

**Minutes of Meeting dated 28<sup>th</sup> March 2020 At 3 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

**Also in attendance:**

Sh. Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLISA).

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

Pursuant to spread of Corona Virus (COVID-19) across the globe and it being declared as pandemic by WHO, Hon'ble Apex Court took the issue of over-crowding of prisons, as a matter of serious concern, by way of above referred Suo-Motu Writ Petition.

Hon'ble Apex Court in order to prevent the outbreak of Covid-19 (Novel Coronavirus) and to achieve the target of “**social distancing**” directed various measures to be taken by the concerned Governments / departments with the ultimate object of reducing the population of over-crowded jails. Apart from these directions, State Governments were directed to constitute a **High Powered Committee** consisting of:-

- (a) Executive Chairperson of State Legal Services Authority;
- (b) Principal Secretary Home / Prisons;
- (c) Director General of Prisons ;

for determining the category of persons i.e. convicts and undertrial prisoners for being released on **“Parole”** and **“Interim Bail”**, for such period, as it may find appropriate.

Govt.of NCT of Delhi vide letter no.F.9/63/2020/HG/1409 dated 26.03.2020 constituted the present “High Powered Committee”, which met through “Video Conferencing” to discuss and deliberate on the agenda, emanating from the directions given by Hon’ble Apex Court.

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

Sh. Sandeep Goel, D.G.(Prisons) informed the Chair that Delhi, in all, has **16 Jails** located at Tihar, Mandoli and Rohini, having cumulative holding capacity of 10,026 prisoners. He informed that as on 27.03.2020, they are having **17,440 inmates** (consisting of 2997 convicts, 14355 UTPs and 88 Civil Prisoners.)

D.G.(Prisons) has further informed that they on their own with assistance of Jail staff, Home Department of Delhi Government as well as Jail Doctors have taken considerable measures for protection of health of prisoners, so as to prevent the outbreak of COVID-19 in jails.

On being asked by Chairperson, D.G.(Prisons) informed the Committee that they have housed the prisoners in all 16 jails, keeping in mind the capacity of a particular jail, so that none of the jails remain overcrowded or sparsely occupied vis-à-vis other jails. In view of this information, it is **resolved** that there is **no need for transmission** of prisoners from one jail to another.

D.G.Prisons also informed the Committee that they have taken the requisite measures, so as to provide necessary medical assistance to the prisoners as well as jail staff and are regularly sanitizing and cleaning every nook and corner of the jail campus. He further informed that they have **supplied masks, gloves** and have **limited the visits** of visitors of the prisoners, besides suspending cultural and group activities of prisoners to **avoid mass gathering**.

D.G.(Prisons) apprised the Chair that bathing area, kitchen area and jail telephone area are cleaned up and disinfectants are used frequently. Chair suggested that in these areas for social distancing chalked markings can be done, to which D.G.(Prisons) acceded to.

Chairperson proposed that prisoners can be made aware by Jail Superintendents about the necessary precautions they should undertake and advantages of maintaining a **safe distance** amongst themselves using “**Public Address System**” installed in the Jail Campus, to which D.G.(Prisons) stated that they are already doing it and **assured** the committee that the same shall continue.

Chair was further informed that I.E.C.Material has been displayed within the jail and at entrance including Do's and Don't's for the inmates to prevent the outbreak of COVID-19.

Chair was further apprised by D.G.(Prisons) that with intervention of Hon'ble High Court and support of all District and Session Judges, the undertrial prisoners **are not** being produced for court hearing and for extension of remands. Jail visiting Duty Magistrates have been deputed who are doing the needful while taking the necessary precautions.

D.G.(Prisons) has further informed that measures like creation of **isolation ward, quarantine** of new prisoners including foreign nationals for a period of 4 days as well as **preliminary examination** of prisoners for COVID-19 are put in place. It has been **resolved** that quarantine of fresh entrant foreign nationals and isolation of those with fever / flu should be done for atleast **15 days**.It is stated by D.G.(Prisons) that they are doing it and shall continue to do the same.

Chair on being informed by D.G.(Prisons) that they have inhouse production of soap cakes, liquid soaps, phenyl, masks and sanitizers for self consumption enquired as to whether the same can be supplied to JJBs, to which D.G.(Prisons) readily agreed and assured to start supply within a week.

D.G.(Prisons) has brought this fact to the knowledge of Chair that as on date, there is **no inmate** with any symptoms of COVID-19, in any of the 16 Jails.

