them have not been released as they are unwilling and some are residents of States of Punjab, Bihar and Uttar Pradesh.</i>	

Committee has considered the Notification bearing number F.18/191/2015/HG/1379/1392 dated 23.02.2020, issued by Govt. of NCT of Delhi, whereby Delhi Prison Rules 2018 were amended and provision of “**Emergency Parole**” has been added in **Rule 1212A**. In order to combat the unprecedented and extraordinary situation of the outbreak of Corona virus, a consequential order bearing No.F.18/191/2015/HG/1428-1438 dated 27.03.2020, was also issued by Govt. of NCT of Delhi, delegating the powers of grant of “Emergency Parole” to D.G.(Prisons) in all cases except those falling in Rule 1211 of Delhi Prison Rules, till 30.04.2020.

It is on the basis of this notification and consequential orders passed by Govt. of NCT of Delhi that this Committee vide Minutes of Meeting dated 28.03.2020 and on assurance of D.G.(Prisons) had passed a “**resolution**” that “Emergency Parole” for a period of eight weeks be granted to the eligible convicts. As per D.G.(Prisons) the number of such convicts eligible for “**Emergency Parole**” was about **1500**. However, as per the report submitted, only **650** convicts have been released so far.

Hon’ble Chairperson has cautioned DG (Prisons) and Principal Secretary (Home) that any delay in release of the eligible convicts on “**Emergency Parole**” so as to complete the exercise of decongestion of jail, will make the entire effort **futile**.

DG (Prisons) as well as Principal Secretary (Home) assured the Chair that they shall expedite the process of grant of “**Emergency parole**” to the eligible convicts.

It is resolved that this process be completed within **three days**.

ITEM NO.2 (B):- WITH RESPECT TO INTERIM/REGULAR BAIL OF UTPs

B. With respect to interim/regular bail of UTPs	
Number of application moved as per the criteria	1475
Orders granting bail received as on 06.04.2020	823
UTPs already released	775
<i><u>Note :Though, interim bail orders have been issued with respect to 823 UTPs but some of them are not released owing to the want of permanent address, they being vagabond and some of the UTPs are unwilling.</u></i>	

Kanwal Jeet Arora, Member Secretary, DSLSA has informed the Committee that the Advocates empanelled with DSLSA, visiting jail premises on daily basis, had drafted and filed about 1500 applications (1475 to be precise as on 06.04.2020) for grant of interim bail. The Committee is further informed that out of these bail applications, “interim bail” has already been granted in approximately **823 cases** and it is expected that in a day or two, 100 more UTPs would be granted “interim bail” on the basis of applications filed/pending for consideration, before the concerned Courts. Report submitted by the Jail Authority, however, reveals that all UTPs with respect to whom bail orders have been passed are not released for want of various reasons.

Hon’ble Chairperson directed DG (Prisons) that the jail administration/Jail Superintendent should be directed to ensure release of UTPs **immediately** on receipt of bail orders from the Court while ensuring their safe transit from Jail to their respective homes as per the resolution adopted vide Meeting dated 28.03.2020, in the wake of lockdown declared by the Central Government.

ITEM NO.2 (C):- REMISSION OF SENTENCE :

C. Remission of Sentence	
Number of convicts granted remission of sentence pursuant to the resolution adopted in previous meeting dated 28.03.2020	NIL

Hon’ble Chairperson has expressed her deep **disappointment** and **displeasure** for the *non-implementation* of the

'**resolutions**' adopted vide meeting dated 28.03.2020 regarding remission of sentence to the convicts. Principal Secretary (Home) has apprised the Chair that on the basis of resolution adopted in Meeting dated 28.03.2020, Govt. of NCT of Delhi has passed the necessary orders "*granting remission of sentence*". He has further **assured** that the said orders shall be communicated to D.G.(Prisons) during the course of the day.

D.G.(Prisons) has **assured** that he shall expedite the process and shall do the needful within **two-three days** of receipt of the orders from Govt. of NCT of Delhi in order to achieve the object, for which this Committee has been constituted.

It is **resolved** accordingly.

