

Minutes of Meeting dated 5th May, 2020 At 5:00 PM through Video Conferencing (Cisco Webex) 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 (DSLSA).

Agenda: Effective implementation of the directions issued by Hon'ble Supreme Court of India in Suo Motu Petition (Civil) No. 1/2020 - In Re: Contagion of COVID-19 vide its orders dated 23.03.2020 and 13.04.2020

ITEM NO.1:- FOLLOW UP OF RESOLUTION ADOPTED EARLIER WITH RESPECT TO PREVENTION, SCREENING, IDENTIFICATION & TREATMENT OF PRISONERS

At the outset, Sh. Sandeep Goel, DG (Prisons) informed the Chair that the jail administration has followed and strictly complied with the guidelines, instructions and resolutions passed by this Committee vide its earlier meetings, as a result of which they could **prevent the eruption/spread of COVID-19 (Novel Corona Virus)** inside the jail premises.

Sh. Sandeep Goel, DG (Prisons) further informed the Chair that to prevent the **intermingling** of the new entrants with other inmates who are already inside the jail, they in terms of resolution adopted in the earlier meetings had created **Isolation Wards**, in Jail No.2 at Tihar and Jail No.13 at Mandoli for the new male entrants who are above 21 years of age and in Jail No.5 at Tihar for fresh inmates who are between 18-21 years of age, whereas separate **Isolation Wards** were created in Jail No.6 at Tihar for fresh women inmates.

DG (Prisons) further informed that all the new entrants in jail are thermally screened and medically examined. DG (Prisons) also apprised the Committee that in case of medical necessity they are also getting the

CT-PCR test of new prisoners conducted. He further informed that as per the requirement they are **quarantined** in Jail No.2, 5 and 6 at Tihar and Jail No.13 at Mandoli.

On being asked by the Chair regarding the procedure adopted by the jail administration at the time of surrender of UTPs who visit the jail premises after expiry of interim bail granted to them, DG (Prisons) informed that such UTPs after completion of the period of their interim bail, at the time of their surrender and admission are treated as **new prisoners** and are medically examined and kept in **Isolation Wards**.

DG (Prisons) further informed the Chair about the measures being taken by the jail staff, prisoners and other persons working in Jail so as to prevent the outbreak of **COVID-19 (Novel Corona Virus)**. He apprised the Chair that the principle of **social distancing** is being followed **scrupulously**. It has further been informed that common areas which are frequented by the inmates like Bathing area, Kitchen Area and Jail Telephone Area are being regularly cleaned and sanitised using appropriate disinfectant. DG (Prisons) further informed that necessary precaution i.e. Do's and Don'ts are being told to the inmates through "**Public Address System**" installed in Jails.

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 informed that regular medical check up of Jail staff and inmates is being done through Jail doctors who have been advised to immediately inform the Jail Superintendent if they find or suspect any symptoms of **COVID-19 (Novel Corona Virus)** in any inmate so that necessary steps in terms of the advisory/guidelines issued by ICMR and Ministry of Health, Government of India, can be taken. He further informed the Chair regarding the necessary steps being taken to practice, promote and demonstrate positive hygiene behaviours in 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 THE EFFECT OF CRITERION EARLIER ADOPTED TOWARDS DECONGESTION OF JAIL

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, 07.04.2020 and 18.04.2020 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	1156
Convicts released	1056
<i>Note :Though, orders have been issued with respect <u>1156 convicts</u> 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, West Bengal and Uttar Pradesh.</i>	

DG (Prisons) has assured the Committee that besides the orders already issued, he shall further initiate the process for grant of **emergency parole** in case any other convict lodged in jail becomes eligible for the same. Principal Secretary (Home), Government of NCT of Delhi, assured that they shall expedite the process, as and when any such recommendation is received from DG (Prisons) for grant of **emergency parole** to the eligible convicts.

It is **resolved** accordingly.

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

B. With respect to interim bail of UTPs	
Number of application moved as per the criteria	2728
Orders granting bail received as on 06.04.2020	2247
UTPs already released	2177
<i>Though, interim bail orders have been issued with respect to <u>2247 UTPs</u> but some of them are not released owing to the want of permanent address, they being vagabond, some are from far off States and some of the UTPs being unwilling.</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 bail applications for the UTPs following the criteria so adopted by the Committee for grant of interim bail. He has further informed that requisite directions have already been given to the empanelled advocates to pursue the pending applications before the concerned Duty Magistrate and/or Sessions Judge on Duty in Courts. Report submitted by the Jail Authority, however, reveals that all UTPs with respect to whom bail orders were passed have not been released for want of other 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, 07.04.2020 and 18.04.2020 in the wake of National lockdown declared by the Central Government as well as in terms of directions given by Hon'ble Supreme Court in its order dated 13.04.2020.