At instance of Chairperson, it is **resolved** that as **personal visits** to the prisoners have been **cut**, they may be permitted to talk to their family members through jail telephone after taking necessary health precaution including sanitization of telephone instrument. It is further **resolved** that CMO and other jail doctors be advised to **frequently examine** the inmates and if they find or suspect anything related to COVID-19 symptoms in any inmate, the same should be brought to the notice of Jail Superintendent immediately for taking necessary steps for isolation / treatment of such inmate, at the earliest strictly in terms of guidelines issued by Ministry of Health, Govt. of India.

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

Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority, informed the Committee that immediately after passing of the orders by Hon'ble Apex Court, he on instructions from Chairperson of the Committee, had requested the concerned officers of Jail and Govt. of NCT of Delhi for doing the needful, so as to incorporate the provision of "**Emergency Parole**" in Delhi Prison Rules.

He further informed the Committee about receipt of a letter from D.G.(Prisons) whereafter necessary instructions were given by him to Secretary of each District Legal Services Authority (DLSA) to assist the under trial prisoners falling in the criterion mentioned in the orders passed by Division Bench of Hon'ble High Court of Delhi in case titled "*Shobha Gupta &Ors. Vs. Union of India &Ors.*" bearing W.P.(C) No.2945 of 2020 decided on 23.03.2020 itself, under intimation to Hon'ble Chairperson of the Committee, so that deserving under trial prisoners can be released on "**interim bail**". The criterion adopted was:-

- (i) Under trial prisoner is the first time offender;
- (ii) Under trial prisoner has been arrested or is facing trial for offence punishable upto 7 years ;
- (iii) Case is triable by Magistrate and ;
- (iv) Under trial prisoner is in custody for last 3 months or more ;

On the basis of this criterion, the under trial prisoners were identified by the Jail Administration following which applications for **interim bail** were filed in Court through the **empanelled Counsels** of concerned District Legal Services Authority (DLSA). The said applications were considered and necessary orders were passed by the Duty Magistrates / Addl. Session Judges on duty.

**(a) Results with respect to Parole / Furlough of Convicts:-**

Sh. Satya Gopal, Principal Secretary (Home) apprised the Committee that necessary notification making amendment in Delhi Prison Rules for incorporating provision of “**emergency parole**” has been issued by Govt. of NCT of Delhi vide notification no.F 18/191/2015/HG/1379-1392 dated 23.03.2020. It has been informed by Principal Secretary (Home) as well as by D.G.(Prisons) that on the basis of this notification, for grant of this “emergency parole” for a period of 8 weeks, orders have been passed by Department of Home, Govt. of NCT of Delhi, vide order no.F 18/191/2015/HG/1428-1438 dated 27.03.2020.

D.G.(Prisons) informed the Chair that on the basis of the orders passed by Home Department as well as the notification regarding “Emergency Parole” for **8 weeks**, he has already taken the approval of Committee so constituted by orders dated 27.03.2020 of Home Department for grant of Parole to **63 Convicts**. He further informed the Chair that through this provision of “Emergency Parole”, they would be in a position to release about 1500 convicts for 8 weeks.

On being asked by the Chair to expedite this process, D.G.(Prisons) assured that this exercise would be completed in the next 4 days.

**(b)Results with respect to “Interim Bail” of Under trial prisoners;-**

Sh. Sandeep Goel D.G.(Prisons) as well as Sh. Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority, informed the Chair that on the basis of criterion as mentioned in the order passed by Delhi High Court in **Shobha Gupta’s Case (supra)** mentioned

hereinabove, which is in consonance to the Apex Court's decision, **382** number of under trial prisoners have already been released on '**interim bail**' till date pursuant to the applications filed through DLSAs and orders passed thereon by Duty Magistrates, so as to decongest the Jails.

In all, "Interim Bail" has been granted to **461 UTPs**, rest are in the process of being released.

The Committee however is of the opinion that the present population of the Jails requires to be further **eased-out**, for which Members have proposed to **relax** the category of prisoners, who **can also be released on interim bail**.