ITEM NO.3:- DETERMINING FRESH CATEGORY OF PRISONERS WHO CAN BE RELEASED ON 'INTERIM BAIL' TAKING INTO ACCOUNT :-

Members of the Committee have taken into consideration that on the basis of the criteria adopted earlier, as on date only about 1500 inmates/convicts/UTPs have been released on **parole/interim bail**.

In view thereof the Committee is of the opinion that the criteria needs to be **further relaxed** to give effect to directions of Hon'ble Supreme Court of India. On directions of Hon'ble Chairpersons, DG (Prisons) was requested to furnish the information, for the **impact analysis** qua the proposed relaxed criteria of UTPs. The same is accordingly submitted.

The Members of the Committee discussed and resolved that following categories of prisoners may now be considered for grant of interim bail for **45 days** in view of the circumstances in which we are in, preferably on '**Personal Bond**':

- (i) *Under trial prisoners (UTPs), who are senior citizens more than 60 years of age and are in custody for **six months or more**, facing trial in a case which prescribes a maximum sentence of **10 years** or less;*

- (ii) *Under trial prisoners (UTPs), who are less than 60 years of age and are in custody for **one year or more**, facing trial in a case which prescribes a maximum sentence of **10 years** or less ;*
- (iii) *Under trial prisoners (UTPs)/Remand Prisoners (with respect to whom, Charge sheets are yet to be filed), who are in custody for 15 days or more, facing trial in a case which prescribes a maximum sentence of **7 years** or less ;*

It has further been **resolved** that following category of UTPs, even if falling in the above criterion, **should not be** considered :-

- (i) *Those inmates who are undergoing trial for intermediary/ large quantity recovery under NDPS Act ;*
- (ii) *Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;*
- (iii) *Those under trial prisoners who are facing trial for offences under section 376, 376A, 376B, 376C, 376D and 376E and Acid Attack;*
- (iv) *Those UTPs who are foreign nationals ;*
- (v) *Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act) / PMLA ; and*
- (vi) *Cases investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, Terror related Cases, cases under Anti-National Activities and Unlawful Activities (Prevention) Act etc.*

D.G (Prisons) has informed that on the basis of this new criterion, approximately **973 more UTPs** would be the beneficiaries and their release would considerably **ease out** the Jail Population.

Committee has been apprised that on the basis of criteria adopted vide meeting dated 28.03.2020, the Jail Population has come down from **17,552** as on 25.03.2020 to **16,179** as on 07.04.2020. On complete implementation of the said criteria, it would further come down to about **15,500**. It is further informed to the Chair that on the basis of criterion adopted hereinabove today for release of UTPs / Remand

Prisoners on “**interim bail**”, the same would further come down to 14,500 in a week’s time.

Chairperson has directed Member Secretary, DSLSA to take steps for having the applications of UTPs falling in relaxed criterion, be moved.

Chairperson of the Committee has directed Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLSA) to request District Judges to pass on directions to the Jail visiting Duty Magistrates as well as Duty Magistrates in courts to take up these applications and if the under trial prisoners are released on bail, they may be released on ‘**Personal Bond**’, to the satisfaction of Jail Superintendent, so as to implement the social distancing policy of the Government.

It is clarified that the decision taken by this Committee for release of prisoners on “**interim bail**” vide criterion adopted in the meeting dated 28.03.2020 and the one adopted hereinabove today, shall in **no way** affect the rights of other UTPs, who **do not** stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular / interim bail. The concerned courts on filing of applications by such UTPs may consider the same on merits, in accordance with law.

D.G.(Prisons) has further apprised the Chair that there are large number of UTPs who have been **granted bail** by different Sessions Courts and Courts of Magistrates, but they are still in jail, for **want of sureties**.

Members of the Committee deliberated and resolved that UTPs in whose favour, the bail orders were passed by different courts may have been **incapacitated** to furnish bail bonds and surety bonds, owing to the outbreak of Covid-19 and scant working of the courts, thus, the bail orders qua such UTPs are required to be modified, to the extent that they may be released on furnishing “Personal Bond”, with rest of the conditions if any, imposed remaining unaltered.