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

C. Remission of Sentence	
Number of convicts granted remission of sentence and are released pursuant to the resolution adopted in previous meetings dated 28.03.2020, 07.04.2020 and 18.04.2020	39

Vide Minutes of meeting dated 18.04.2020, it was apprised by DG (Prisons) that till 18.04.2020, they have already released **25 convicts** on the basis of order granting remission of sentence passed by Govt. of NCT of Delhi and another 36 are due to be released upto 30.06.2020. Out of said 36, eight (08) have been released and now 28 more shall be released upto 30.06.2020.

In the last minutes, it was informed to the Chair that there are **11 Convicts** who have also become eligible for being released after grant of remission, in terms of the Resolution dated 28.03.2020 and subsequent orders passed by Govt. of NCT of Delhi, but could not be released for non-payment of fine.

In the last meeting, it was resolved on suggestions of D.G. (Prisons) that these **11 Convicts** who have completed their **substantive sentence** (inclusive of regular and special remission granted) can be released on their furnishing an "Undertaking" to the satisfaction of Jail Superintendent to the effect that they shall deposit the fine within "**15 days of lifting of Lockdown**" failing which they shall surrender to serve remainder of sentence (imposed on them in default of payment of fine).

D.G.(Prisons) has informed that in terms of the resolution dated 18.04.2020 he had offered those **11 convicts** to furnish the said "Undertaking". However, **five convicts refused** to furnish any such undertaking, stating that they are willing to undergo the punishment imposed on them, in default of payment of fine. Whereas, the other **six have deposited the fine** and have been released pursuant to the remission of sentence so granted to them.

UTPs RELEASED ON PERSONAL BOND, PURSUANT TO THE ORDERS PASSED BY HON'BLE DELHI HIGH COURT, MODIFYING THE EARLIER BAIL ORDERS

D.G. (Prisons) has informed the Chair that on the basis of orders passed by Hon'ble High Court in **W.P. (Criminal) No.779/2020**, as of now **301 UTPs** have been released on personal bond.

Chairperson **appreciated and lauded** the efforts put in towards the implementation of Resolutions adopted in earlier meetings by Govt. of NCT of Delhi, Jail Administration and DSLSA, which led to the desired

results of decongestion of Delhi prisons. As a result of which, following number of UTPs/Convicts have been released on interim bail / parole and on grant of remission.

UTPs released on interim bail till 05.05.2020	2177
UTPs released pursuant to modification of bail orders by Hon'ble High Court in W.P.(Criminal) No.779 /2020	301
Convicts released on Emergency Parole till 05.05.2020	1056
Convicts released on remission of sentence	39
TOTAL UTPs/ CONVICTS RELEASED ON INTERIM BAIL/ PAROLE /REMISSION OF SENTENCE TILL 05.05.2020	3573

ITEM NO.3:- TO CONSIDER THE EXTENSION OF INTERIM BAIL GRANTED TO UTPs BY COURTS OF DUTY MAGISTRATES AND SESSION JUDGES ON THE BASIS OF CRITERION LAID DOWN IN WRIT PETITION (CIVIL) 2945/2020, TITLED "SHOBHA GUPTA & ORS. VS. UNION OF INDIA & ORS." AND CRITERION LAID DOWN IN THE MEETINGS DATED 28.03.2020, 07.04.2020 AND 18.04.2020

Sh. Sandeep Goel, DG (Prisons) as well as Kanwal Jeet Arora, Member Secretary, DSLSA apprised the Chair that large number of UTPs have been granted interim bail on the basis of *Writ Petition (Civil) No.2945/2020* titled, "*Shobha Gupta & Ors. Vs. Union of India & Ors.*" as well as on the basis of criteria laid down by this Committee in the meetings dated 28.03.2020, 07.04.2020 and 18.04.2020.

As per records, it is informed to the Committee that **as on date 2177 UTPs** were granted interim bail for a period of **45 days**, from the date of their release in order to decongest the jail, so as to prevent the spread of **COVID-19 (Novel Corona Virus)** inside the jail premises and to facilitate the jail administration to maintain "**social distancing**", in the jails. It has further been informed to the Committee that the said period of 45 days with respect to some of such UTPs is going to expire on **09.05.2020** and for others it shall expire in coming days of May, 2020 and in the first week of June, 2020.