### **ITEM NO.3:- DETERMINING FRESH CATEGORY OF UNDER TRIAL PRISONERS WHO CAN BE RELEASED ON 'INTERIM BAIL':-**

Kanwal Jeet Arora, Member Secretary informed the Committee, that immediately on receipt of letter from Govt. of NCT of Delhi regarding formation of present Committee, he on being directed by Hon'ble Chairperson had requested D.G.(Prisons) through the letter dated 26.03.2020 to furnish requisite information for the impact analysis on the **proposed relaxed criterion** of under trial prisoners. The same is accordingly submitted.

The Members of the Committee discussed and deliberated upon the proposed category of prisoners, who 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 facing trial in a case which prescribes a maximum sentence of **7 years** or less ; or
- (ii) Even If, the UTP has more than one case and in all other cases, he is "on bail", except the one for which he is being considered and the same prescribes punishment for 7 years or less ; and if
- (iii) UTP is in custody for a period of one month or more ;
- (iv) In case of Women UTP, if she is in custody for a period of 15 days or more;

Besides the UTPs falling in above categories, those inmates who are undergoing Civil Imprisonment can also be considered for 'interim bail' of **45 days**.

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

- (i) All 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 ;
- and
- (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 Police and 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 criterion, approximately **800 UTPs** may be the beneficiaries and their release would considerably **ease out** the Jail Population.

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.

#### ITEM NO.4:-REMISSION OF SENTENCE:-

The members of the Committee have discussed and deliberated upon this issue. It has been **resolved** that in the case of :-

- (i) Convicts who are sentenced for **10 years** and have already completed **9 ½ years** of custody including regular remission, may be considered for **6 months special remission** of sentence by Home Department, Govt. of NCT of Delhi;
- (ii) Convicts who are sentenced for **7 years or more but less than 10 years**, and are left with only 5 months to complete the sentence, may be considered for **5 months special remission** of sentence ;
- (iii) Convicts who are sentenced for **5 years or more but less than 7 years**, and left with only 4 months to complete the sentence, may be considered for **4 months special remission** of sentence ;
- (iv) Convicts who are sentenced for **3 years or more but less than 5 years**, and left with only 3 months to complete the sentence, may be considered for **3 months special remission** of sentence ;
- (v) Convicts who are sentenced for **1 year or more but less than 3 years**, and left with only 2 months to complete the sentence, may be considered for **2 months special remission** of sentence ;

**Home department, govt. of NCT of Delhi may consider the above criteria for special remission of sentence expeditiously on receipt of recommendation to that effect by D.G.(Prisons).**

#### ADDITIONAL POINT:-

D.G.(Prisons) has raised an issue with respect to those convicts whose interim bail / parole is expiring on or after 16.03.2020.

Chair has informed that Full Bench of Hon'ble High Court in "**Court on its own Motion In RE: Extension of Interim Orders in W.P.URGENT No.2/2020**", vide orders dated 25.03.2020 has extended the interim bail/ parole in pending cases till 15.05.2020, therefore those



inmates whose parole / interim bail is expiring on 16.03.2020 or thereafter, may be asked to surrender only on 15.05.2020.

D.G.(Prisons) informed the Chair that in view of the spirit and tenor of orders passed by Full Bench of Hon'ble High Court, he shall adopt the same approach with respect to disposed off matters as well.

It has therefore been **resolved** that this automatic extension of interim relief granted to convicts / UTPs of **parole / interim bail** as stated above, shall also hold good, even for **disposed off** petitions / applications.

Committee during the deliberations have taken into consideration the Lockdown situation of the entire nation for 21 days and has accordingly **resolved** that D.G.(Prisons) will co-ordinate with Nodal Officer of Delhi Police to ensure safe transportation of the released convicts / UTPs from Jail to their houses in Delhi.

In case, the released convict / UTP is resident of any other State then, D.G.(Prisons) shall co-ordinate with concerned S.S.P of the District / State where the released inmate resides, so as to ensure that he / she reaches home after release from Jail.

The Under Trial Review Committees of each district shall continue to meet every week and may come up with any new / fresh criteria to facilitate further decongestion of Jails. D.G.(Prisons) shall direct the Jail Administration to provide online data or necessary information as sought by the Under Trial Review Committee, for achieving the intended result.

Meeting ended with Vote of Thanks to the Chair.

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**Sandeep Goel**

**D.G(Prisons)**

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**Satya Gopal**

**Principal Secretary (Home)**

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**Kanwal Jeet Arora**

**Member Secretary  
DSLISA.**

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**Hon'ble Ms. Justice Hima Kohli**

**Executive Chairperson DSLISA.**