Keeping in mind the outbreak of pandemic, the functioning of courts was restricted to very urgent matters only, notification in this regard was issued by Delhi High Court bearing notification no.155/RG/DHC/2020 dated 20.03.2020. On 24.03.2020, Order No.40-3/2020-DM-1(A) was issued by Govt. of India taking strong measures to prevent the spread of Covid-19 and a **nationwide lockdown** for a period of 21 days was declared with effect from 25.03.2020.

Owing to this restricted movement such UTPs despite being granted bail are languishing in jail for not being able to produce and furnish "Surety Bond". Committee is of the opinion that bail orders qua such UTPs are required to be modified through a Judicial Order. Ordinarily, for modification of bail orders / conditions, applications are required to be filed before concerned court. However, keeping in mind the extraordinary conditions, Committee feels that approaching the Court by each UTP seeking modification of bail order, would result into wastage of time and might go against the measures which are being taken to prevent the spread of Corona virus.

Thus, Committee is of the opinion that a Judicial Order would be required from Hon'ble High Court of Delhi, for modification of such bail orders passed either by **High Court of Delhi** or any court subordinate to it, on or before today's date i.e. 07.04.2020, thereby modifying/ doing away with the condition of *furnishing surety bond* and instead allowing such UTPs to be released on their furnishing personal bond to the satisfaction of Superintendent of Jail.

It may however be clarified that the Committee **does not** recommend change of any other condition (if any) imposed in the bail orders passed by the concerned court.

Member Secretary, DSLSA is directed to place these recommendations of the Committee by forwarding a copy of these minutes to Ld. Registrar General High Court of Delhi, for necessary action in this regard.

In the event of passing of any such order by Hon'ble High Court of Delhi on the basis of recommendations of this Committee, it is made clear that Jail Superintendent shall release such UTPs on Personal bonds only on production of the bail orders, so passed by the concerned court in favour of the said UTP.

ITEM NO.4:- ANY OTHER ISSUE WITH PERMISSION OF THE CHAIR:-

Vide orders dated 23.03.2020, Hon'ble Supreme Court in Suo Motu Petition (Civil) No. 1/2020 – In Re: Contagion of COVID-19 had directed this Committee to take appropriate measures to decongest not only the Jails, but also the Remand Homes. This Committee vide Minutes dated 28.03.2020 had directed Member Secretary, DSLSA to gather information regarding the occupancy of Observation homes with the bifurcation of number of CCLs involved in heinous offences and those involved in other offences so that appropriate action can be taken. However, by a subsequent order dated 03.04.2020, Hon'ble Supreme Court in "Suo Moto Petition (Civil) No.4/2020- In Re : Contagion of COVID-19 VIRUS IN CHILDREN PROTECTION HOMES", has issued directions to JJBs, CWCs as well as CCIs to take necessary steps to prevent the outbreak of COVID-19 (Corona virus) in Remand Homes and Children Homes.

Committee has been informed that Juvenile Justice Committee of High Court of Delhi, is taking appropriate steps to implement the directions of Hon'ble Supreme Court. Thus, this Committee is not required to pass any resolution in this regard. However, Member Secretary DSLSA has been directed by the Committee to gather the information with respect to steps taken by JJBs and CWCs towards implementation of directions passed by Hon'ble Supreme Court of India.

Kanwal Jeet Arora, Member Secretary, DSLSA, is further directed by the Committee to ensure that the Retainer Counsels of DSLSA attached with JJBs and CWCs provide necessary assistance to JJBs and CWCs in implementation of directions given by Hon'ble Supreme Court.

Minutes of this Meeting **be implemented** by all concerned, in anticipation of the signatures of Members and Chairperson of the Committee.

Meeting ended with Vote of Thanks to the Chair.

Sandeep Goel
D.G(Prisons)

Satya Gopal
Principal Secretary (Home)

Kanwal Jeet Arora
Member Secretary
DSLSA.

Hon'ble Ms. Justice Hima Kohli
Executive Chairperson DSLSA.