DG (Prisons) informed the Committee that the situation of

pandemic is still the same, as it was, when this High Powered Committee was constituted on directions of Hon'ble Supreme Court of India and as there is no rapid test available of **COVID-19 (Novel Corona Virus)**, it would be a **dangerous proposition**, if those UTPs who were granted "interim bail" for 45 days are taken back in jail.

DG (Prisons) proposed that in view thereof the "interim bail" of the UTPs needs to be extended. A letter dated 04.05.2020 to this effect written by AIG (Prisons) is also brought to the notice of the Committee.

Kanwal Jeet Arora, Member Secretary, DSLSA further apprised the Committee that for getting the period of "interim bail" extended for such large number of UTPs, it would be difficult to file separate applications before the concerned Courts. Therefore, a judicial order, if passed by the Hon'ble High Court for modification/extension of "**interim bail**" so granted to such UTPs who were released on bail, in terms of criteria adopted by High Powered Committee, **would serve the purpose**.

The Committee deliberated upon the prevailing situation and also considered the fact that **Central Government has extended the lockdown up to 17.05.2020**.

The Committee further considered that it may not be possible at this juncture to predict definite cutoff date for resumption of normal functioning of the Court system. In view of the fact that, there is no certainty when the threat of pandemic shall be over and requirement of "**social distancing**" no longer necessary, the Committee is of the opinion that the "interim bail" so granted to such UTPs needs to be extended for a further period of 45 days from the date their respective interim bail is expiring.

The Committee is of the opinion that in this regard, a judicial order would be required from Hon'ble High Court of Delhi and **recommends** accordingly.

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 administration **shall inform** such UTPs of extension of their "interim bail" for a further period of 45 days from the date, the earlier period of interim

bail is expiring, telephonically. DG (Prisons) assures that jail administration shall do the needful and shall inform such UTPs about the exact date of their surrender.

ITEM NO.4:- CONSIDERATION OF THE REPRESENTATIONS RECEIVED

(a) RELATING SECURING ADEQUATE LEGAL REPRESENTATION FOR INMATES AT REMAND HEARINGS DURING LOCKDOWN PERIOD

Member Secretary, DSLSA brought to the notice of the Committee a representation dated 30.04.2020 sent by Sh. Mahmood Parcha, Advocate addressed to the Chairperson of this Committee concerning issue of securing adequate legal representation for inmates at remand hearings during lockdown period.

Members of the Committee perused this representation. After perusing the same, the Members of the Committee are of the considered opinion that the submissions advanced in the representation and prayers made therein, are **beyond the scope and purview** of this Committee, as mandated by Hon'ble Supreme Court vide its order dated 23.03.2020, as per which this Committee formed.

Kanwal Jeet Arora, Member Secretary, DSLSA however, brought to the notice of the Committee that "**Remand Advocates**" are deputed on regular basis during Court proceedings in Court complexes as well as in the Courts situated in Tihar and Mandoli jail complex, whenever new prisoners are produced before Magistrate and also inside the jail premises at the time of extension of remand. He assures the Committee to oversee that Remand Advocates, so deputed, continue to provide legal representations to the prisoners during remand proceedings.

Hon'ble Chairperson of this Committee in her capacity as Executive Chairperson of DSLSA taking note of the representation and the situation explained by Member Secretary, DSLSA directed him to make sure that remand advocates continue to be present in Tihar and Mandoli Court complexes, as well as inside the jails to give legal representation, to the fresh arrestees as well as UTPs at the time of "remand hearings".

(b) ENSURING HEALTHCARE NEEDS OF MS.SAFOORA ZARGAR AND OTHER PREGNANT WOMEN PRISONERS WHILE IN JUDICIAL CUSTODY

Member Secretary, DSLSA further brought to the notice of Committee another representation addressed to the Chairperson of this Committee dated 29.04.2020.

Members of the Committee perused the said representation so sent by Sh. Wazahat Habibullah, Chairperson, CHRI for healthcare needs of Ms. Safoora Zargar and other pregnant women prisoners while in judicial custody.

After perusing the same, Hon'ble Chairpersons of this Committee has directed DG (Prisons) to ensure that adequate medical assistance is provided to Ms. Safoora Zargar and other pregnant prisoners.

DG (Prisons) has informed the Chair that the same has already been provided and assures that the same shall continue to be provided. He informed that including Ms. Safoora Zargar there are three pregnant prisoners who are not only being provided adequate **medical care** but also are provided **special diet**.

Chairperson directed DG(Prisons) to continue doing the same.

Committee directed Kanwal Jeet Arora, Member Secretary, DSLSA to **inform the applicants**, who made the above two representations with respect to the outcome thereof.

ITEM NO.5:- ANY OTHER ISSUE WITH PERMISSION OF THE CHAIR:

Hon'ble Chairperson enquired from DG (Prisons) regarding **migration and transfer** of prisoners from Tihar and Rohini to Mandoli Jail in terms of the resolution adopted in the last meeting dated 18.04.2020.

DG (Prisons) informed the Chair that as per the resolution adopted in the last meeting dated 18.04.2020, they have transferred **207 prisoners** from Rohini and **53 prisoners** from Tihar Jail to Mandoli Jail on temporary basis. DG (Prisons) has further informed that while transferring/transporting these 260 prisoners, they had complied with the **rules and norms of social distancing** during their transits by Bus.

After transfer of **260 prisoners** from Rohini and Tihar Jail to Mandoli and release of number of UTPs on interim bail, the members of the

Committee have considered the actual jail population of these three jails complexes as on **04.05.2020**. Taking the same into account **vis-a-vis** the holding capacity of these jails, their respective areas and outlays, the Committee has unanimously **resolved** that transferring of **100 more** prisoners from Tihar Jail to Mandoli Jail would **adequately decongest** Tihar Jail. By doing so, jail administration would be in a position to implement "**social distancing**" amongst the inmates of all three jail complexes.

It is further resolved that transportation of these **100 prisoners** shall be done in full compliance of the **Rules and Norms of social distancing**. While transporting them, the Jail administration shall ensure that no transportation in excess of **half or 1/4 capacity** of the bus is carried out so as to ensure that prisoners so transported maintain a considerable distance from each other during these transits.

SAFE TRANSIT OF THE RELEASED UTPs/CONVICTS TO THEIR RESPECTIVE HOMES

The Chairperson of the Committee while reminding the participants of the observations made by Hon'ble Supreme Court in its order dated 13.04.2020 directed that :

- i. No prisoner shall be released if he/she has suffered from corona virus disease in communicable form hereafter. For this purpose, appropriate tests be carried out.*
- ii. Transportation shall be done in full compliance of the Rules and Norms of social distancing. For instance, no transportation shall be allowed in excess of half or one fourth capacity of the bus as may be found appropriate to ensure that the passengers who have been found to be free of corona virus disease are at a distance from each other.*

Hon'ble Chairperson inquired as to whether UTPs/Convicts who have been released on "interim bail" / parole, belonging to other states, have or have not been provided adequate transportation so as to facilitate them to reach their native places in terms of the resolution adopted in the last meeting. To this, DG (Prisons) has informed that out of list of **151 such prisoners** given by jail administration to **DAP III Battalion of Delhi Police** and **Govt. of NCT of Delhi** for their safe transit to their native places, **65**

prisoners have been provided transportation and have **already reached** their respective places.

DG (Prisons) has also informed the Committee that for the rest of the **prisoners who belong to U.P., Bihar, Madhya Pradesh, Jharkhand, West Bengal and other States**, he has **already sent request** to Delhi Police, Govt. of NCT of Delhi and respective Resident Commissioners.

Shri Satya Gopal, Principal Secretary (Home), Govt. of NCT of Delhi informed the Chair that Govt. of NCT of Delhi has requested **Ministry of Railways** for providing special trains to U.P., Bihar, Madhya Pradesh and Jharkhand for sending the stranded/migrant laborers to their native places. He assured that as and when they shall receive the information from Ministry of Railways regarding sanctioning of **special trains**, then along with the migrant laborers, they shall also provide the **transportation to release UTPs/Convicts** belonging to these four States.

DG (Prisons) as well as Principal Secretary (Home) Govt. of NCT of Delhi assured that during the course of transportation the **Norms of social distancing** shall be complied with, besides complying with the directions of Hon'ble Supreme Court of India vide its order dated 13.04.2020.

It is **resolved** accordingly.

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), GNCTD

Kanwal Jeet Arora
Member Secretary,
DSLISA

Hon'ble Ms. Justice Hima Kohli
Executive Chairperson DSLISA